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**Official Report
of Debates
(Hansard)**

Monday 17 November 2008

**Journal
des débats
(Hansard)**

Lundi 17 novembre 2008

**Standing Committee on
Social Policy**

Workplace Safety
and Insurance
Amendment Act, 2008

**Comité permanent de
la politique sociale**

Loi de 2008 modifiant la Loi
sur la sécurité professionnelle
et l'assurance contre
les accidents du 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 17 November 2008

Lundi 17 novembre 2008

The committee met at 1433 in committee room 1.

The Acting Chair (Mr. Joe Dickson): Good afternoon, ladies and gentleman. I'd like to call the committee to order.

SUBCOMMITTEE REPORT

The Acting Chair (Mr. Joe Dickson): I would ask for a report of the subcommittee on committee business.

Mr. Jim Brownell: Your subcommittee on committee business met on Friday, November 7, 2008, to consider the method of proceeding on Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997, and recommends the following:

(1) That the clerk of the committee, with the authority of the Chair, advertise the hearings in the following newspapers: Hamilton Spectator, London Free Press, Kingston Whig-Standard, Sudbury Star, Toronto Star and the Windsor Star.

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

(3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Friday, November 14, 2008, at 12 noon.

(4) That if a selection process is required, the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests.

(5) That the length of presentations for witnesses be 20 minutes for groups and 10 minutes for individuals.

(6) That the deadline for written submissions be Tuesday, November 18, 2008, at 5 p.m.

(7) That the research officer provide the committee with a summary of the recommendations received by Wednesday, November 19, 2008, at 12 noon.

(8) 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 is the subcommittee report.

The Acting Chair (Mr. Joe Dickson): Comments? Agreed? All those in favour? Opposed? Thank you.

WORKPLACE SAFETY
AND INSURANCE
AMENDMENT ACT, 2008LOI DE 2008 MODIFIANT LA LOI
SUR LA SÉCURITÉ PROFESSIONNELLE
ET L'ASSURANCE CONTRE
LES ACCIDENTS DU TRAVAIL

Consideration of Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997 / Projet de loi 119, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail.

INTERNATIONAL UNION OF PAINTERS
AND ALLIED TRADES,
ONTARIO COUNCIL

The Acting Chair (Mr. Joe Dickson): Ladies and gentlemen, the first presenter today is the International Union of Painters and Allied Trades, Ontario Council. I wonder if they would be good enough to come to the table.

Just before we start the process, these are 20-minute sessions. If it is a shorter session, then there will be appropriate questions and answers between the three parties.

I will let you go. I would ask you to introduce yourself.

Mr. Joseph Russo: My name is Joseph Russo. I'm the general counsel with the International Union of Painters and Allied Trades, Ontario Council.

The Acting Chair (Mr. Joe Dickson): Welcome, sir.

Mr. Joseph Russo: Thank you. The International Union of Painters and Allied Trades proudly represents over 7,500 men and women throughout the province of Ontario. We have local unions in Toronto, Hamilton, Ottawa, Kingston, Kitchener, Windsor, London, Sarnia, Sudbury, Sault Ste. Marie and Thunder Bay. Our members work in both the ICI and the residential sectors of the construction industry. We perform work such as painting and decorating, drywall finishing, glazing, plastering and stucco application, lead abatement, asbestos and mould removal, sandblasting, waterblasting and fire-proofing.

Our membership has a proud and dignified history in the province of Ontario, and our membership closely mirrors the multicultural diversity of the people in this

province. Amongst other languages, our members speak English, Italian, Chinese, Portuguese, Spanish, Polish, Turkish, Vietnamese, Urdu, Somalian and Punjabi. Basically, you name it, and we have members from that background.

We are here today to speak strongly in support of Bill 119, and we do so primarily for three reasons. First of all, if passed, Bill 119 will close loopholes in the existing legislation which exempt independent operators, sole proprietors and company executives from mandatory WSIB coverage in Ontario. These loopholes have led to widespread abuse in the system.

Currently, industry experts estimate that there are between 90,000 to 140,000 construction workers who are not covered by their employers. In fact, many of our members have come to our office complaining that employers are forcing them to sign declaration forms indicating that they are independent operators so that their employers won't have to pay the WSIB premiums.

One example that comes to mind that I recall vividly was the case of two individuals, José and Maria, a newly married who came to Canada from Venezuela. They joined our union because they wanted to work in the residential painting industry. What ended up happening is that we sent them to work for one of the smaller painting contractors, and they came back the next day with these forms saying that their employer wanted them to sign them. They were forms saying that they were independent operators.

They were very frustrated and perplexed, saying, "We don't understand. We showed up as employees, and they're asking us to sign as independent operators when we don't even have any idea of how to be an independent operator or operate a business. So we don't understand why this is happening." We explained to them that it was to try and get around the WSIB premiums, but they were very frustrated. They were also frustrated and perplexed when they learned about the precarious situation they would be put in if they were seriously injured on the job site.

Construction workers in this province should not be forced to make a decision between having a job and having WSIB coverage. They deserve a lot better. They deserve both.

Another example that comes to mind is one of our smaller drywall contractors. What happened in this case was that they contacted us and informed us that they were selling one share to each one of their employees, and by doing so that they would become "owners." As "owners," they were then going to give them titles which were ridiculous, such as "director of coordination" or "director of policy and production," so that then these individuals would become "directors" of the company and they wouldn't have to pay the WSIB premiums for them. There are far too many of these unscrupulous contractors in construction, and these loopholes have to be tightened up, because they will be manipulated.

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The bill has to be very clear. If you're involved in the construction industry, WSIB coverage has to be manda-

tory. This is why, although we are in support of the bill, we are against any type of exemption that currently exists in the bill, such as the home renovator exemption, because, just as in the other two examples I gave you, we think it would lead to abuse.

The second reason we support the bill is that, without question, it will lead to greater health and safety education and training of construction workers. This will assist the WSIB in meeting its Road to Zero campaign, the elimination of lost time for injuries and fatalities in the workplace. As I stated earlier, the number of unregistered independent operators in the province is staggering, and there is no method in place whatsoever for these workers to receive any form of health and safety training. WSIB statistics also clearly reveal that the majority of workplace injuries and fatalities in the construction industry fall upon workers who have not had any proper health and safety training. In other words, a properly trained worker is a safer worker.

If this bill is passed and all independent operators have to apply for WSIB coverage, this will force them to have direct contact with the WSIB and other organizations, such as the Construction Safety Association of Ontario, for safety training.

I've personally sat on several committees dealing with how to try to reduce the numbers of fatalities and injuries in the construction sector. Although labour and management sometimes disagree on the best way to achieve that, there's one area where there's clear, clear consensus: That is, there has to be greater safety and training education for the construction workers of this province. Better safety means fewer injuries and fewer fatalities, and that's extremely important.

The third reason we support Bill 119 is that it will level the playing field in that it will create equality for bidding construction work in this province and thereby work toward reducing the vast revenue leakages lost to the underground economy.

Currently, independent operators who do not have to pay WSIB premiums have an unfair competitive price advantage over legitimate contractors who pay the WSIB premiums. So in essence, the WSIB has become a source of economic disadvantage for those same construction contractors who pay the WSIB premiums. Industry experts have estimated that 100% of the construction-related costs associated with the WSIB system are currently paid by 61% of the companies involved in the industry, and that there may be as much as \$350 million in unpaid premiums. This is completely unfair. And, yes, there are those who will argue that extending WSIB coverage to all workers would create financial hardships for smaller companies. But these are simply costs which these smaller companies should have been bearing all along.

We don't think it's a justifiable position for these smaller companies to argue, "Hey, I've enjoyed a great economic advantage by not having to pay WSIB premiums over the years and I'd like the government to leave things the way they are because I enjoy having that

economic advantage over the guys who are paying the freight.” This is exactly the type of attitude which has led to the proliferation of the underground economy in the province of Ontario, specifically in the construction industry.

This bill, if passed, will work toward helping to reduce millions upon millions of revenue dollars lost to the underground economy in Ontario, and will also serve to reduce WSIB premium rates, as the pool of contributors to the WSIB will increase when these smaller companies come into the fold.

We have also heard some individuals speak against Bill 119, arguing that it will expose WSIB to more unfounded claims for benefits. The theory is that some unscrupulous people who will then become their own employer for WSIB purposes will make their own decision as to whether or not they are injured. I simply can't understand this argument. It's basically saying that an employer will decide if he's injured or not. For those of us who represent injured workers in this province, I don't think anyone, whether an employer or an employee, makes a decision as to whether or not they are injured. If you fall off a ladder, you don't simply decide, “Hey, I think I broke my leg.” You either broke it or you didn't. As far as I know, when the WSIB looks into injury claims, there has to be sound and unequivocal medical evidence suggesting that somebody actually was injured.

If this bill is passed, it's not going to change that, so I don't understand this argument about employers deciding on their own that they will become injured and therefore adding to the cost of the system.

We wish to end by saying that we would like to see the implementation of this legislation occur prior to the proposed date of January 1, 2012, and would suggest a start date of January 1, 2010, and that the WSIB be given whatever resources are necessary to see this program implemented prior to that date.

In closing, we support the bill and trust that our suggestions and support will be acknowledged. Thank you very much.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Russo. According to my clock, we have about three minutes each. I will commence with the official opposition—member Bailey.

Mr. Robert Bailey: Mr. Russo, thank you very much for your presentation this afternoon. I'd like to get clear from you—you imply, if you listen to your presentation, that these small business people have no insurance coverage now, but that's not true. In fact, most of these people have private insurance that they pay for themselves, right?

Mr. Joseph Russo: That may be the case.

Mr. Robert Bailey: Yes, that is the case. I've heard from a number of them, and I know that the government side and the opposition, both parties, have also gotten numerous submissions from small business people who tell us that they already provide coverage for themselves 24/7, better coverage than they can get from the WSIB. Many of these people are locked into insurance programs

where they'll either have to take a big penalty if they get out or pay both WSIB and their insurance premiums. Would that be the case too, as far as you know?

Mr. Joseph Russo: I don't know if that's the case with respect to their insurance policies. I'm not aware of that. What I can tell you at least is that a lot of these smaller companies in my area are in painting, decorating and drywall. I'm not aware of too many of these companies that have this private insurance, because I think the intent is that they want to get around the system by trying to save as much cost as they can. Workers' premiums, in terms of insurance benefits, are one of the easiest areas that they can attack, so I can't really answer that because that's not something that I've seen.

Mr. Robert Bailey: Also, I had another question. On page 2 of your newsletter, the newsletter of the insulators and painters and that—they call themselves a special interest group that supports the Working Families Coalition. Would you agree, yes or no, that the union you represent is a special interest group?

Mr. Joseph Russo: I don't know which newsletter you're speaking about. If you have a copy of it, I'd like to see it.

Mr. Robert Bailey: It's called United We Stand.

Mr. Joseph Russo: Yes.

Mr. Robert Bailey: In their submission before the election in 2007, they called themselves a special interest group.

Mr. Joseph Russo: Sorry—which page are you referring to?

Mr. Robert Bailey: It's on the very first page.

Mr. Joseph Russo: The paragraph, or—

Mr. Robert Bailey: I don't have the copy in front of me now. Which paragraph is it?

The Acting Chair (Mr. Joe Dickson): You have about 30 seconds left.

Mr. Robert Bailey: Okay. That was my point, anyway. Our records from Elections Ontario are that the Working Families Coalition, as a group, submitted over \$1 million to the Ontario Liberal Party before the 2007 election.

Mr. Joseph Russo: I'm not aware of that statistic.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Bailey.

The next rotation would be to Mr. Miller from the third party. You have three minutes, Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Chair. Good afternoon, Mr. Russo. You're obviously in support of this legislation.

Mr. Joe Russo: Yes.

Mr. Paul Miller: And would you support the removal of all exemptions from WSIB coverage, including the home renovator exemption?

Mr. Joseph Russo: I would say that most exemptions will be abused so, therefore, I am in favour of removing them.

Mr. Paul Miller: Okay. Failing that, would you recommend that the definition of home renovator be

changed, or more restrictive, to ensure that there is no abuse?

Mr. Joseph Russo: Yes, I would.

Mr. Paul Miller: And would you also recommend that the whole amendments to the act should be more restrictive in areas that you find are questionable at best?

Mr. Joseph Russo: Absolutely. I think that one of the intents of this legislation is to try to remove all avenues for abuse, and I think it does that to some degree. If it can be tightened up to do that even more so, we are totally in favour of that.

Mr. Paul Miller: My one concern about the home renovators situation is enforcement. You know that the ma and pa might do a neighbourhood or whatever, and they may be hired, by phone or by word of mouth, by an individual. My concern is about the liability to the homeowner.

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Mr. Joseph Russo: Absolutely.

Mr. Paul Miller: How would the homeowners protect themselves from the ma-and-pa organization? They're not going to ask them to show their WSIB cards. How is that going to be enforced, in your opinion?

Mr. Joseph Russo: The problem that I foresee from that is that the homeowner, under this legislation, would, in a sense, become the employer, so that if that person doing the renovation is actually hurt on the job through negligence that they'll say happened from the homeowner, they will now sue the homeowner. So the homeowner becomes liable for something that they didn't even envision and that they shouldn't be liable for because that individual should have some kind of coverage in case that individual is hurt on the job.

Mr. Paul Miller: So that should be made quite public and—

Mr. Joseph Russo: Absolutely.

Mr. Paul Miller: —make everyone aware of this situation?

Mr. Joseph Russo: I know that if I'm hiring somebody, and he gets hurt in my home and I can get sued for it, it's something I'd like to be aware of, and I'd like to know what this government is doing to prevent that. Absolutely.

Mr. Paul Miller: Thank you.

The Acting Chair (Mr. Joe Dickson): Further, Mr. Miller?

Mr. Paul Miller: No, that's fine.

The Acting Chair (Mr. Joe Dickson): Thank you. To the government.

Mr. Vic Dhillon: Good afternoon, Mr. Russo. You indicated that mandatory coverage would reduce the underground economic practices in the construction industry.

Mr. Joseph Russo: That's correct.

Mr. Vic Dhillon: Would you mind explaining to the committee about some of these very unsavoury underground practices in the construction industry and how you feel this legislation would help to curb them?

Mr. Joseph Russo: Unfortunately, there's a lot of people in the construction industry who will do whatever

they can to curtail the costs they have to pay. Construction jobs, for the most part, are open to a bidding process and contractors will bid, so there are competitive prices that they're putting in against other contractors. Now, anything that they can use to lower that bid is something they'll do. A contractor who has to pay WSIB premiums has to factor that cost into it. They have to factor in the cost of EI premiums they have to pay, the Canada pension plan premiums they have to pay. An unscrupulous contractor who, for example, doesn't have to pay WSIB premiums will very likely not be paying EI and will very likely not be paying CPP premiums because, seemingly, there's no authority or nothing coming down on them to force them to pay these amounts. That definitely blends into the underground economy because they're not paying any of these premiums.

I think by forcing them to at least have to pay WSIB premiums, that's one premium that they will now, by law, be forced to pay, and that will very likely steer them in the direction of having to pay the others, especially when their workers have knowledge with respect to WSIB. They might be saying, "Look, you're paying my WSIB. What about my EI? What about my CPP?" I think that will go very far towards trying to alleviate the problem we have in the underground economy.

Mr. Vic Dhillon: Okay. Thank you very much.

The Acting Chair (Mr. Joe Dickson): Further from the government side? Thank you. That would close your presentation for this time.

Mr. Joseph Russo: Thank you very much.

ONTARIO HOME BUILDERS' ASSOCIATION

The Acting Chair (Mr. Joe Dickson): The next presenter is the Ontario Home Builders' Association. Good afternoon, gentlemen. I wonder if you'd be good enough to announce yourselves for the clerk.

Mr. Frank Giannone: My name is Frank Giannone.

Mr. Harold Kuehn: I'm Harold Kuehn.

The Acting Chair (Mr. Joe Dickson): Thank you very much. You have 20 minutes for a presentation or for a presentation/questions. So please proceed.

Mr. Frank Giannone: Thank you, Mr. Chairman and members of the committee. Good afternoon. My name is Frank Giannone, and I am the president of the Ontario Home Builders' Association. OHBA has 4,200 members and 29 local associations. We are the only residential construction association with a provincial network of 29 locals throughout Ontario. We represent builders, renovators, trades, suppliers and service providers.

I'm also the president of FRAM Building Group. I am a fourth-generation builder and have worked in the home building industry for my entire career. I'm a proud builder in the province, and I'm fortunate to be part of an industry that has such a positive role in contributing to the social fabric of Ontario.

Today, the Ontario Home Builders' Association is privileged to have the opportunity to address this com-

mittee on this critical piece of legislation. Our industry believes that this bill will have serious negative consequences for the residential building industry. Although we are here today addressing the Standing Committee on Social Policy, this bill would have a negative economic impact province-wide. It would also hit the most important and most vulnerable business people in the province—small business. In today's economic climate, the additional cost created by mandatory WSIB coverage will amount to a significant new tax on small business operators.

I must say that I am disappointed that this consultation process starts and stops here in Toronto. The impact across the province will be significant. The machinations in Toronto are very different from most of Ontario.

As a province-wide association, we listen to the grassroots, which is why we are pleased and honoured to have Harold Kuehn, a small renovator and contractor from Ottawa, to discuss the first-hand implications of this new bill. We believe that all construction workers should be covered by insurance, and we support named-insurance requirements and mandatory card-carrying for all construction workers to prove their coverage. We totally support workplace health and safety initiatives and fairness for all in our industry. This initiative, in our view, does not get our support because it doesn't address these issues in a fair way. With that, I will introduce Harold.

Mr. Harold Kuehn: It's a great honour for me to be able to speak on behalf of not only the approximately 4,200 members of the OHBA, but I would also like to put a face, for you, on the roughly 90,000 small business owners and independent operators who will be directly impacted by Bill 119.

I would like to just pay a brief tribute to the OHBA—you can't imagine the honour it is for me to be introduced by the president. I'm definitely a grassroots member of the association. The OHBA is an association that listens to its membership, from the largest to the smallest; it's kind of unique that way. My hope is that our provincial government is also listening to its constituents today, and not just to powerful union leaders and big business lobby groups.

By way of further introduction, I am 51 years old and have been in the building trades for the past 35 years. My wife and I have been business owners for over 25 years, doing predominantly residential contracting, both new construction and renovation. Ours would be a very typical small, family-run construction business. Our gross sales are \$200,000 to \$400,000 a year. From those modest gross sales, we are left with pre-tax income of \$60,000 to \$120,000 per year, and it's very rare that we hit six figures.

We have always been registered with WCB/WSIB, and we've paid thousands of dollars in premiums to WSIB to insure our workers since 1983, when we incorporated. We have never had a lost-time injury or claim. We have declared literally every dollar of income in all these years, pay our taxes, pay our employees, treat our clients fairly, and are treated fairly by them in kind. We

are nothing special. I know there are tens of thousands on other small mom-and-pop operations just like mine that are in the crosshairs of Bill 119, and most of them don't even know this is about to hit them.

I first heard of the idea of forcing mandatory coverage onto business owners and independent operators about 10 years ago, and I've been actively opposing it ever since. Though it always costs our very small business a couple of days of billable time, I've been to Toronto five times in the last four years to face this issue. I've met with two Ministers of Labour—Christopher Bentley and, recently, Minister Fonseca—and also with the senior staff of Minister Steve Peters.

Though the years and through four Ministers of Labour, the same tired catchphrases have been used over and over again in an attempt to put a positive spin on this very bad idea. I will attempt to debunk three of the worst of these oft-quoted but unsubstantiated platitudes.

It has been claimed that Bill 119 will level the playing field. The implication here is that executive officers of small companies and independent operators have an unfair advantage over the large businesses with which they compete. Generally, governments have recognized that it's the smaller, weaker parts of society that need protection, not the rich and powerful. Instead of levelling the playing field, Bill 119 is nothing short of a crushing, new, non-progressive income tax added to the backs only of legitimate small business owners who already face many competitive disadvantages with large companies; I won't bother listing them for the sake of time. Instead of levelling the playing field, as they like to keep saying, this huge new cost on the backs of legitimate, law-abiding businesses will give them yet another gigantic competitive disadvantage with the underground economy with which they compete daily.

1500

This leads me to the next claim by the proponents of this bill, that Bill 119 will fight the underground economy. The very unfair implication here—and I resented hearing it from the previous speaker—is that those who do not currently pay WSIB premiums on their own wages also do not pay taxes. This is patently false.

WSIB coverage for the self-employed or business owner is not a loophole. It was designed into the system that way nearly 100 years ago. Paying taxes has never been optional, but personal coverage is. It's not a loophole.

I'll divert here briefly: There's a reason why I, as a business owner, am not allowed to pay into EI. EI is smart enough to understand there will be abuse by business owners who have their backs against the wall.

Though my wife and I have not elected to buy personal coverage from WSIB, we have sent them \$43,300 in the last 10 years, insuring, for the most part, one worker per year. We also pay all our taxes.

Instead of fighting the underground economy, this new law will drive even more legal small business owners out of business altogether or entice them into the underground economy.

It has also been suggested that WSIB will help fight the underground economy because it is now teaming up with CRA. If CRA knew who was in the underground economy and how to fight it, we wouldn't have this problem.

Thirdly, like a tired mantra, it's always claimed that personal mandatory coverage will make Ontario a safer place to work. Nobody can argue—I certainly wouldn't—that workplace safety should not be everyone's highest priority. However, Ontario is already one of the safest places in the world to work. It is more dangerous to drive to work than it is to be at work. Secondly, forcing business owners to purchase mandatory coverage can do nothing but make my working year more dangerous, since my already modest living will be so diminished that I'll have to work harder, faster and longer in order to make a living. Including admin, sales and production, my average workweek is already 60 hours. Our situation is not unusual. It is the lot in life of most small builders and independent operators.

In my 35 years in the construction industry, I have observed three distinct groups within the independent operators or small business owners. From a taxation compliance point of view, we have the ethically correct, we have the group I dub the ethically challenged, and finally the ethically completely corrupt.

The ethically correct group—I see I'm going to have to chop this for time—do everything you want them to do. They pay their taxes, they hold business licences and trade qualifications, they pay WSIB on all their employees, they're members of associations, they treat their clients well, they're almost never inside a court of law—they're the salt of the earth. They're the guys you want to be helping. What is going to happen to this group is that they are going to be penalized by this legislation. They're going to fare worst of all these groups. I'm sorry; I have to jump around a little bit for time.

The ethically correct group is going to suffer great financial hardship. It will never likely collect a personal WSIB benefit, since such a claim would cause premiums to go up. Many in this group will simply fold; others will shift to the other two groups.

The ethically challenged are a group that basically splits their income. They appear to be ethically correct, but part of their revenue stream is cash. The ethically completely corrupt group are just working for cash all the time and are on nobody's radar.

Really, the only winners with Bill 119 will be the ethically corrupt group. They'll be laughing all the way to the bank, which in their case is actually a mattress stuffed with cash. These people are on no one's radar. CRA has been trying with little success to ferret out these guys for years, but Bill 119 will give them yet another business advantage over legitimate small business owners.

The current Minister of Labour has suggested that there are large differences between private insurance and WSIB. On this point, I completely agree with the minister. I can afford private insurance, and unlike WSIB

coverage, my private policy covers me 24 hours a day, seven days a week, which is crucial to me, since whether I break my leg putting up Christmas tree lights or on the job, I'm out of work. Mandatory personal coverage with WSIB will cost my wife and I an additional \$5,000 to \$10,000 of pre-tax income each and every year until I retire or I'm forced out of business by this.

Premier McGuinty is meeting with large auto manufacturers who are looking for financial assistance. Unlike the automakers, the 90,000 workers I am trying to put a face on for you will never be reaching for the provincial wallet as we struggle through the hard times that are already on us. There is no social safety net for us. We didn't expect one. But we cannot afford to have the province reaching for our wallets to the tune of one month's pre-tax income each and every year on our legitimate, taxable earnings, on top of all the other taxes that we already pay—I'd like to just throw in here that I am in the home-building rate group, and that is how it works out. It works out to one month's pre-tax income each and every year, at the rate of 8.71%. If I were a roofer, it would be one and a half months' pre-tax income. If I were a foreman contractor, it would be two months' pre-tax income.

How is this not going to feed the underground instead of fight the underground? People, in desperation, will be leaving the above-board mainstream, and they'll be heading to the underground to conceal some of their income so they can hang on to something. Tax freedom day in Ontario comes, according to some public group, around June 13. It can't happen on July 13 or August 13. It's just not possible.

If it weren't for religious and personal convictions, why wouldn't I join the underground? My operation is almost imperceptible, from a consumer's point of view. It's a small operation. He has a hard time distinguishing me from the crooks and the cheats, perhaps—hopefully not. The size of the operation is not much different, and for me to have this huge competitive disadvantage—I already have a huge competitive disadvantage. I'm paying the freight all the way along, but I can't also carry this and stay in business.

I'll conclude with that.

Mr. Frank Giannone: I just want to reiterate that we've put forward ideas, we've indicated that we support the named insured as a requirement of payment to our subtrades, and we've put forth that we agree that every worker on a construction site has to carry a card indicating which insurance he's covered under, whether it be WSIB or whether it be private insurance, and it would have to be private insurance that would be approvable. We've indicated that position. We strongly support those kinds of actions.

The Acting Chair (Mr. Joe Dickson): Thank you. We have four and a half minutes left. We'll commence with the third party. Mr. Miller, you have about a minute and a half.

Mr. Paul Miller: One of the biggest things that the government is saying is that you feel that it gives you a

disadvantage and you can't compete with the largest companies. How do you answer that? You haven't spelled out exactly what the costs are to you, more than they would be for a larger company, to compete. I'm a tradesman, so I know how the construction business works, and there are some real horror stories out there about people who haven't been insured. So I'd like an answer: Why do you feel it gives a bigger company an advantage over you? They're saying you have an advantage over them because you don't pay WSIB.

Mr. Harold Kuehn: If you had a 100-member company—and those are the kinds of groups that are lobbying for this; they're hoping their WSIB premiums will go down. Mine are going to go up from tens of thousands of dollars through the years that I have paid—and I have run a tight ship and had no claims. I'm suddenly going to lose one to two months of pre-tax income, and I'm one of the good guys. I'm one of the guys who pays all the taxes, pays EI, pays CPP—and I resented the suggestion that I don't—and I will suddenly be losing one to two months' real income for the rest of my life. How is that not a disadvantage?

Mr. Paul Miller: Why 100 of them and they'd pay less, and you would pay more with, say, 10 employees? How do you compare that?

Mr. Harold Kuehn: I beg your pardon?

Mr. Paul Miller: You're saying you'd pay more in comparison. If they had 100 employees, they might pay less?

Mr. Harold Kuehn: It won't even affect them. They don't step on the job sites, so they'll be exempt. Because I happen to wear a tool belt instead of a suit, I'll get whacked with one to two months' income taken, stripped out of my—

Mr. Paul Miller: I'm a little confused by that, but thank you.

Mr. Frank Giannone: Let's understand that most of the province is not—

1510

The Acting Chair (Mr. Joe Dickson): If I may interject—thank you very much. I'll have to move on to the official opposition.

Interjection.

The Acting Chair (Mr. Joe Dickson): No, I'd sooner leave them to the last. I'm only kidding. Any members from the government?

Mr. Vic Dhillon: Thank you very much, gentlemen, for your presentation. In particular, I want to thank Mr. Kuehn for coming today and for his long-standing advocacy; that's recognized.

The underground economic practices are well documented—about the detrimental impact they have on the industry. Can you please explain to the committee some of these unsavoury practices that you've seen in the construction industry?

Mr. Harold Kuehn: Yes, I'd be happy to. I had that in my notes but I ran out of time.

I have seen both large and small players in the underground economy. The small players I have seen are

generally doing it on a part-time basis. While I don't participate in the underground economy, I have a bit of sympathy for somebody who's on a modest pension or earning a very low private sector wage and is supplementing it by doing a brake job or fixing some drywall for a neighbour or whatever. You have that segment, and it's definitely there, but it's small.

You also have very organized, large underground efforts. I know, personally, of a fireman in Ottawa who runs a business several times larger than mine. His labour pool is very convenient; it's all other firemen. As a group, they have a lot of time off. He does millions and millions of dollars of work for a high-tech millionaire in the area, as well as for others, and it's all cash. He doesn't pay WSIB, he doesn't pay CPP, he doesn't pay EI, he doesn't pay anything, and he doesn't collect GST. He's been doing this for years and years. There are lots of those guys too, and that, I tell you, really gets the goat of legitimate operators like myself who are paying the freight, year after year, doing exactly what we've been told to do.

But this legislation will not do anything about that.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation.

Now, I only have member Scott and member Bailey listed for questions.

Interjection.

The Acting Chair (Mr. Joe Dickson): Seeing as it's you, Mr. Shurman, we'll certainly make an exception.

Mr. Peter Shurman: Thank you, Chair.

Thank you, Mr. Kuehn, for travelling here. I think it would have been more appropriate if this committee had done some travelling and come and seen you. I also apologize for the fact that the government has seen fit to ram this legislation through, because there are thousands of companies just like yours across this province.

I want to know if you think that the results of this legislation are that we'll be driving people who are less ethical than you, or have to be less ethical than you, underground?

Mr. Harold Kuehn: Absolutely. I see that happening, and I'm hoping that the members of Parliament here will listen to somebody who has usually got his feet on the ground wearing work boots and a tool apron and knows how these things work. That is exactly what will happen.

Mr. Peter Shurman: Let me ask you this: I've had interventions from people in my own riding who are in businesses much like yours, and they are already insured, and well insured—it sounds like you are as well—

Mr. Harold Kuehn: Yes, I am.

Mr. Peter Shurman: —outside of WSIB, and would prefer to retain their insurance. If the bill that the government presented had said that people like yourself must be insured, and they have a choice—it could be WSIB or it could be private, but they have to present some certificate—would that be appropriate?

Mr. Harold Kuehn: Absolutely, and I would support that 100%. Most responsible business people would agree with that, and most responsible business owners

have no issue, although it hurts them, paying WSIB—as is the law, and has been for over 100 years—on their employees. But, yes, I would support mandatory private insurance.

One of the reasons people are in small businesses like mine—it's not for the hours and it's not for the holidays and it's not for the benefits and it's not for the pension—is for the ability to have some level of independence and self-determination. That's the other thing that really irks me with this. I am being forced to buy a product I don't want from a monopolistic organization I do not agree with—in the way that they manage their affairs—to solve a problem I don't have.

The Acting Chair (Mr. Joe Dickson): I'll give you 10 seconds, Mr. Kuehn.

Mr. Peter Shurman: The last 10 seconds. Did you ever get your meeting with the minister, Mr. Giannone?

Mr. Frank Giannone: Yes, we had our meeting with the minister and we indicated our position on those two items.

Mr. Peter Shurman: He didn't help you?

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Shurman.

Thank you, gentlemen, for your presentation. We appreciate it very much. We've gone a couple of minutes over, there, so I did certainly show some latitude. I always like to hear Mr. Shurman's questions.

ONTARIO SHEET METAL WORKERS' AND ROOFERS' CONFERENCE

The Acting Chair (Mr. Joe Dickson): The next presenter this afternoon is the Ontario Sheet Metal Workers' and Roofers' Conference. Please take a seat, gentlemen. Welcome.

Mr. John Moszynski: Good afternoon. Thank you.

The Acting Chair (Mr. Joe Dickson): At your convenience, please introduce yourself for the clerk.

Mr. John Moszynski: My name is John Moszynski. I'm counsel for the Ontario Sheet Metal Workers and Roofers. To my right is Mr. Tim Fenton, who is the business manager of the Ontario Sheet Metal Workers' and Roofers' Conference.

The Acting Chair (Mr. Joe Dickson): Thank you very much. Please proceed.

Mr. John Moszynski: Thank you very much, sir, and thanks to the members of the committee for listening to us. I'm at a disadvantage; I haven't heard all of the submissions you have.

We do have some concerns that we would like to bring to your attention on behalf of our members. Our members are skilled sheet metal workers, sheeters, roofers who work throughout the ICI sector of the construction industry and the residential sector. They work throughout the province. They work for contractors who are among the larger players in the industry. But we also represent the employees of many small and moderate-sized contractors in the industry. We support this legislation. We have some concerns we want to speak to about the proposed exemption in some detail.

I constantly hear from our contractors concerns about unfair, non-union competition. We also participate with non-union employers in the sheet metal trade, through our provincial apprenticeship committees, so we also have experience with what I would like to call the fair, non-union contractors, and there are such things. I hope there are no other building trades here to hear me say that, but it's true. So I have a concern about the ability of both union and fair, non-union contractors to survive, particularly as we're looking toward what's likely to be another deep depression.

One of the things that has historically happened in construction is that it has tended to be a dumping ground. When times get hard, a lot of people will end up there, doing the work for less. That's been part of the history of the construction industry in Ontario, and I'd really like to think that somebody is actually going to change the approach to the entire industry. When you think about the employment that's out there, when you think about all the houses that have been built in the last 15 years that are all going to require work—sooner rather than later, in a lot of cases—we're really missing a golden opportunity if we don't fully exploit the opportunity to make trades in construction a real part of the employment future.

I really support anything that is going to move to clean up an industry that remains, in a lot of cases, very much a Wild West situation. Extending the scope to limit the ability of smaller construction firms to carry private insurance and hide their non-union and non-reported employees is going to strike a fundamental blow at the black market.

You've heard, no doubt, about the increasing prevalence of the use of pieceworkers, in new construction particularly. That's gone on a lot, partly as a means of evading contractors being required to carry employees and pay their WSIB costs. That's a reality—companies that would have carried 40 employees 20 years ago, you will now discover are all carrying pieceworkers. There are some efficiencies there in terms of how the work gets performed, but I think there's a real loss to the public revenue arising from the way people have been allowed to off-load their responsibilities to the workers. That is also part of what continues to create this sort of continuing ghetto of lower-skilled employees. Those are some of the reasons that we support the legislation.

1520

I want to talk about the home renovation exemption that the government has proposed. Now, I haven't followed the debates closely enough to understand where people are coming from on this, but I've tried to get my mind around it. It has to be, surely, something like, "We don't really want to require grandma to have to use a registered tradesman if she wants to get her living room painted." I'm assuming that that's the thrust of what the exemption is looking for.

I tried to get my mind around that, because if it can apply to grandma painting her living room, well, will it also apply to the fellow who buys a bungalow, knocks down everything except one wall and then puts up a

brand new house? And the answer, I think, is yes—because that might well be considered home renovation. Right?

So I'm very concerned about the scope of that exemption. I think it's probably way too broad. If you want to allow some sort of reasonable, small work around the house to be done without a lot of paperwork, well, that's laudable. If you're proposing, though, that grandma can end up hiring a couple of guys who show up at her door and say, "I'm going build an addition for you," then you're really looking at trouble.

I'll tell you why. Those people are not going to carry insurance, and they may well end up suing grandma as the employer. So if you're talking about exempting someone from the statute entirely, I'd worry very much about the issue of consumer protection arising there.

I would suggest that perhaps you might think more about phrasing the exemption in terms of maintenance, rather than home renovation construction. "Construction" will cover everything. I think "maintenance" will probably cover more of what you want and be a little more focused.

Those are some concerns we have on reading. Generally, I think when you're looking at that exemption, you ought to bear in mind—I don't know if anyone here watches Mike Holmes on television; you probably do. You hear him talking constantly about the problems involved in renovation work and the fly-by-night contractors. I'm sure you've all had complaints. In my suggestion, you want to be very careful before you sort of institutionalize a lack of standards in home renovation work. I think we ought to be looking at it as an industry, as a real bright opportunity for young people, rather than saying, "Okay, it's not really going to matter if we craft this exemption."

Really, those are our thoughts. I'd be more than happy to take any questions, but we wanted to bring those concerns forward.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We have nine minutes, or a total of three minutes each. I will commence with any questions from the government.

Mr. Vic Dhillon: Thank you very much for your presentation this afternoon.

This legislation would make it essential for the client or the customer to be shown a certificate that would be issued by the WSIB to the subcontractor or the contractor, to ensure that they're in good standing with the WSIB. The WSIB has assured the government that this process will be simple, fast and efficient for business owners. Can you please tell the committee how this mandatory requirement would enhance or benefit the construction sector?

Mr. John Moszynski: Absolutely. Right now, providing that you can convince somebody that you can do the work, there is no requirement that you show them any proof of status, proof of insurance, so contractors are routinely operating with expired insurance or without any insurance at all. That's what I'm told by our contractors.

The other issue is with persons who may well carry insurance for themselves or for their partner, but do not carry insurance for their workers. I understand that's illegal, but it goes on.

So production of any kind of documentation, I suspect, would very quickly be adopted by clients as a requirement once it's shown as a matter of policy in the act. I think it's likely to be picked up very quickly, in terms of becoming a standard addition to construction contracts.

The Acting Chair (Mr. Joe Dickson): Further?

Mr. Vic Dhillon: Health and safety is very important to this government and, I would assume, to your organization. Since we came into office in 2003, we've doubled the number of health and safety inspectors. With their assistance and the assistance of workers, unions and employers, we've reduced the lost-time injury rate by 20%. Can you tell us how mandatory coverage would further help reduce injuries and fatalities on construction sites in Ontario?

Mr. John Moszynski: A lot of things can be done when you have enough funding to do them. What's needed is more enforcement. I'm assuming that when the revenue flows are more fairly distributed across the industry, more of that money will be put into enforcement, because, really, you're only touching the tip of the iceberg.

The Acting Chair (Mr. Joe Dickson): Thank you very much, sir.

Mr. Paul Miller: On a point of order, Mr. Chair: I hope you're going to allot us the same amount of time as the government.

The Acting Chair (Mr. Joe Dickson): Actually, just for the record, everyone has been over their time allocation. I've been most generous.

Mr. Paul Miller: I hope you'll be most generous with us too.

The Acting Chair (Mr. Joe Dickson): Because you sit so close to me, I have great fondness for you.

The official opposition, Mr. Hudak.

Mr. Tim Hudak: Thank you very much for the presentation.

As you know, the Ontario PC caucus has raised some strong and fundamental concerns, not only with this legislation and the impact that it will have on small business—it will chase more into the black market; it will put a lot out of business—but also the very undemocratic, unfair way that this legislation has been pushed through the Legislature with a time allocation motion and the fact that this far-reaching legislation is not being allowed to travel at any point in time. We're constrained to only a couple of days here in Toronto, despite the fact that—my colleague will correct me if I'm wrong—the legislation won't go into effect until 2012.

What's a coincidence is that tomorrow night there's a fundraiser hosted by you folks, the sheet metal workers, at the training centre on Attwell Drive in Toronto for a pricey \$350 a shot. The special guest is Peter Fonseca, the Minister of Labour. It's for the Honourable John Milloy. Given the way this legislation has been rammed

through without consultation and the fact that you're hosting a fundraiser for the minister tomorrow night during these hearings, do you think this passes the smell test?

1530

Mr. John Moszynski: If I could, sir: I'm old enough to remember when it was Bette Stephenson and the Progressive Conservatives who rammed through some of the best labour legislation this province has ever seen, and we're still enjoying the benefits of it. It brought stability to the ICI sector and did a lot of wonderful things. I can't speak to your issues about process and timing. What I can say is we have to increase our regulation of the industry, and it's better to do it now, to continue some of the work that actually the Tories started a long time ago.

Mr. Tim Hudak: My point would be—and there's still some time to go before the legislation kicks in in 2012, so I ask my colleagues opposite, we've asked the minister, "What's the rush?" It so happens he has this big-ticket fundraiser taking place tomorrow night for 350 bucks a ticket as perhaps a reward for ramming this legislation through. It's not just me who says it. A constituent of mine from Jordan Station, Ontario, Mr. Upton, said, "The rather underhanded way in which" the minister "went about this legislation without announcing his intentions and making every effort to ram the legislation through as quickly as possible without any consultation with those who will be most affected by it smacks of collusion with the construction trade unionists," is what my constituent has suggested. Is there a quid pro quo with the fundraiser legislation?

The Acting Chair (Mr. Joe Dickson): Thank you for the question, Mr. Hudak. I've generously allowed you to go over your limit.

Mr. Tim Hudak: I just asked if there was a quid pro quo with legislation.

Mr. John Moszynski: Absolutely not. But I would say this: The building trades have been telling governments of every stripe for years that you really have to do something to level the playing field, that it's crazy to let this most productive part of the economy sort of exist as a Wild West. At times, every government sort of recognized it and did something. I think, actually—

The Acting Chair (Mr. Joe Dickson): I'm going to have to call a close to that question and that answer. Thank you. I've allowed a minute and half over on that, which is most generous.

I would now go to the third party, please.

Mr. Paul Miller: I have some concerns. A former speaker was in here talking about he's quite proud of the fact that he's insured by a private company and he's had no claims in his 25 years as a home builder, which I find amazing, because I know of lots of accidents that happen at building sites, and that's amazing. Would it be safe to say that on a private insurance plan, if you were insured and you had several claims in a year, that your premiums would go up? Would that be a fair assumption?

Mr. John Moszynski: Yes.

Mr. Paul Miller: Okay. Now, under a blanket coverage under the WSIB, that wouldn't happen, because it's

province-wide. It has certain levels that have to be maintained and a certain level of payout and there would be investigators sent out to these sites: Why is this contractor having more accidents than others? That would be dealt with to see what the causes are.

Would it be fair to say, also from a safety perspective on these job sites, that they cut corners sometimes when they're not certified tradesmen? I myself am a tradesman; I've seen things which are horror stories. In fact, I was driving down the Queen E and there was work under a bridge and there was a manlift there—this was just a couple of days ago—with two guys on it and one of those orange traffic pylons and the cars were doing 120 kilometres right beside it. I was a little concerned, to say the least. I thought it might have been handled better. But that's hired by the government to fix the highways, so I don't know whether they were a unionized company or not. But I know from my experience that unionized companies that have regular safety programs and regular inspectors are much safer sites than some of these other situations. Is that a fair estimate?

Mr. John Moszynski: Absolutely. The one thing I'd point out to you is that it's one thing for lawyers and members of Parliament to be able to talk about reporting accidents. That's not necessarily something that a worker can easily do. People remain very worried about their jobs and remain very susceptible. A lot of the people you're talking about who end up working in the sort of shadow world of construction are there because they are not fully aware of their rights and they're not required to become aware of their rights.

Mr. Paul Miller: My last question, quick. I've got what?

The Acting Chair (Mr. Joe Dickson): Ten seconds.

Mr. Paul Miller: Ten seconds. My last question would be that in some of these companies, which I will not name, would it be possible that the worker on the site, if he was injured on a regular basis, would probably be dismissed by the subcontractor as a potential hazard to his work team, constantly getting injured and claims and his insurance rates will go up—but under WSIB, which is protected by the Ontario government, this worker would have his rights?

Mr. John Moszynski: Normally, what happens in a bad sort of employer—

The Acting Chair (Mr. Joe Dickson): Three seconds.

Mr. John Moszynski: —is that the worker is paid his wage to stay at home until he recovers enough to come back to work. He's returned to work for a couple of weeks and then he's terminated.

Mr. Paul Miller: So that would be a yes.

Mr. John Moszynski: That's a yes.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation, gentlemen.

Mr. John Moszynski: You're very welcome. I thank all members of the committee.

The Acting Chair (Mr. Joe Dickson): Thank you, Mr. Miller. I also allocated you extra time.

Mr. Paul Miller: I appreciate that, Mr. Chair. Your generosity is overwhelming.

The Acting Chair (Mr. Joe Dickson): The pleasure is all mine, sir.

INTERIOR SYSTEMS CONTRACTORS ASSOCIATION OF ONTARIO

The Acting Chair (Mr. Joe Dickson): Our next presenters, ladies and gentlemen, are the Interior Systems Contractors Association of Ontario. Please come forward. Welcome and please introduce yourself for the clerk, sir.

Mr. Ron Johnson: Hello, everyone. My name is Ron Johnson, and I'm the deputy director of the Interior Systems Contractors Association of Ontario.

The Acting Chair (Mr. Joe Dickson): Welcome. There are 20 minutes, sir. Whatever is not used by you will be divided equally amongst the three parties here today.

Mr. Ron Johnson: I can assure all of you I won't use 20 minutes. I'll use about five—

The Acting Chair (Mr. Joe Dickson): And I'll allow you an extra couple of seconds. I find it difficult if I give you three minutes extra time per party and the question takes two minutes and 55 seconds, it's not really fair to our guests—to have time to give an appropriate answer. Sorry to interrupt, sir.

Mr. Ron Johnson: That's fine. As I said, my name is Ron Johnson. I'm the deputy director of the Interior Systems Contractors Association of Ontario. I want to thank the Standing Committee on Social Policy for the opportunity to present to you today on Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997.

Just by way of introduction, I'll let you know what we are and who we are. The Interior Systems Contractors Association of Ontario, which is ISCA as an acronym, was incorporated on September 1, 1971. Originally, it was incorporated as the Drywall Association of Ontario and, in 1980, it was renamed the Interior Systems Contractors Association of Ontario. Now, what we do is we represent employers within the province of Ontario who employ nearly 20,000 construction workers within the province.

These workers do a number of different trades, and I'll just give you a brief list of what they are so you have it for the record. The workers that our employers employ do drywall and acoustic installation, thermal insulation, exterior insulation and finishing systems, asbestos removal, drywall taping and plastering, fireproofing applications, residential steel framing and mould remediation.

In 1984, ISCA was issued a certificate of accreditation by the Ontario Labour Relations Board, which gave us the right to negotiate with the United Brotherhood of Carpenters and Joiners of America. Again in 1987, we were issued another certificate of accreditation, which gave us the ability to negotiate with the International Union of Painters and Allied Trades, district council 46, in the province of Ontario.

As well, ISCA, working with our partners in labour, also runs the largest apprenticeship training centre in North America with respect to interior systems work. We crank out about 400 apprentices a year and we upgrade about 4,000 journeymen at our facility.

I'll tell you upfront that my presentation's going to be fairly short, and then if you have any questions, I'd be happy to take them.

The first thing I want to do is congratulate the minister on this Bill 119. I know he's put a lot of work into it. We support the government's initiative. We think it's a good bill and we strongly support the position of the government with respect to this legislation. We're pleased with the fact that its intent is very pragmatic. We like the approach in terms of dealing with a number of key issues that this bill takes while within the construction industry.

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We think it's a tremendous step in the right direction to ensure that those exposed to risk on construction sites either pay, or have paid on their behalf, WSIB premiums. We feel it would foster a level business environment and serve to reduce the size and scope of the underground economy.

Presently, as you've already heard, just 61% of the construction industry is paying 100% of the benefits. This is unacceptable. It's certainly unsustainable. The resulting significant loss of revenue to the WSIB serves to inflate the current premium rates by about 20%.

Currently, there are thousands of construction workers within Ontario who do not pay WSIB premiums or do not have those premiums paid on their behalf. Many small construction companies, many that I've dealt with in the past, employing, say, 10 to 20 workers simply avoid the premium by hiring all of their employees as independent contractors. It's an unacceptable loophole that we feel this legislation will close.

Also, I can't tell you how strongly our association is in support of ensuring that executive officers pay premiums—and we're an employer association. We believe that the best thing we can do for our industry and the trades is to have the executive officers pay premiums. The reason, really, is that if you allow an exemption, what you're doing is creating another loophole for people to use as independent operators. It goes back to the fact that we need full payment within the construction sector. Creating an executive officer exemption will only serve to increase the number of people working within the underground economy. That's our position.

We do have two concerns. The number one concern, of course, is the exemption within the residential sector, that being home improvement. We believe that we need to tighten that up. I want to go on record as saying that ISCA will work with the government on language to help tighten up that particular exemption so that it cannot be abused. The other concern we have is that the implementation is 2012. We just feel that it should be a little bit quicker than that. The restrictions and the timelines are obviously geared to WSIB's ability to handle the changes legislatively and manage them. We happen to feel that they should be able to do that quicker.

Those are my positions. I'm going to take any questions.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We have four minutes each. I will go to the official opposition first.

Mr. Peter Shurman: I find some of your positions rather interesting. I'm thinking in particular of somebody who contacted me directly, who is a contractor not unlike the people you represent and who pays quite a bit of money to keep himself and his employees well-insured and who doesn't want this because he sees it as an additional tax and something that would replace the insurance he's got with something that's inferior. Why do you think this is a levelling of the playing field?

Mr. Ron Johnson: If you can ensure that everybody's going to be insured, I would agree with your position. But with all due respect, you can't do that, and—

Mr. Peter Shurman: Wait a minute. Let me interrupt you and ask you why.

Mr. Ron Johnson: I was about to explain why.

Mr. Peter Shurman: Okay, go ahead.

Mr. Ron Johnson: The reality is that with a WSIB-insured system, the infrastructure is in place. Inspection processes are in place to deal with proof of WSIB coverage. Unless you would like every single employee or construction worker within the province of Ontario to carry around a 30-page insurance policy document, you can't verify coverage; you can't verify validity of coverage; you can't verify minimum requirements within coverage. So it's just not pragmatic. In fact, Mr. Shurman, your leader came to our association and he agreed with my position at the time.

Mr. Peter Shurman: Were you here when Mr. Kuehn made his deputation? He has a small business outside of Ottawa. He talked about the effects on his particular business and said categorically, and fairly angrily, I have to say, if I can characterize his statements, that what would happen with this legislation is that small independent operators would be driven underground and be forced to operate unethically.

Mr. Ron Johnson: I don't buy that for a moment, quite frankly. I think that's wrong. I would suggest to you that we're in a situation right now where the underground economy is consuming a great deal of the market share. This is a way for us to ensure that people are working safely; that the premiums are being paid; and that the services, with the added revenue, are being provided to the worker.

Mr. Peter Shurman: Your deputation said, I think I'm quoting accurately, 61% pay 100% of the benefits, but that's not necessarily true if you consider that some of those 39% whom you're leaving out are actually insuring their workers and insuring themselves.

Mr. Ron Johnson: That's a very tiny per cent of the market, and I think you know that.

Mr. Peter Shurman: Well, no, I don't know that. I'm asking you because you have more expertise than I do.

Mr. Ron Johnson: The Council of Ontario Construction Associations has done a lot of work on this particular

issue and, although on the broad scope of things we have some differences in terms of our policy stance on this bill, I can tell you that the number of executive officers being privately insured is very small compared to the general market share.

Mr. Peter Shurman: If we were looking at a piece of legislation that said you have to either adopt WSIB or you have to get some kind of a certificate of insurance from a private insurer that says that you're covered, so that we did level the playing field—using your words—for all workers, would that be acceptable to you?

Mr. Ron Johnson: Theoretically it would be, but here's the problem you face with that: You can't enforce that. You can't expect every single construction employee who bounces around from job to job to carry that type of document with them. Then you have to mandate certain limitations within coverage, and how do you prove that on-site?

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Mr. Ron Johnson: It's an interesting concept, and it's one that I would fully expect the Conservatives to bring forward. Quite frankly, I'm not averse to it. It's just a practical application of what you're suggesting that I think is the problem.

The Acting Chair (Mr. Joe Dickson): You've got about 20 seconds.

Mr. Robert Bailey: Mr. Johnson, would a named-insured system meet that goal?

Mr. Ron Johnson: A named-insured system would meet that goal. I have been on a number of different construction association types of committees to help develop that named-insured system. The challenge you face is that logistically it's just not possible. I heard Mr. Tory in his press conference, and I talked to him about this as well. Quite frankly, it's very easy to say you want a named-insured system, and that's what you support. I challenge you, and I will help: Try to develop one. When you've got employees in the construction sector bouncing around from employer to employer five, six, 10, 12 times a year—

The Acting Chair (Mr. Joe Dickson): Ten seconds

Mr. Ron Johnson: —how do you handle the named-insured system logistically?

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will now go to the third party. Mr. Miller.

Mr. Paul Miller: Thank you for coming today. Just a couple of quick questions: The one builder mentioned that he has an insurance company separate from WSIB. I don't know about you, but I've had dealings with insurance companies, and it's been questionable at best. A lot of times it's hard to get your money out of them for various reasons. They'll take your premiums, but then, when you want to collect it, it's a difficult situation, and I think everybody in this room has probably dealt with that. I don't really like that approach of separate insurance following people around. Like you pointed out, am I going to pull out a policy every time I go on a job site? I think that's a little bit ludicrous.

In the building trades—as he mentioned, he’s a home builder—I frankly don’t know too many poor home builders, but maybe that’s just me. Any time a home builder does get additional costs, and they’re claiming this is going to put them under and all that, would it be fair to say, in your opinion, that a lot of times their costs get passed on to the consumer? Would that be fair?

Mr. Ron Johnson: Well, number one, it’s fair, but the most important point: If it’s a home builder we’re talking about—not this gentleman in particular, because I don’t want to reference him—home builders don’t employ anybody, quite frankly. Home builders have two or three employees on a particular job site, a site supervisor, somebody to do some cleanup and supervise. Outside of that, it is the trades who employ. To suggest that a home builder would have an issue with this, I’d find that a little surprising.

Mr. Paul Miller: I was a little surprised too, to say the least, because that’s my opinion. Any time I’ve dealt with job sites, you have a foreman maybe who works for them.

Mr. Ron Johnson: Yes, the home builders are not employers. They have a small staff. The reality is that it all gets subbed to the subtrades, and the subtrades are the employers. They drive the construction site.

Mr. Paul Miller: So, in your opinion, representing a trades group, would you think that under this system, WSIB, the safety on these job sites would improve?

Mr. Ron Johnson: Any time you tie more people into the Construction Safety Association of Ontario or the WSIB system, you’re creating a cost-benefit to safety on the job site. If I’m an employer tied to WSIB, I have a real self-interest in making sure that I operate safely because I will suffer significant penalties through WSIB premium hikes if in fact I don’t.

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Mr. Paul Miller: My last question: They made a reference to not being able to compete with the bigger companies if they’re saddled with this additional cost. Would it not be based on the number of employees and the premiums would be based—if you had three guys working for you, framing, it wouldn’t be any more than a guy who has 100 guys working for him. He’s paying for them. They tried to indicate to me that if you had 100 employees, you’d get some kind of discount over the guy with three employees.

Mr. Ron Johnson: It’s relative, isn’t it, to the size of the job. So basically it’s a per cent of payroll, and if the payroll is \$1 million on a job, it’s a per cent of that; if the payroll is \$1,000, it’s a per cent of that. So it’s relative to the size of the job, number one.

Number two, I think when it comes to the payroll or the cost side, my smallest contractors, who have 40 tradesmen working for them, are more in support of this legislation than my bigger ones are. So the argument that the small business person is going to be hit by this, and hit hard, is false. The small contractors are out there trying to compete every day, and they’re operating safely, paying premiums, above board, above-ground

economy, the whole thing, and they’re getting beat every day on jobs by people operating within the underground economy. That’s who’s beating them: people who aren’t paying the payroll taxes, not supporting the system and not carrying their fair share of the weight in terms of the WSIB system.

The Acting Chair (Mr. Joe Dickson): I would now go to the government side if there are questions.

Mr. Vic Dhillon: Thank you, sir, for your presentation. It’s my understanding that you had sent an e-mail to John Tory regarding this issue. Your e-mail referred to a change in his position. Could you elaborate somewhat about that change to this committee?

Mr. Ron Johnson: What I would do is reiterate what was said in the House, and I’ve got no problem with that. We obviously met with Mr. Tory on this issue. He was in favour of WSIB reform. He certainly told us that he was in favour of ensuring that everybody pays their fair share, that nobody within the system should be receiving benefits if their premiums have not been paid. I have no trouble whatsoever speaking to that issue because, quite frankly, the position I hold today is the exact same position that Mr. Tory held less than a year ago. So I am a little surprised that the Conservatives, and my good friend Mr. Hudak here—

Mr. Tim Hudak: We miss you, Ron.

Mr. Ron Johnson: —who I sat with a little while in the Legislature—I’m a little surprised that there is so much opposition coming from the Conservatives on this, given the statements of Mr. Tory in the past.

Mr. Vic Dhillon: My next question is, can you explain—

Ms. Laurie Scott: Have you got the e-mail?

Mr. Ron Johnson: I didn’t—

The Acting Chair (Mr. Joe Dickson): Government question, please.

Mr. Vic Dhillon: Can you explain this bill’s ability in helping to reduce the underground economic activity?

Mr. Ron Johnson: I think that benefit is self-evident, really. At the end of the day, when you capture or force a greater part of the construction sector—and this is important to realize within construction. I would contend that some of the largest components of the underground economy today are operating within the construction sector. I would argue that the largest number of illegal workers within the province of Ontario are currently working within the construction sector.

This is not the solution, but it is a step in the right direction to address that, and the bigger the net you cast over these individuals who are independent operators, who work in the underground economy, who do not pay in many cases—despite what some legitimate small business owners say, and I happen to agree with them. If you’re a legitimate small business owner and you’re paying your fair share, I’m all for that—good on you—but there are a whole host of them out there doing work that are not. They are not paying income tax, they are not paying WSIB, and if there is going to be some sort of enforcement mechanism tied to this legislation that will see that the WSIB premiums are paid, it’s another tool

for inspectors to go on-site and ensure that people are operating above board.

The Acting Chair (Mr. Joe Dickson): You're finished, sir?

Mr. Vic Dhillon: Yes, thank you.

Ms. Laurie Scott: I just wanted to know if I could do a point of order in response to Mr. Johnson's accusations about what Mr. Tory had said in the past. So if I have your permission, if I could read into the record Mr. Tory's response to Mr. Johnson that he sent on November 13 regarding Mr. Tory's position on WSIB reform and the elimination of the underground economy. Do you want me—

Interjection.

Ms. Laurie Scott: Yes. I just want to quote what Mr. Tory did tell the CFIB in 2006.

“First ... the WSIB ... which remains a growing taxation burden—felt most acutely by Ontario's small businesses. For instance, in construction—an area already hard hit by taxes, regulations, and competitive pressures—the WSIB wants to force single-person contractors—who often have the smallest margins of all—to start paying premiums. And the McGuinty government appears to want to let them. Outside of being a cash grab, I ask, why? What is gained by forcing the self—”

Mr. Vic Dhillon: On a point of order, Chair: With due respect, the opposition has had a chance to make their point. They've spoken within their allotted period of time. There wasn't anything incorrect said and—

The Acting Chair (Mr. Joe Dickson): Thank you. Was that the end of the statement from Mr. Tory?

Ms. Laurie Scott: No, I have more.

The Acting Chair (Mr. Joe Dickson): Would you like to submit the rest of it in writing?

Ms. Laurie Scott: I can hand it in.

The Acting Chair (Mr. Joe Dickson): That would be appropriate, if you would.

Mr. Tim Hudak: On a point of order, Chair: There were references made by Mr. Dhillon to comments Mr. Tory made. Ms. Scott is trying to correct the record. I am pleased that she will distribute that to members, but I think she should finish the—

The Acting Chair (Mr. Joe Dickson): What I have said is that I have appreciated what she has said. She has generally presented the thrust of her presentation. We'd be pleased to accept the written documentation for the records.

Mr. Tim Hudak: My point, with respect, is—

The Acting Chair (Mr. Joe Dickson): I appreciate that, Mr. Hudak.

Mr. Tim Hudak: —if we get it in Hansard—

The Acting Chair (Mr. Joe Dickson): Mr. Hudak, you're not the Chair.

Mr. Paul Miller: On a point of order, Mr. Chair—

The Acting Chair (Mr. Joe Dickson): Is there anyone else left who would like a point of order?

Ms. Laurie Scott: No, we're not finished yet.

Mr. Paul Miller: We may go back. There may be someone else.

The bottom line here is I agree with my colleagues that if there is something that's been said that may be misdirecting the overall situation of the committee in their thoughts and when they're going to make their decision, then if this is important to the opposition that they read that into—I don't think that anything should be omitted or not allowed to be finished, Mr. Chair. I think they should be allowed to do it.

Mr. Ron Johnson: May I just respond?

The Acting Chair (Mr. Joe Dickson): Did you want to respond? Maybe some clarification would resolve this whole issue.

Mr. Ron Johnson: Absolutely. First of all, I find it a little ironic that Ms. Scott would like to quote John Tory's comments to the CFIB. I never once suggested he—

Ms. Laurie Scott: I haven't finished the e-mail.

Mr. Ron Johnson: I'm sorry?

Ms. Laurie Scott: I haven't finished the e-mail.

The Acting Chair (Mr. Joe Dickson): Excuse me, Ms. Scott, the gentleman has the floor.

Mr. Ron Johnson: It has no relevance to what Mr. Tory told my contractors in 2007—zero relevance whatsoever. What he said to the CFIB four days ago in response to committee hearings has no relevance whatsoever to what he told our contractors in 2007.

The Acting Chair (Mr. Joe Dickson): Okay. Further?

Ms. Laurie Scott: On a point of order, Chair: I wanted to read the entire e-mail which Mr. Tory sent to you, to put it on Hansard. It does address what you have just stated, if you would allow me to finish reading the e-mail.

Interjection.

Ms. Laurie Scott: To be put in Hansard? I can talk quickly, if you wish.

The Acting Chair (Mr. Joe Dickson): How much is there?

Ms. Laurie Scott: It's another minute and a half at the most.

The Acting Chair (Mr. Joe Dickson): I can give you a minute and a half—but I am timing you.

Ms. Laurie Scott: Thank you very much. I'll continue.

“And the McGuinty government appears to want to let them. Outside of being a cash grab, I ask, why? What is gained by forcing the self-employed contractors to pay premiums? It is a solution in search of a problem.”

“The reason why the PC caucus and I are so opposed to Bill 119 is precisely because it fails to address the concerns of small business people.

“It increases rates and costs to business people without a drop of reform.

“And, in so doing, creates a further advantage to dishonest businesses at the expense of hard-working, honest folks.

“As you know the Ontario PC Party has always been a strong partner with small business in Ontario and we will always speak up for these hard-working people that drive our economy.

“We have stated publicly many times that the problems with WSIB run very deep and that it will take real, significant changes to address the system as a whole. We made these comments to your COCA 2007 election survey.

“WSIB—

“We are mindful that expanding mandatory WSIB coverage is a problematic issue for COCA and its members, and believe there is a strong business case for undertaking a broad review of WSIB’s mandate and operations. We do believe, however, that any review of the WSIB requires very careful consideration and thorough consultation with all stakeholders.’

“We said then and we say now that the government should be having meaningful consultation with stakeholders, like you, rather than ramming this bill through and limiting the public’s input.

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“Why is the government not cracking down on cheats? Why is the government not addressing the larger, serious problems facing the WSIB? Why, at the worst time possible, does the government think it makes sense to increase costs for small business people without doing anything to improve the system?

“We think because of these unanswered questions, and more, this attempt at legislation is a bad idea.

“I enjoyed my visit to your facility and I was glad to comment on the problems with WSIB and the need to curb the underground economy—in fact, the failure of Bill 119 to address these problems remains one of my greatest critiques of it.

“I want to thank you again for your e-mail and I look forward to working with you on future issues to get Ontario back on top again.

“Regards,

“John” Tory

Sent to Ron Johnson on November 13. Thank you.

Mr. Ron Johnson: I’d like to respond briefly, if I may, Mr. Chair.

The Acting Chair (Mr. Joe Dickson): Absolutely. We’re going to bring dinner in at midnight.

Mr. Ron Johnson: I find it somewhat ironic that I would get that e-mail, now three or four days ago, given the fact that I had requested to appear in front of the committee and that there had obviously been some dissension on our part with the position of the Conservatives. I guess now he’s certainly willing to consult with the industry. I would suggest that he probably should have consulted with us before he made his policy declaration several weeks ago.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I appreciate that.

Mr. Ron Johnson: Thank you.

CANADIAN FEDERATION
OF INDEPENDENT BUSINESS

The Acting Chair (Mr. Joe Dickson): The next presenter is the Canadian Federation of Independent Business. Welcome. Please introduce yourself.

Ms. Judith Andrew: Good afternoon. I’m Judith Andrew, vice-president, Ontario, with the Canadian Federation of Independent Business. Joining me is Satinder Chera, CFIB’s Ontario director.

The Acting Chair (Mr. Joe Dickson): Could you speak just a little louder? That would be great. Thank you.

Ms. Judith Andrew: Should I repeat what I just said?

The Acting Chair (Mr. Joe Dickson): No. We’re good. Thank you.

Ms. Judith Andrew: Thank you for the opportunity today. If everyone has their kits, I’m speaking from a statement in the kits. There are many more interesting pieces which I hope you will peruse as we go along.

From the beginning, employers have been required to foot the bill for their employees’ workers’ compensation coverage. Optional workers’ compensation insurance is already available for leaders of companies, independent operators, sole proprietors, partners in partnerships and executive officers of corporations. Bill 119 proposes to make workplace disability insurance coverage mandatory for these categories of persons in the construction industry and, further, to make them purchase that coverage from the Workplace Safety and Insurance Board.

This wrong-headed legislation will hurt some 4,500 CFIB Ontario construction members and many more businesses in the sector and beyond. Most of them won’t have a chance to speak during these very limited hearings in Toronto. Many will not know what the Ontario government is about to do. It has been just a month since CFIB learned that brand-new Labour Minister Fonseca had wowed a union construction audience in Windsor by announcing he would proceed with mandatory WSIB coverage legislation.

For a government that professes to be concerned about the democratic process, the failure to consult and the lightning speed with which the government is rushing this controversial legislation through are certainly disturbing. Ontario’s WSIB is doing what any self-respecting monopolist would do: It is aiming to grow its monopoly power, its clout and its money. WSIB efforts to find an ill-informed, unsuspecting Minister of Labour willing to sponsor mandatory coverage legislation have persisted through successive Ontario governments and WSIB leaders.

CFIB responses to some of these attempts are in your kits. The first one goes back to 1989. There are several that we couldn’t put in just because of the length, and the most recent one is from 2006. Regrettably, we are all here today because the big-union, big-business politics of the situation trumped, at least for the moment, the very negative ramifications of mandatory coverage for small business, for the WSIB, actually, and certainly for the government sponsoring it.

The government has put forward a number of policy reasons for bringing in mandatory coverage in construction. None of them stand up to examination.

Myth number one: Mandatory WSIB coverage will improve safety on the job.

Reality number one: Construction firms currently registered with the WSIB pay premiums on payroll for employees. They participate in experience rating and they apply prevention information and training from the Construction Safety Association of Ontario. Making these law-abiding firms pay, on average, \$11,000 more for their owners under Bill 119 will not improve workplace safety. On the contrary, this policy will leave these firms with less money to attend to workplace safety or any other imperative they may have.

Independent operators, those without employees, do not presently have access to the safety and training resources of the Construction Safety Association of Ontario. If the government really cared about safety for independent operators in construction, it wouldn't be letting the WSIB fleece them for an insurance product they can already buy voluntarily now. Instead, it would make the safety resources of CSAO available to them at a nominal charge.

Myth number two: Individuals need access to WSIB coverage for financial compensation for lost earnings, certain health care costs and job retraining services. Owners, executive officers and independent officers are incapable of making their own decisions regarding whether to buy and from where to purchase the coverage.

Reality number two: Leaders of companies are responsible for their own livelihoods. They know what insurance protections they need and they're capable of choosing their preferred insurance carrier. Many business owners report that their superior 24/7 insurance is less expensive than the WSIB product. The Ontario government via Bill 119 is forcing business owners, executive officers and independent operators to buy the WSIB insurance that no one wants. If the government were serious about expanding WSIB coverage, it would work on making the WSIB improve its operations and offer an attractive product that would actually sell itself.

Myth number three: Mandatory WSIB coverage will catch the underground operators and cheating in the system and level the playing field.

Reality number three: Under this policy, WSIB's ability to find the cheats in the underground will not improve. With this increased incentive to hide, underground operators will likely dive further underground while some others may have to resort to cheating in order to survive. Making the above-ground operators further subsidize the cheats penalizes the good guys unfairly and, far from levelling the playing field, this policy means a tilting of the playing field against small business, as the WSIB premium increases for the leaders are disproportionately large for them.

If the WSIB or government was serious about clamping down on cheating, it would follow the lead of the Canada Revenue Agency or the Canada Employment Insurance Commission; it would stop complaining and it would actually do the job of figuring out who is an employee and who is not. It would also seriously investigate a named-insured approach, as Premier McGuinty promised in last year's provincial election. The election

checklist is just on your left in the kit. I was interested in hearing the debate about Mr. Tory's position. Well, it's written there as well. So it would facilitate the tracking of who has paid-up coverage through named insured and would change from insuring overall payroll to insuring employees by name.

Myth number four: With company owners, executive officers and independent operators in construction contributing to the system, WSIB construction premiums would actually decrease overall.

Reality number four: Assuming the WSIB manages to collect premiums from more owners, executive officers etc., it must be noted that this is a new category of participant. These individuals are their own employer. Far from increasing funds to the WSIB, this category risks presenting many more dubious claims, creating an administrative nightmare for WSIB. Deemed both employer and worker, the individual will be in the conflict situation of being called upon to supervise his own claim.

Contrast this with employment insurance, where it is well established that the employment insurance system is meant for employees. It's not meant for owners, because owners could potentially lay themselves off. Same thing here: WSIB claims could be submitted by the people are non-arm's-length.

We ask you to carefully reflect on these points as you consider our recommendations. The first one: Withdraw Bill 119 and address the real problem of revenue leakage: premiums not being paid for all those who enjoy de facto coverage. Start with a restructured named-insured working group and give them a refreshed mandate to clamp down on cheating in the WSIB system. Cheating hurts the good operators. That's whom we represent.

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Do not take away choice in insurance carriers by mandating WSIB insurance. Permit owners, executive officers and independent operators to buy insurance policies tailored to their particular needs, with appropriate evidence of insurance coverage. I would say we're all quite used to this. We carry our extended health cards—it's very easy. Every other type of insurance does it that way, so why can't the WSIB?

The third one: Refrain from erecting barriers to the success of independent operators. These are the lifeblood of entrepreneurship. People start businesses as individuals. They eventually grow those businesses and start to employ people. Help those independent operators by making safety association prevention services and training available to them at a nominal cost.

Finally, address the WSIB's myriad of problems, their financial and other problems, by working on improving their operations. Improving the agency's treatment of its customers is the key to doing that.

I appreciate the opportunity here. Now I would like to say one more thing. Despite the measured tone in this statement, the Ontario government should be aware of the depth of concern and the anger in our small business sector that goes even beyond the construction sector. This attack on small business, which came in Small Business

Month, is hurting business confidence at a time when the economy is shaky.

We have brought with us today a compilation of some things our members had to say about this wrong-headed WSIB legislation. As you can see, it's a heavy book—thousands and thousands of responses. This issue has drawn the attention of our president, Catherine Swift, so you can be sure that CFIB will fight for fairness to small business on WSIB coverage, and we will not rest until we achieve it, even if that means after the next election. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. The first questions are for the third party.

Mr. Paul Miller: Thank you for your presentation. I'm a little concerned with your comment "big-union, big-business politics." I can't disagree more. I don't classify safety of workers and the WSIB coverage of workers as big-union politics.

Ms. Judith Andrew: I thought that was a question.

Mr. Paul Miller: Oh, no, I've got lots more.

Ms. Judith Andrew: Could I respond to that? The reason we mention big business and big union is because this was announced in front of a big-union audience, and because the day it was introduced in the Legislature, there were big-business and big-union people congratulated in the government gallery for it.

Mr. Paul Miller: With all due respect—

The Acting Chair (Mr. Joe Dickson): Next question.

Mr. Paul Miller: That's your perception and that's fine. I personally agree with you on one part. I think it's being pushed through too quickly. I don't think it's been thought out correctly. Our party has some concerns about exemptions and things like that. We do have concerns and we'd like to see that worked out in committee. We don't agree totally with the concept, but the basis of the concept is good because there are 90,000 people in the construction industry. I don't know how many people you represent from the construction industry, but I'm a tradesman and I'm well aware of what goes on at construction sites and on building sites, and there are a lot of horror stories out there that I don't want to get into. I can go into the records and show you. I think safety plays a big part in this bill because you're now under the WSIB umbrella. I don't think it's a money grab. And the \$11,000 that you mentioned that owners may have to put out under Bill 119: I'm not sure that I agree with your statement that they would have spent the \$11,000 without this coming, if they didn't have this bill, and they would have spent an extra \$11,000 on safety. I'm not quite sure that would happen. It may have gone, directed somewhere else.

There are a few things I disagree with you on. I do agree with you that this has been pushed through too quickly. I agree that you do have to have your forum to speak about it. I think it's been a little unfair to small business people and they have a right to bring their concerns forward. But I think it can be worked out—some of your concerns. Nothing's going to be 100% for everybody, for what you like to call the big unions or

business or small business. You have to have a meeting of the minds and you have to agree on certain things to give a little, take a little. It can't be all your way, it can't be all union's way and it can't be government's way. But I believe that you haven't had a proper forum to do that and I would encourage that they do—it would have given you a better chance to address this. But some of the things I disagree with in your statements. Thank you.

The Acting Chair (Mr. Joe Dickson): Do you have a response?

Ms. Judith Andrew: Yes. First of all, in terms of taking the high road in safety, I want to absolutely clarify for this committee that we represent small, independently owned businesses. Many of them are family-owned businesses. Safety is a top priority. We have put forward very substantial proposals on how to improve safety.

We think safety is being used as a smokescreen here, that this won't touch safety at all for our members. The people who are being asked to pay more money already have access to all the safety information and the training. The independent operators—

Mr. Paul Miller: Do they use it?

Ms. Judith Andrew: Oh, absolutely. Small firms—

Mr. Paul Miller: I disagree.

Ms. Judith Andrew: You know, the accident rate—

The Acting Chair (Mr. Joe Dickson): You have five seconds.

Ms. Judith Andrew: —in this province has diminished by over half. We have put forward a proposal to the WSIB on how to get another 50% decrease in that accident rate, a very practical proposal, taking account of the fact that most businesses are quite small in the province. We have—

The Acting Chair (Mr. Joe Dickson): Thank you very much. I'll go to the government now. Are there any questions?

Mr. Vic Dhillon: Yes. You know, construction is a very, very dangerous sector. This bill goes far and deep into addressing some of those issues in terms of creating a level playing field, reducing the underground economic activity, and to make sure that everyone is insured. To have "safety" and "smokescreen" in one line, I find that a bit tragic.

Ms. Andrew, can you confirm to the committee how many of your members, for 100% certainty, carry private insurance coverage?

Ms. Judith Andrew: That, we don't know, but we have heard from many, many that do. We think it is incumbent upon the government to know how many businesses in the construction sector have private insurance coverage. When I spoke to your ministry officials, they didn't have a clue. The minister didn't seem to know. It's an area that your ministry didn't bother to investigate before rushing in with this legislation.

On your earlier points about safety and levelling the playing field and all of that, you can say that as many times as you wish, but wishing those things to be true is not going to happen with this bill. There's a disconnect between the things you say you want to accomplish and

what this bill is actually going to do. That's what troubles us.

It is going to hurt the good guys, the above-ground operators. It's going to let the bad guys continue to cheat the system. It won't touch anyone on safety. It will, in fact, probably be a retrograde step when it comes to safety because decent, serious proposals like the ones we've put forward for improving safety won't get any attention because everyone will be trying to do this.

The other solutions are out there. Named insured is a solution. Your government, I guess, decided to truncate the process that was going on at WSIB to try to look into named insured. My goodness, named insured is done everywhere. Employment insurance, your health insurance, every type of insurance that's out there names the risk that they're insuring. Only the WSIB insures payroll.

Mr. Vic Dhillon: Thank you. You've strongly advocated that private insurance is much, much better than the WSIB. What evidence do you have of this?

Ms. Judith Andrew: Our evidence is always what our members tell us.

Mr. Vic Dhillon: Do you have anything specific? Have you done your research in terms of—

Ms. Judith Andrew: WSIB insurance covers working hours, for one thing. When our members are buying insurance for the leaders of their companies, they're getting insurance that covers 24 hours a day. It covers them for a serious illness.

We had one case reported to us where an individual actually had taken the voluntary coverage with the WSIB—that's another thing: Our members are very concerned that they may not even be able to collect if they're forced to pay these premiums. This business owner was seriously hurt and in the hospital, and he had to commit to not having any association with his business during that period of time. He couldn't even pick up a phone call because, in order to collect the benefits, he had to be totally separate from his business.

The product the WSIB offers is completely impractical for our members. They want to buy coverage somewhere else. If the government really thinks the WSIB insurance is so great, why don't you make it great so that people actually want to buy it, not force them to buy it?

Mr. Vic Dhillon: You've advocated in the past that the named-insured system should be created, and again here today. Could you tell committee members what additional regulatory requirements would be added if the named insured were in place today?

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Ms. Judith Andrew: What additional regulatory requirements?

Mr. Vic Dhillon: Yes.

Ms. Judith Andrew: I'm not sure what you're getting at.

Mr. Vic Dhillon: How many more laws or regulations would have to be created to make it realistic?

Ms. Judith Andrew: We haven't looked at that. We participated in good faith in the WSIB's committee. That committee was struck, incidentally, because the Premier

promised our members, in the run-up to the last election, that there would be a serious examination of it. When we got to the committee, we discovered that it was only populated by people who actually had the secret agenda of bringing this mandatory coverage back onto the table. The WSIB participants didn't really put forward any useful contributions. Their role seemed to be to snipe at any suggestions that were made. We've written a letter to Mr. Mahoney about the deficiencies of that committee. It's in your kit—

The Acting Chair (Mr. Joe Dickson): Thank you. I'll have to go to the official opposition at this point in time.

Mr. Tim Hudak: I just want to get a quick comment in. My colleague, critic Bob Bailey, has further—thank you both for the presentation. I just want to register a concern, Mr. Chair, with the tone that Mr. Dhillon, as parliamentary assistant, has taken with his questions. It's almost like he assumes that small businesses are guilty and have to prove themselves innocent, which I fear underlines the tone of this legislation.

Let me give you an example. I've received more e-mails and calls on this legislation than any in a number of years. Alan Gerritsen, from Jerry's Auto Body in Beamsville, says, "I am asking you insist that WSIB mandatory coverage not be rushed, that committee hearings be held around the province, and that other options to mandatory coverage be fairly considered.

"It will not level the playing field; on the contrary, it will tilt it in favour of large, unionized constructors. It will fail to get at the underground economy; present lawbreakers will no doubt evade the new law, and dive deeper underground. It will not make one iota of difference on health and safety; companies with employees already have access to services from the safety association." This is a typical e-mail that I've received, and I believe what small businesses in my riding are saying. I'm disappointed that Mr. Dhillon evidently does not.

The Acting Chair (Mr. Joe Dickson): Further? Mr. Bailey.

Mr. Robert Bailey: Thank you, Ms. Andrew, for coming in today and making these presentations. I get a number of e-mails from small business people. Did you just use the number 25,000 minimum that replied?

Ms. Judith Andrew: Well, there's a picture of our president, Catherine Swift, who is seized with this issue, as well as Satinder and me, getting 25,000 messages—we call them alerts—on this issue that we delivered to Minister Fonseca. We had gathered these over a period of time. This issue keeps coming back onto the table. It's such a bad idea, and yet they keep bringing it forward. In typical monopoly behaviour, the monopolist wants to grow its monopoly. We had a lot of these messages and we've still got many more. There are probably 10 or 12 to a page here. This is something that is just going to drive people crazy around Ontario.

Mr. Robert Bailey: Another issue that was drawn to my attention was that a number of small businesses—maybe you can speak to this—feel that this is just the thin

edge of the wedge, that they'll move on this sector first, and then someone will say, "Well, we still need more revenue"—because that's what it is at the end of the day: a revenue grab. Do you feel that? Do some of your members feel the same way?

Ms. Judith Andrew: Absolutely. We have the benefit of the years of pressure on this particular issue. The NDP has referred to the Brock Smith report. That was when the WSIB was asked to do its own consultation on expanding its monopoly. In the Brock Smith report they weren't just talking about independent operators and owners and so forth in construction; the agenda was much bigger then. It was all other sectors of the economy that currently aren't forced into WSIB—the financial sector and so forth—and they want to get everybody. True monopoly.

Mr. Robert Bailey: I'm also surprised that one of the biggest recipients of this legislation, the WSIB itself, hasn't raised its head. I don't know whether someone's told them to keep a low profile until this is dealt with. Does it surprise you that the WSIB, the one that's going to generate the most revenue from this, is not representing, pro or con?

Ms. Judith Andrew: Well, it does, but Mr. Mahoney is on record as saying that he thinks the mandate of the WSIB should be much larger than it is now. That's in Hansard from a review—when was that?

Interjection.

Ms. Judith Andrew: About a year ago. We used it in one of our alerts because we could see that the leader wanted to push it. We've even tried to get a response to our letter about the named-insured committee and we haven't got that in hand yet, so he is really keeping a low profile.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Ms. Andrew. That's the over-allocation of time. I thank you very much for your presentation, and I would ask that the next presenters—

Ms. Judith Andrew: Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much for coming.

MILLWRIGHTS REGIONAL COUNCIL OF ONTARIO

The Acting Chair (Mr. Joe Dickson): The next presenters are Millwright Local 2309. If you would be good enough to join us.

Mr. Don Schultz: Hello.

The Acting Chair (Mr. Joe Dickson): Good afternoon. Introduce yourself, sir.

Mr. Don Schultz: My name is Don Schultz. I'm with Millwright Local 2309 in Toronto, which is an umbrella under the Millwrights Regional Council of Ontario for the province of Ontario.

The Acting Chair (Mr. Joe Dickson): The floor is yours, sir. Welcome.

Mr. Don Schultz: What is a millwright and what do we do? We do machinery installation; we work in all the

car plants; we do turbine work at the power-generating stations, food industry, hospitals. You name it; we're in and out.

We at the Millwrights Regional Council of Ontario very much support this brief from an employee and an employer position. We believe that every employee within the construction industry deserves coverage, no matter who they are employed by. These are all hard-working individuals in a very risky physical industry. This type of work definitely takes its toll on the body and the mind over the years, due to the physical labour exerted in many different environments and climatic conditions.

Every worker should go home in the same condition they left for work in the morning. But if something were to happen at work, every worker should be entitled to proper coverage through the WSIB to ensure that their best interests and their families' best interests are taken care of.

To understand—that some workers in the construction industry are forced to make a decision between having a job or having coverage is just plain wrong. Would any of you want to have your children put in that position? I know I certainly wouldn't. The principle of an all-workers' compensation system is that workers give up the right to sue their employer for work-related injuries, in exchange for a no-fault system of benefits that are paid for by the employer. Forcing workers to pay their own premiums violates the basic premise of the system.

We at the Millwrights Regional Council of Ontario pay into the WSIB for all of our management employees and all of our secretaries. None of our secretaries will ever go on a construction site, but if one were to accidentally fall down the stairs in our office, for their sake, for their family's sake and for our own sake, we make sure that they have proper coverage.

At the millwright council of Ontario we truly believe that the WSIB are working hard to help the WSIB meet its Road to Zero mandate, which is the elimination of lost-time injuries and work-related deaths. We are the people who live it every day. We are the people who see it every day. We are the people who act on it.

I got into the trade in 1980. Back at that time, there was no safety involved whatsoever before you went out to a job site. You were just thrown on a job site. It was wrong: I was an accident waiting to happen; I was put in circumstances I shouldn't have been. A lot has changed since 1980 in the way that we do business. Whenever we do an apprentice intake, before an apprentice is dispatched to a job, they must go to a 35-hour health and safety training program at the Construction Safety Association of Ontario. This gives them the likes of injuries statistics, attitude and safety, WHMIS, Occupational Health and Safety Act, related legislation, personal protective equipment, material handling, and back care and fall protection. Before we send them out to the job after we have them, they're in school. We meet them in school and discuss it more with them. Then we meet once more before we send them out, because we know what's

out there and we know how easy it is to be in awe and that they want people to believe they can do such a good job so they'll just do whatever they're told.

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We know we are doing our due diligence. We continue by offering first-aid courses. If something new in the industry were to come up that will benefit our members safety-wise, we will act on it.

With thousands of unregistered independent operators in construction, there is no method for these workers to receive health and safety training. With all independent operators now applying for coverage, this would put them in direct contact with the WSIB and, by extension, with the CSAO.

The MRCO, through the construction industry, has asked governments for over 15 years to act on this problem. This legislation levels the playing field for all contractors and workers in the construction industry. In fact, it has more benefit for unorganized workers who are forced to choose between working without coverage or not having a job at all. It's about time the government acted on this issue. This legislation levels the playing field so that everyone is playing by the same rules. Not having to pay coverage gives some people an uncompetitive advantage in bidding for work. No one should have an economic advantage, between similar firms in the same industry, because they don't pay into the WSIB. To think that there are as much as \$350 million in unpaid premiums is mind-boggling. This erodes the construction coverage base. It drives up costs for employers who pay into the system, when in fact this legislation could lead to lower costs for the legitimate contractors now paying into the system. The construction industry has been calling for action on this issue for quite some time. It is good public policy.

As far as big business and small business go, we believe that this legislation will help both. It will help the big businesses by bringing down costs in the long run, and it will help the small businesses by safeguarding them against being sued, which would be very hard for them to absorb.

Within the Millwrights, we supply over 340 contractors—big business and small business—but I have to say that the majority are small business, a lot of mom-and-pop organizations that might employ five to 10 people.

As far as private coverage goes, the current practice shows that unscrupulous contractors will exploit any exemption within the industry to get an unfair advantage. To preserve the integrity of the system and to avoid any abuse, all who work in the construction industry must be covered.

The Council of Ontario Construction Associations notes that about 35% of the industry does not contribute to the WSIB. This is truly unfair to those that do contribute. Just because people have been getting away with not paying their fair share is not a reason to allow this practice to continue.

Research suggests that one of the leading contributing factors to the underground economy is the independent

operator. By making all who work in this construction industry register with the WSIB, there will be a paper trail to track all contractors. It will then be easier for inspectors to check the status of a contractor to ensure that they are making their statutory remittances. If this eliminates the unscrupulous contractor, everyone, from the government to the industry, will benefit.

Bill 119 is a positive step in levelling the playing field so that all who compete for work do so on equal terms. The only reason a contractor forces his workers to accept being declared independent operators is in order to gain employment in the construction industry. This is being done for no reason other than to allow a contractor to avoid their statutory obligation to forward WSIB premiums on behalf of the worker and to pocket the savings for themselves.

Bill 119 must clarify who is responsible to pay WSIB premiums. Workers should not be forced or coerced into paying premiums.

The implementation date of January 1, 2012, is way too far off. Putting this off longer will only continue to hurt the industry. All efforts must be made to implement this policy as soon as possible. The WSIB should be given the resources necessary to implement by January 1, 2010, at the latest. The Millwrights Regional Council of Ontario fully supports this change to the bill.

The Acting Chair (Mr. Joe Dickson): Thank you very much. First are questions from the government.

Mr. Khalil Ramal: How many minutes do I have, sir?

The Acting Chair (Mr. Joe Dickson): You have three minutes.

Mr. Khalil Ramal: Thank you very much for your presentation. I listened to you carefully when you talked about how mandatory coverage on construction businesses would create a level playing field for everyone, and everyone would be able to bid on a job equally. But you didn't talk much about how much this bill, if it passes, would affect and improve the health and safety for the workers in this construction business.

Mr. Don Schultz: What it would do is that, paying into the WSIB, you'd be in contact, then, with the Construction Safety Association of Ontario. Right there, they would be an avenue for you to get safety training, which I think is pertinent on the job—knowing the green book, knowing your rights—but also taking a step forward and making sure that your members, the people who work for you, are safety-trained. Otherwise, right now the workers don't have any idea of what's out there.

Mr. Khalil Ramal: The presenter before you said at many different times that this bill, if it passed or if didn't pass, is not going to make a difference in terms of safety. So what's your answer to her? She is with us in the room. You were here when she was speaking about this issue.

Mr. Don Schultz: On the safety issue, on how this would benefit them?

Mr. Khalil Ramal: Yes.

Mr. Don Schultz: It would open the doors to the CSAO for them, which would help them then get the safety they need.

Mr. Khalil Ramal: She was speaking about how private insurance would be a lot better than WSIB. You know we are trying to introduce this bill in order to create a level field, for all the people to have one coverage across the board, since not many people who are working in small business, especially in the construction business, have the insurance to protect their workers, which was proven by many different people. Nobody has the statistics or evidence that those people working on a construction site would be covered through their insurance or through other coverage.

Mr. Don Schultz: In the business we're in, you're going from job to job. You could be there from one day to two years. I don't know of any of our contractors who have private insurance, because there's so much movement. You move from contractor to contractor to contractor. I understand what you're saying, where you're looking at one controlling—but in the construction industry, you have to have some coverage. It would be so hard to control if every contractor had a different insurance plan. I've never seen any out there other than the WSIB.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We'll now go to the official opposition.

Ms. Laurie Scott: My question: Since 2003, do you know how much your organization has contributed to the Ontario Liberal Party?

Mr. Don Schultz: To be honest with you, I don't. That would be higher than me.

Ms. Laurie Scott: I just want to let you know that, according to records from Elections Ontario, there have been contributions—I believe they're over \$1,200—that have been donated to the Ontario Liberal Party. Do you not feel—

Mr. Don Schultz: That would come from the political action committee, which would be above me. I have no control of that.

Ms. Laurie Scott: I'm just putting it on the record that that's from Elections Ontario, just so you know. I wanted to ask if there's a connection that you know of with your association to the Working Families Coalition of 2007.

Mr. Don Schultz: This act has been going on long before the Working Families Coalition even started. So we were pursuing this before. Are we involved? Absolutely.

Ms. Laurie Scott: Okay. So you were part of the Working Families Coalition in 2007?

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Mr. Don Schultz: Yes.

Ms. Laurie Scott: That's good to know. I think what we are saying here is that there's a lot of behind-the-scenes smokescreen going on with respect to safety. Small businesses were not consulted. Small businesses have been degraded into the underground economy, in the same category—the minister has put them in with that, saying they do not respect their workers, that they do not give them proper insurance, and that is not true.

You've heard many deputations here this afternoon. I just want to say to you that small business and medium-sized business have not been heard from. We've heard that many times. I've heard it from my riding continuously—tons of e-mails.

Do you think there was proper consultation on this bill before it was brought forward?

Mr. Don Schultz: We have a lot of small business contractors. What I mean by that is mom-and-pop organizations.

Ms. Laurie Scott: Small and medium-sized businesses are less than 100, so it's mom-and-pop but it includes more.

Mr. Don Schultz: They're the ones coming to us, more than the big business guys, and saying, "Okay, help guide us." We want to do what's best for the worker out there, and what's best for the contractor also. We don't want to put anyone in a bad position.

Ms. Laurie Scott: Okay, so when I say that, would you agree to a named-insurance system, a named insurer—why it wouldn't work?

Mr. Don Schultz: That's up to the individual contractors, because they're the ones putting out the insurer.

Ms. Laurie Scott: So you don't have an opinion on that, or do you think that that system would work if people had a choice between private insureds and WSIB?

Mr. Don Schultz: I think that system would work, but—

Ms. Laurie Scott: So you could have a choice. It doesn't have to be mandatory WSIB. It could be—

The Acting Chair (Mr. Joe Dickson): Ten seconds.

Ms. Laurie Scott: —a named insurer. That's fine, Mr. Chair. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We'll now go to the third party.

Mr. Paul Miller: That was an interesting exchange. I personally don't see the relationship between political donations and safety and health and the WSIB, but that's interesting.

But moving along, from my personal experience, I've been an industrial mechanic/welder/fitter for over 30 years in heavy industry, so I'm well aware of accidents. I'm well aware of companies that have come into major plants as subcontractors and there have been some serious—there have been fatalities because workers weren't properly trained.

From a union perspective, as a union leader, I know we have trained our people—level 1, level 2—and we have ongoing safety and health programs, ongoing safety and health meetings in our plants on a regular basis to make workers aware of their surroundings. Our fatalities have gone down immensely. In the steel industry, which I can speak of, it's gone down immensely in the last 15 years.

I know that at least 40%—the small business people say there's no relation between safety and health, and there absolutely is; it's a big part of it. My humble opinion is that safety and health play a major role in any industry. Not only does it keep the premiums down, but

the fewer people who are injured, the better for our system, and the better for them to go home to their families. It's a win-win.

Now, there are a lot of small groups that work, and they're worried; they're saying it might cost them \$10,000 more a year. I'm not sure that they can't pass those costs on somewhere else in their business that would alleviate—but it would also protect their workers.

My concern, if I were a small business owner: Priority one would be that my people who are working for me would go home safe at night. So that's my opinion. Would you concur with that opinion?

Mr. Don Schultz: Yes, I would.

Mr. Paul Miller: Speaking from my experience, I have seen fatalities personally, and it's an awful, gory situation. Companies weren't aware. They had people who weren't trained, or people who were underage, or there might have been a language barrier or there might have been some problems. But these people were not aware.

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Mr. Paul Miller: Two guys died at Dofasco. They were in a pit and they were gassed because they weren't aware of the levels of gas at different levels. Our people would have trained them. But that was a non-union environment.

I have to say that they're moving in the right direction. There are things that I don't agree with that should be changed, but I think that can be done at committee level to suit all parties.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Miller, and thank you very much for your presentation today, sir.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Acting Chair (Mr. Joe Dickson): The next presenter is the Council of Ontario Construction Associations. Welcome, gentlemen. Please introduce yourselves for the clerk.

Mr. Ian Cunningham: My name is Ian Cunningham, and with me is David Zurawel. We're both from the Council of Ontario Construction Associations.

The Acting Chair (Mr. Joe Dickson): The floor is yours, sir. We will have 20 minutes for presentation and/or part of question and answer.

Mr. Ian Cunningham: Good afternoon, Mr. Chair, and thank you for the opportunity to appear before the committee today to speak to Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997.

My name is Ian Cunningham, and I'm the president of the Council of Ontario Construction Associations, or COCA, as it is better known. I'm joined today by David Zurawel, our vice-president of policy and government relations.

Founded in 1975, COCA is an advocacy organization representing the interests of the industrial, commercial,

institutional and heavy civil sectors of the Ontario construction industry, representing their views to the provincial government.

We are a federation of 36 local mixed, prime contractor/builder and trade associations representing approximately 10,400 employers and more than 420,000 skilled tradespeople. The total value of our work in 2006 represented more than \$23 billion to Ontario's economy.

It has long been recognized that the underground economy has accounted for a significant revenue drain to the Ontario government and its agencies. It is for this reason that COCA supports the principle of the Ontario government's decision to mandate WSIB coverage for the construction industry with the introduction of Bill 119. A system of mandatory coverage can be an effective tool to stemming this revenue leakage.

As you have already heard from earlier presenters and almost certainly will from parties still to appear, the construction underground economy represents a significant strain on the WSIB.

A research study published in April of this year by the Ontario Construction Secretariat, entitled *Underground Economy in Construction—It Costs Us All*, highlighted some sobering statistics as to the size and scope of this very real problem.

Among the key findings of this study conducted between 2003 and 2005 are:

- The best estimated total annual losses to the Ontario government and its agencies from underground economic activity in the construction sector totalled \$2 billion.

- The WSIB's share of this revenue leakage as a result of inaccurately classified independent operators is estimated to be \$143 million.

- Approximately 22% of people working in construction are doing so in underground, equalling approximately 84,500 people in each of the years of the study.

Of equal importance is the unfair business environment fostered by such practices. Companies that pay WSIB premiums are held to a competitive disadvantage against other construction firms that do not. Businesses not paying into the WSIB system use the value of the money saved by not paying premiums to underbid the work of their compliant competitors. As a result, the underground operator wins the business. Adding insult to injury, if someone working on that project is injured on the job, because they don't pay into the WSIB system the rest of the industry bears the burden of costs of the claim.

While research indicates that the WSIB's recent collaborative efforts with the Canada Revenue Agency "have led to a reduction in the rate of underground activity... the amount of underground income has increased." An effective mandatory coverage system has the potential to level the business playing field across the construction industry. It can do this by:

- eliminating loopholes in the current insurance system that provide opportunities for individuals to avoid paying insurance premiums;

- clarifying who is responsible for paying premiums to the WSIB; and

—more easily and accurately identifying a person's status with the WSIB.

The result of such a system would be a more comprehensive, efficient, stable and sustainably funded workplace safety and insurance system providing improved services. It is for these reasons that COCA supports Bill 119 as a step in the right direction.

Another important step forward taken by this legislation is the introduction of new liability provisions. Sections 141.1 and 141.2 specify that the engager of the contractor or subcontractor may be responsible for payment of WSIB premiums; this is not new. But more importantly, the legislation goes on to state that, if the engager hires an independent operator to perform construction work and obtains proof of insurance from the WSIB in the form of a clearance certificate, they will be free from any liability for unpaid premiums or financial penalties should that individual be found to be working outside of the system.

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This limiting of liability to the engager of construction is significant, as it does not exist in the current legislation. It clearly identifies that the onus for up-to-date and accurate workplace safety insurance rests with the independent operator and indemnifies the diligent engager.

Also important are the bill's provisions for a new system to verify insurance coverage. Permitting the authority to make regulations, the legislation can require construction employers to provide the WSIB with detailed information about their workers and for workers to carry an approved identification card. If passed, COCA will be looking forward to working with the WSIB and the rest of the industry to develop such a system.

Bill 119 promises to make a number of improvements to the construction sector. However, there are two issues on which our membership is eager to work with the Ministry of Labour and the WSIB in the hope of realizing a mutually acceptable and constructive result. We have been consistent in our support of the government's intention to implement a system of mandatory coverage and extended coverage to include independent operators for the construction industry. However, an issue that must be addressed is the elimination of the exemption from WSIB coverage for executive officers; namely, presidents, chief executive officers, chief financial officers, vice-presidents and so on. COCA maintains that these individuals, who do not perform construction work or who are not exposed to the risks associated with attending a construction site, should not be compelled to carry WSIB coverage. These individuals notwithstanding, if an individual is exposed to construction risk, they must have WSIB coverage.

COCA understands the very real potential for abuse that a broad executive officer exemption would create, allowing individuals to classify themselves as executive officers simply to avoid paying for coverage.

If this bill is passed, it is hoped that this issue could be reviewed by the WSIB so that some form of acceptable

compromise could be realized through regulation. Extensive consultations within the joint advisory implementation group produced a report in 2004 containing a number of recommendations, including an exemption for what could be called the "legitimate executive officers" based on the WSIB's definition for small business exemptions. It is COCA's suggestion that this formula for exemption could serve as a model to determine the threshold for a "legitimate executive officer."

As a final point on the issue of executive officer coverage, if the government feels that "legitimate executive officers" who are not at risk must be included in the system, then we urge that, through consultation with the WSIB, these individuals be assigned a premium that is commensurate with the risk they represent. While this is not the preferred compromise, if the government feels executive officers who do not perform construction work should pay a premium, that amount should be fair relative to the nature of their work.

A second issue of concern for our members relates to the exemption from mandatory coverage for the home renovation sector. Given the significant portion of this segment of the industry that is believed to be operating in the underground economy, it is our fear that the exemption, as currently written, would transfer the cost of these home renovation WSIB claims on to the rest of the construction industry. COCA would like to work with the rest of the industry and the WSIB to amend the language set out in Section 12.2(5), through which regulation would prevent the manipulation of the exemption so as to allow for the creation of loopholes that could be used to avoid the payment of WSIB premiums.

Turning to the implementation of the legislation, COCA is interested in how the WSIB is anticipating capturing the projected 90,000 additional independent operators who will become subject to this new mandatory system. The limitations of current enforcement mechanisms make voluntary compliance with the WSIB essential in order for the system to enjoy widespread success. It may be that mechanisms under the proposed mandatory coverage system will have to be developed, tried, refined and tried again.

The construction industry will, however, have an interest in the rate of new enrolment because of the impact this rate will have on anticipated revenues flowing to the WSIB. It is our understanding that the WSIB is anticipating that this new mandatory system will generate \$70 million in net new revenue for the WSIB once it is up and running. It will be in the construction industry's best interests to work with the board to ensure that its projections for enrolment are realized, as the net cost or benefit of the new system will hinge on its success.

COCA is eager to review the WSIB's full working papers projecting the capture of the estimated 90,000 independent operators into the system and the premiums they will be paying. We trust that the WSIB has used a conservative approach in projecting this new income into their calculations of the unfunded liability. Overly optimistic assumptions used today regarding amounts of

new premium revenue flowing to the WSIB in 2012, 2013, 2014 and beyond will favourably but inaccurately understate the unfunded liability. We strongly urge the WSIB to use a conservative approach in these projections until they have some real experience in 2012, 2013 and beyond and are in a position to make more accurate estimates. Overly optimistic assumptions used today could lead to a dark awakening in 2013.

In closing, I would like to reiterate COCA's support for the government's decision to introduce a mandatory coverage system for the construction industry. Previous efforts undertaken to make the case for such a regime have involved considerable effort to try to develop a system to effectively combat the underground economy, create a level playing field for business, and provide adequate and stable funding for the WSIB.

Save for two issues that we are confident can be overcome, COCA supports Bill 119 in principle.

Recognizing the current constraints impacting time available to investigate this bill, COCA and its members are looking forward to working with other industry stakeholders and the government to fashion the best possible legislation that most effectively serves the interests of the industry.

Thank you very much for your time and attention. If time permits, I'm open to taking any questions from the committee.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. We will go to the official opposition first, and that would be Mr. Hudak.

Mr. Tim Hudak: How much time, Chair?

The Acting Chair (Mr. Joe Dickson): You have two minutes.

Mr. Tim Hudak: I'll just ask a quick question.

Gentlemen, thank you very much for the comprehensive presentation. You highlight the exemption for executive officers and you'd like to see that continued. Your first preference is by legislation; if not, you would do so by regulation. You reference the joint advisory implementation group's description of "legitimate executive officers." Would you support using that definition and just putting it in the bill, rather than trusting regulation some time down the road?

Mr. Ian Cunningham: We put that out there as a discussion point. We think that we can come to some resolution where some executive officers will be defined because they possibly do construction work, they do attend construction sites and they are at risk, while there are others who do not, who are not at risk, who do not add to the risk profile of the WSIB, and consequently, we believe they shouldn't be captured in the system. We're confident that some demarcation point can be developed.

The Acting Chair (Mr. Joe Dickson): Mr. Bailey.

Mr. Robert Bailey: Thanks for coming in. Do you think we need more time to get this bill right? I see you mentioned that in your closing remarks. Do you see that there seems to be a constraint and we're being shoved to implement this?

Mr. Ian Cunningham: The bill did come upon—although this is not the first time mandatory coverage has been discussed. We've had discussions within COCA, again and again, through the years, on mandatory coverage and have long held a position in favour of mandatory coverage.

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It did come upon us this time with little warning. I would say that we've had good discussions with many stakeholders. We've been very actively engaging our members, very actively—

The Acting Chair (Mr. Joe Dickson): Twenty seconds.

Mr. Ian Cunningham: —engaging other construction stakeholders; discussions with the ministry on this bill. More time might have made life easier for us.

Mr. Robert Bailey: Thank you.

The Acting Chair (Mr. Joe Dickson): Questions from the third party, Mr. Miller.

Mr. Paul Miller: Thanks for coming in, gentlemen. I have to dovetail on the executive officer theme. I have some concerns that there are too many executive officers. I mean there's too many who may go on a job site and classify themselves as executive officers, so I have some real concerns, as you do. I would like to see limitations on who is considered an executive officer. If they set foot on a construction site, then they have to be covered in some way or form, and I don't believe private insurance is the way to do it. If I owned a construction company, most likely I'm going to attend the site on occasion, so I would expect them to be covered too. Not all of them: If you're a secretary at the head office or you're somebody like that who doesn't go to the construction site, that's different. That's a different ballgame.

I have some concerns about the home renovation situation. I would like to see that addressed and straightened out and made feasible for the ma-and-pa groups who just do this part-time, so that we don't eliminate them from the business situation, but there could be things that can be worked out. I'm not sure I accept a complete exemption on that either, so we're going to have to take a look at that. I think we can do that.

Do you feel that you could accept the fact that executive officers could be limited to an organization—depending on the number of employees, who's deemed an executive officer? If it's one or two, could you deal with a low number?

Mr. Ian Cunningham: I think the best case is one where those executive officers who are not exposed to construction risk should not be compelled to be captured by the system.

The Acting Chair (Mr. Joe Dickson): Twenty seconds.

Mr. Ian Cunningham: It's their exposure to risk. It's not an executive compensation plan.

Mr. Paul Miller: Right. I'd like to meet somebody who owns a construction company who doesn't go there. There aren't very many of them, unless they're huge and

they're in Montreal or something. That's interesting. Thank you.

The Acting Chair (Mr. Joe Dickson): We'll go to the government.

Mr. Vic Dhillon: Thank you, Mr. Cunningham. I just want to start off by thanking you very much for supporting this bill in principle. Could you tell us the composition of your members? Are they large, small?

Mr. Ian Cunningham: Our membership is, across the province, large, medium and small-sized construction businesses, generals, trades, so all aspects of the ICI construction industry.

Mr. Vic Dhillon: You mentioned sections 141.1 and 141.2. Could you expand for the committee how this section of the bill will help?

Mr. Ian Cunningham: Do you want take that, David?

Mr. David Zurawel: Sure.

Mr. Vic Dhillon: It's on page 3, the bottom of page 3.

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Mr. David Zurawel: Sure. What are you referring to?

Mr. Vic Dhillon: There was mention made about sections 141.1 and 141.2.

Mr. David Zurawel: Oh, right. What that's doing for us—I mean what's important here is the liability for the person who is going to be held responsible—I guess the person who's going to be responsible for ensuring that premiums are paid and that the person who is doing the work on a site is the one who actually contracts the work. I think this speaks to the issue of independent operators and some of the problems with them not being captured appropriately. If you're a general contractor, you have a job and you're bringing in a different subtrade to pave the driveway in front of the building and that person who has been engaged to do the paving, let's say he brings in two other guys to do the paving—the subcontractor subcontracts. What's going to happen with 141.1 and 141.2 is that—

The Acting Chair (Mr. Joe Dickson): Five seconds.

Mr. David Zurawel:—if the subcontractor goes and subcontracts again, the final liability for making sure that those premiums are paid rests with the person who brought in the subcontractor. So it wouldn't be the general contractor who would be held responsible, it would be the person who brought in the helper for the helper.

The Acting Chair (Mr. Joe Dickson): Thank you very much.

Mr. Vic Dhillon: Thank you very much again.

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation this afternoon, gentlemen.

OVERHEAD DOOR

The Acting Chair (Mr. Joe Dickson): Our next presenter is Overhead Door. Welcome. Please introduce yourself, sir.

Mr. Gordon Schmidt: My name is Gordon Schmidt. I'm a representative, and actually even a member, of a Burlington-based, small, family-owned and -operated business. I am here today in strong opposition to the

amendments proposed in Bill 119. I have been sitting here for a little more than two hours today and have heard time and time again that there is no representation directly from the small business community. I choose to voice myself as being that representative for, in all honesty, there are a great many small businesses that, not just by fault of geographic location, literally cannot afford to send representation here today.

The prospect of such legislation becoming law is exceptionally disconcerting to myself and to a great number of individuals both within the construction sector and outside of it, for this has far-reaching implications outside of just our sole little sector. I feel it's worth noting that when we're talking about the construction sector, I've also heard very isolated, specific sectors being focused on and the problems they are in. When we're talking construction, there's a vast array of different trades that are included in that category that will be adversely affected by this legislation. I find the time frame in which this proposition has been pushed through is exceptionally disconcerting. From the time that it was tabled by the Honourable Peter Fonseca to the time it received second reading in the House, there was a period of less than 24 hours.

The third reading has been limited to a one-hour discussion. This is hardly enough time to make a proper assessment as to the true implications and ramifications that this legislation would impart to the construction industry and to those surrounding it. Fortunately for those here today, I've spent the last two and a half weeks doing my research, and I've come up with a great number of counter-arguments to enacting this legislation.

I've also heard a great many times, with regard to the WSIB's intent toward this legislation, about how perhaps certain political parties have their hands in their pockets or have the unions' hands in them, and that this is just a cash-grab scheme. I'm going to choose not to take that stance, for the mere fact that for any of those here today who are in favour of this bill, I simply don't find that to be a useful argument. It's certainly not going to sway anyone's opinion. So I've chosen to substantiate my claims with evidence, which I will present here now.

I'd like to start off, then, with the idea that the WSIB's intent for the most part is honourable and that it is not a cash-grab scheme. Then there's a simple question that must be asked: What is the purpose of enacting this legislation? The WSIB's mantra currently is to promote health and safety in the workplace. There are two subsequent questions that would have to be asked with regard to that mantra, and those would be:

(1) How does this bill enforce and how will it propagate proper safety and health in the workplace?

(2) To what extent will it benefit those whom it would additionally cover?

Otherwise, why offer coverage if there's not going to be a direct benefit due to that coverage to the individuals being covered?

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To address the first question: It is the responsibility of business owners to provide a safe and healthy work

environment for all employees. This is done primarily through training. It can be done through implementation of safety protocols; it can be done through the implementation or use of equipment. In any event, however this manifests itself, with the creation of a safe work environment, inherently anyone who works within that environment is working in a safe environment. Any of those who arrange or even promote the training are themselves subject to the knowledge of that training. It seems quite counterintuitive on the one hand to allow the employer, allow owners—to put into their responsibility the promotion of health and safety to their employees, and then treat them like children by saying that they don't have the capability on their own to promote health and safety to themselves. If the WSIB's true intent is to promote a healthy and safe work environment, this bill will not do it.

I should also mention that I'm not politically motivated. I'm not here in defence of my company's bottom line. As I had mentioned, I would like to be the voice for those small businesses that would suffer most under this legislation.

One of the aspects of this amendment—I actually did read Bill 119, and believe me, I fully comprehend what I've read. Owners and those to be covered by this mandatory inclusion most often do not engage in activities that are in the same risk level as that of their employees. This was the specific reason for my mention of the different construction factors. In home construction that may be the case, but certainly not in my industry and not in a lot of other ones that I am aware of.

To force owners, executive officers and those members who are currently excluded to pay premium rates based on a rate that was determined by the risk factor of that particular industry, even though those individuals perhaps never set foot on a job site, is an unconscionable act. It should at least have a provision to pro-rate that amount or lessen the premium rate paid by that person.

This specifically would mean that my mother, who works strictly in the showroom—has never and will never set foot on a job site—will pay the same premium rate as that paid by our commercial crew working on a job site, 20 feet in the air, with steel, on a scissor lift. It just doesn't meld; it doesn't work.

Let's consider the benefit associated with having coverage. Let's just give them the benefit of the doubt. What benefit, then, is this going to provide to those covered? In the case of owners, none. It won't provide any, simply because of the fact that the costs of making a claim will undo the benefits of receiving that claim.

Let's use a mid-sized business as an example for this. An owner injures himself or herself and makes a claim. Let's say that by some wonderful circumstance their business doesn't fall because they're not there to run it, that it's able to maintain its regular business operations. Then that owner comes back into business. The premium rates for all within that business will go up, as per the WSIB's own words: Those with higher claims costs pay higher premium rates. Under the CAD-7 experience

rating, they would also be subject to penalties in the form of surcharges. Because of the increased premium payments and the surcharges, amassed over the number of employees—not just the individual—over the number of years the premiums are increased, and the surcharges that must be paid, the benefit almost completely equals nothing.

This leads into direct costs. As I said from the outset, there are a number of companies which literally cannot afford to be here today. When we're talking about these companies, and we're saying that they literally will be forced out of business because they cannot afford these additional costs—these people are not a figment of creation; they are real, they exist, and I know a good number of them personally. These are people who at the moment have every intention, every desire and will to engage in legitimate, lawful business and yet are having an exceptionally hard time doing so because of the number of regulations currently in force in the construction industry that makes it extremely difficult, as is, to make ends meet. These individuals will have no choice.

When we talk about this underground economy, there are three factors that fuel an underground economy: You've got the individuals who engage in it explicitly because they're members of ill repute and just don't feel like paying; you've got those individuals who will be forced into it or feel like they are forced into it because their alternative is to not feed their children, to not be able to pay their bills or make ends meet or to completely up and leave and venture off into the free world and try to create a brand new life, which is just not feasible for them; the third major factor—and this is one that is never going to go away, no matter how much legislation we put into place and no matter how much of a premium we pay to the WSIB—is the homeowner, the individual, the person who's willing to risk hiring illegal labour for the sake of saving a buck. This legislation does not in any regard answer to that situation there. In fact, I've also heard that this legislation is somehow miraculously supposed to reduce the underground economy. It will do no such thing. It will most definitely fuel that economy by taking these individuals who are at the breaking point—when we're talking about construction, these are individuals who have most often spent their lives building a mass of skills, of tools. This is a vocation; this, in many circumstances in construction, is an identity for those who work in it. No one is simply just going to abandon their training, their skill set, their livelihood because they can't afford this. Their company may dissolve, but they themselves do not. They will be forced then to go underground and continue to work so that they can support themselves.

In the case of the small businesses that employ a few people—let's say they employ four people. They'll have to fire those four people to cover their own costs. They themselves may be operating legitimately. They might hire one or two of those individuals back unofficially, under the table. For the remaining individuals who no longer have employment, they will be forced to try to

find employment elsewhere. Perhaps they'll create a start-up business and fuel the underground economy perpetually themselves. For the other ones who can't find work, this is going to put an additional stress of cost onto our social welfare system.

For any member who is engaged in the underground economy, we're not just talking about illegal, illicit behaviour here. For those people—I'm referring especially to the ones who feel like they are forced into that situation—they have no coverage under the WSIB, they have no coverage under EI. Not only are they not paying tax revenues, but they're not paying into their CPP fund. This is going to turn around. This is going to further punish these individuals later on in life for making a choice that they feel they have no choice but to make.

There is a particular amendment within Bill 119 that states that compulsory coverage and registration would not apply to people who do only home renovation work directly for homeowners. This wording is not ambiguous; it is very clear. This means, to a great number of small and mid-sized businesses, that they're going to have to make a choice. They're either going to focus their entire attention and effort onto home renovations contracted directly by homeowners, turning down what other jobs may come in, even though they may be residential—but because they come in through a subcontractor, they're not legally allowed to participate in it if they do not have WSIB coverage. The alternative to that is that they would have to pay WSIB premiums, which is an additional cost to them. To these companies, to whom every single penny counts in making themselves a viable working company, they can neither afford to pay the increased premiums nor can they afford to turn down any jobs that come their way. What effect do you think this will have on the underground economy?

Also, under subsection (7), it clearly states that the individuals who fail to comply, who fail to make premium payments at any given time, are subject to having their insurance revoked. It further states that those with a revoked status will be penalized for engaging in work. They will be penalized for not notifying subcontractors, other contractors, those who they are working for that they no longer have coverage.

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In construction, which typically is a cyclical business, they cannot guarantee that they will have the funds to be able to pay these premium rates all year round, so for the times when times are really tough and when they're trying desperately to operate as a legitimate business, this is really going to force them into an even further tough spot.

It has also been mentioned about passing these costs on to the next person. It clearly states that in the bill as well, that they have the right to pass on these additional costs. Well, how much further can we pass on these costs? The cost of materials has gone up substantially over the years: the cost of steel has gone up by 200% over the past couple of years; barring the temporary reduction that we've seen lately, the cost of energy is up

500%. These construction industries are already under an enormous amount of pressure in raising their costs yet remaining competitive. This is just another additional cost. Considering the fact that it adds no real benefit, it's just not worth it.

As far as unemployment goes, these increased costs—and I've said this definitively—will force businesses under. Whether they retain employment under the table or not, this will increase the unemployment rate. This is not a time to be playing around with the unemployment rate. The global economic crisis that we're experiencing right now has caught a tremendous number of people off guard. There is a projection that's created by the Ministry of Finance. It's called *Toward 2025*. It's a future projection of Ontario's income into the year 2025. It's specifically stated in this that by best projections, the Ontario government will not see deficit spending until the year 2018. According to the provincial fall economic statement released October 22, we are currently in a situation where we will be in deficit spending at least for this year. This clearly indicates that nobody had any real, clear idea as to what extent this economic crisis would have on this province's economy.

We are a near decade ahead of schedule on deficit spending. We can't afford to make presumptions about the stability of this province and its ability to weather additional costs. It would seem to me that this government is quite confident in the construction industry's ability to absorb or pass on additional costs, but there's only so far that this can be pushed to the breaking point before it actually does break.

The Acting Chair (Mr. Joe Dickson): Two minutes, sir.

Mr. Gordon Schmidt: "Small changes can have major impact": This is a statement specifically in that *Toward 2025* report projecting future incomes. Again, we should not ignore the fact that some people may scoff at the idea that an average of \$11,000 per industry may seem like a small number. This is an average, mind you, and to those like I say who are already teetering on the brink, this will push them over the edge.

Ontario is the economic engine of Canada. We represent 40% of total employment in Canada. We represent 40% of construction employment in Canada. We also represent, as of a statement in 2007 by the Ministry of Finance, 38% of Canada's total GDP. The construction sector, regardless of the fact that it does not singularly represent the majority sector in contributions to employment or to GDP to the province of Ontario, irrespective of the industry that is at the forefront, every one of them needs infrastructure, they need buildings, they need shelter—everybody does. Construction, essentially, is the backbone that drives everything else. All other industries are predicated on the success, strength and health of the construction industry. There is a 10-year upward trend in the geometric rate figures across the country in every other province in construction. What incentive is Ontario giving to new construction, to existing construction, to employees, to remain in Ontario,

to locate in Ontario, and not to relocate or establish themselves in another province where it can be more assured that those governments will enact more business-friendly solutions?

It is no secret that the WSIB wants to extend its arms to encompass a greater number of sectors. The fear of that, even the suggestion of that, is enough to drive foreign investment from this area. If anybody has any doubts as to the impact that this could have, if you take a look, prior to 1976, Montreal was the economic centre. They used to hold that title. The language laws of 1976 finally forced businesses out of Quebec, then most of them ended up in neighbouring Ontario. We are not so almighty that we are impervious to these same consequences.

The Acting Chair (Mr. Joe Dickson): That's actually about 40 seconds over your time, but you were doing such a good job that I thought it was appropriate to let you go. Thank you very much for your presentation. It's good to have you here this afternoon.

CENTRAL ONTARIO BUILDING TRADES

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Central Ontario Building Trades. Welcome. Please introduce yourself.

Mr. Jay Peterson: My name is Jay Peterson. I help represent the Central Ontario Building Trades. We're a council representing over 25 construction unions and nearly 50,000 workers across the GTA. Our members are one of the best-trained, most productive and safest workforces you'll find anywhere in the world. We know this because our contractors come back from working around the world and praise us for the skills that we bring to the table. We've had a dedicated effort over the last number of years between our workers and our companies and contractors and our governments to produce an infrastructure for training second to none, second to nowhere else in the world, and this helps us build our schools, homes, high-rises, power plants, roads, highways and bridges.

I am in a bit of a unique position here, I think, compared to some of the speakers who are speaking because I'm a construction worker. I've worked in both the underground economy and in the unionized sector, and that has given me a bit of a perspective on how important this topic is.

I would say that in Ontario there are probably three construction industries moving right along together.

I come from the unionized construction industry. We pay taxes on all of the money that we earn. All our contributions are made to all the appropriate sources and we have unions that look out for that. If there are contributions not being made, we're on top of that. Our companies know their responsibilities. Safety is a culture among our workplaces, and that's how we build Ontario safely.

I would say the second type of construction industry in Ontario is a non-union construction industry, but it may

be like the last speaker's business, a family business that cares about their employees, that tries to make their contributions and do the right thing and look after people. They probably train people. Generally, it's a team effort, without the union there to ensure anything. I have no ill words toward people and companies that are in this as a team.

But then there's a third industry that's out there—and we have to remember that construction is a mad race for the dollar. The dollar is the bottom line in construction. If there is an industry that is ripe for exploitation and cheating and taking advantage of people, it's definitely the construction industry.

In the recession of the 1990s, I took a job with a home renovator. It's a well-known company in the city that advertises at the home show. Families come down and say, "I'd like to put an addition on my house. You seem like a reputable contractor." There were Canadians representing the company, fluent in English, telling about all the good things that they were going to do in their homes.

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The project manager, who went from home to home surveying all the jobs and watching the crews, was Canadian and could converse well with the homeowners, the suppliers and things like that. And then there was our work crew. The foreman was Polish. He was very good at running ads in Poland on the radio and advertising a new life in Canada, "Come feel the opportunity and make a go of it." He would pick workers up at the airport, and he would graciously take them home and put them up in his basement to get them established, to help them. Then, I guess his home being in Scarborough and the addition going on in the nice home in Oakville, they needed to get to work. So the foreman would graciously offer to help them get to work. He would take all these workers he'd been housing in his basement and he'd drive them all down to Oakville. The room and board was deducted off their salary; the drive was deducted off their salary; any food or groceries—because they worked seven days a week and didn't have a chance to get out and prepare themselves properly—was all deducted from their salary. It didn't take long for the workers to realize that they were probably working for about two or three dollars an hour.

This was during the recession of the 1990s, when everyone was hungry. My union had a 60% unemployment rate. We had a food bank at our hall, where trained craftsmen would come and pick up food for their families on a weekly basis. I was darned lucky to have this job to help keep food on the table for my family. I was getting paid \$15 an hour cash. When I was asked if I would like this job, I was told that I would have to set up my own company and take care of all my deductions. "Are you up for that?" "Sure," I said. I wasn't. I'm not a businessman, I'm a constructor worker. These Polish people I worked with were not business people. They had no idea about Canadian society, rules, regulations, how to apply, where to apply, anything like that. They were just getting paid cash as well with, again, all these deductions taken off.

I worked with four Stasiaks from Poland: Stasiak Moustache, Stasiak Blond, Stasiak Electrician and one Stasiak, who had been here a few years, had an old beater of a car, so he was called Stasiak Car. None of these guys was paying WSIB. If they got hurt at work, they were told to go to the hospital and tell them they were working on their car and their car fell on them or they hurt themselves around their house. It was all a lie; it was all a sham.

I think if everyone, and all of us, were mandatorily covered for WSIB, an inspector could come along and audit a company, audit a worker. If you're inside a gate, if you're on a property where there's a home renovation going on: "What's your WSIB number?" "There it is." Therefore, you're in the system, and that WSIB number denotes that this company is in the system. Therefore, they're in the training system. They're accountable, they're on board and on top of the table. That would help us with health and safety.

The workers I worked with had no fall arrest. We were on roofs. We had no propane training. We heated the house with propane. We had no WHMIS. Those workers who were straight from Poland had no idea what a toxic chemical was or anything, and they could have been exposed dozens of times, might not have known what was poison or not, and our health care system may be picking that up in the future.

I wonder if our homeowners knew exactly what they were getting for their money. I wonder if they knew that none of these people was in the system, that none of these people earned the hard money that the homeowners were paying out, and whether they were getting their value and the taxes were going back to their community to run their schools and hospitals and everything else. I wonder if they knew their liability.

If the premise of workers' insurance is to take away the ability of a worker to sue a company, it just flies in the face of logic that we would have workers out there not being able to be covered and then possibly suing homeowners who have no idea what the construction industry is about. But it opens up a liability. I wonder, with this exemption, if homeowners will be liable for accidents that happen on their own property?

I think this legislation would help with the underground economy. I think this legislation might attract some noise now, somewhat like mandatory auto insurance. If people are on a construction site part-time, then they have a part-time risk and they should be covered.

I think too that the timing is somewhat protracted and we could do this a little sooner than the date proposed. I think projects that may be started at that time aren't even on the books yet and we have a responsibility to do this sooner rather than later, and that 2010 is a reasonable time for enactment of this legislation.

I would like to say that, just like driving a car, if you're in a car you should have insurance. That protects everyone. The cost of insurance, by everyone being insured out there, lowers it for everyone. It's a more fair, level playing field when we all have insurance, and I think the same should apply for construction.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will have three minutes each and we will commence with the third party.

Mr. Paul Miller: I'm just wondering, are there any objections you have to this bill in its present form, to renovators and to people who are considered management? Do you have any concerns? Have you read the bill on those categories?

Mr. Jay Peterson: I have read it. Just driving down here, I saw workers on a roof. No one was tied off. They were at a homeowner's. What an awful day when that worker falls splat on the sidewalk, when the kids are coming home for school.

What is the incentive? One guy knows what's going on, and he's the guy running the company. The rest of them are kids in their early 20s. These people have to be covered, they have to know what coverage is, and there's no way that company's being run without an executive officer coming out to instruct people what to do in running a small business.

I think the renovation and home renovator market is one of the most dangerous workplaces there are. I see things on local homes. Just because it's a local home you think, "Oh, there's not much harm, not much danger there," but I see things just driving here that would be banned on unionized job sites; the work would be shut down. There's no way we would work like that. This is that third industry that I'm talking about that needs to be brought into the 21st century.

Mr. Paul Miller: Okay. I have one other question and then I'm done. The founding principle of our workers' compensation system is that workers give up the right to sue employers for work-related injuries and deaths in return for a no-fault system of benefits. As a result, this legislation must clarify who has responsibility for WSIB premiums. If this responsibility is not clearly laid out, many workers will find themselves in a position where they might have to pay their own benefits in the construction industry.

Would you suggest that the person or entity engaging the worker be responsible for paying any and all WSIB premiums, and how exactly would that be done?

Mr. Jay Peterson: Are you saying that the workers should be paying their—

Mr. Paul Miller: No. Some people have insinuated that they may have to pay their own premiums if this bill doesn't come forward. How do you feel about that?

Mr. Jay Peterson: I don't think any workers should be paying their own premiums. This should be a company premium; that's what the whole premise of—

Mr. Paul Miller: And you made a point: When there were four guys working on a roof on a house, would that homeowner have to pay the coverage of those people working on that house because those people weren't covered? Could they possibly be liable and sued on their personal property? That could be a problem too.

Mr. Jay Peterson: They could be, yes.

Mr. Paul Miller: Thank you.

The Acting Chair (Mr. Joe Dickson): Are those all your questions, Mr. Miller?

Mr. Paul Miller: That's it, yes.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will now go to the government.

Mr. Vic Dhillon: Thank you very much for appearing before us this afternoon. Can you elaborate or explain why it would be necessary for executive officers to be included in this legislation and subject to paying WSIB premiums?

Mr. Jay Peterson: Because if they're not, everybody out there is going to be an executive officer, no one's going to be paying and you're going to find yourself right back in the same spot that you are in today.

People who go onto a job site assume risk. We had a worker killed last year who just walked onto a site, and a pipe fell from the top and killed him. If you're on-site, you need insurance; if you're driving a car, you need insurance. So if you're an executive officer who regularly goes to job sites to inspect work, is involved with the goings-on of the job site, you should be insured.

Mr. Vic Dhillon: Nothing further.

The Acting Chair (Mr. Joe Dickson): Mr. Ramal?

Mr. Khalil Ramal: What about the people who do not go to the construction site?

Mr. Jay Peterson: Whether executive officers should be insured?

Mr. Khalil Ramal: Yes.

Mr. Jay Peterson: To me, it doesn't seem that that would be necessary, but there has to be some sort of system in place where actual people on-site are covered and there's a way to enforce it—just like speed limit signs of 100 kilometres an hour. If I knew I was never going to get a speeding ticket, I'd be going a lot faster than 100, probably, a lot of times. There has to be some enforcement; this has to be balanced with enforcement. Through a tracking system, we can bring this industry into the 21st century, where all the companies are up and registered and we can focus on them with training.

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Mr. Khalil Ramal: You're afraid that if you have some kind of exemption, you could be creating a loophole in the system and everyone would say, "I'm not going to go to the site, and therefore I should be exempt."

Mr. Jay Peterson: Yes. So it would be IO to EO; it would be similar.

The Acting Chair (Mr. Joe Dickson): We'll now go to the official opposition. Mr. Bailey.

Mr. Robert Bailey: I'd like to thank you for your presentation. I've seen some of those incidents in the home renovation sector.

Two questions for you: Do you support some form of a named-insurance system, say, with a card similar to a health card, so that if an employee went onto a large site or whatever, he could prove that he had insurance? Second, I heard you say that you'd like to see this brought in by 2010. The government is talking about 2012. We've said all along that there hasn't been adequate time for review and input. Would you agree with that?

Mr. Jay Peterson: It has been a work in progress for over 10 years, as far as I can remember. We've done studies, we've done reports, and there has been the JAIG committee. So, to me, it's not a new issue; it's time we get on with it. That's why I'm not in favour of a four-year phase-in. But I think we can do it—matching the industry on a faster-paced basis like that.

I'm sorry, the first part—

Mr. Robert Bailey: The first part was about a named-insurance system with a card similar to a health card so you could—that has always been the bugaboo: No one knows who's insured. With a named-insurance system with a card, the employer would know that an individual is covered.

Mr. Jay Peterson: Right. As a worker—this is workers' insurance—I would be a lot more comfortable with WSIB being my carrier, because I know there's a fair system there with adjudication and I wouldn't have to fight, as an injured worker recovering and all of that, with a private health care provider who may or may not want to help me.

Mr. Robert Bailey: I'd just like to clarify: I didn't mean outside of the WSIB. As WSIB is based on payroll, some people have suggested that they'd like to see a named-insurance system under the WSIB, where you'd have a card like an OHIP card.

Mr. Jay Peterson: It may or may not be good. It might have some problems with it. I'm really hesitant to comment on something like that. I haven't really thought about that.

The Acting Chair (Mr. Joe Dickson): Mr. Hudak.

Mr. Tim Hudak: Chair, we have how much time?

The Acting Chair (Mr. Joe Dickson): You have less than 20 seconds, but I'm clearly flexible.

Mr. Tim Hudak: I'll just make a final point.

Thanks for the presentation. You mentioned that it has been going on for some time. There were consecutive Liberal ministers—Peters, Bentley and Duguid—who all said no and did not proceed. Fonseca, shortly after becoming minister, is proceeding. There's a big fundraiser, as I mentioned earlier on, that's happening tomorrow night at 350 bucks a pop. So I worry, with this legislation being rammed through, that that kind of decision-making does not pass the sniff test.

I want to read into the record something from Richmond Steel in Stoney Creek. Bruce Richmond from Richmond Steel says the following in a letter to me:

"With economic conditions deteriorating on a daily basis, and large corporations laying employees off at an unprecedented rate, the province needs the help of small business to maintain current employment levels. This legislation must not be allowed to go through if we are to achieve employment stability.

"Currently, small businesses like those of the CFIB are the people creating wealth and employment in Ontario. We must be protected better than this. The WSIB is not legitimate insurance; they are another form of taxation. The WSIB must be brought under control, not given more taxation powers."

That's just one example I'd share from small businesses in my riding. This one is from Richmond Steel from Stoney Creek, and I wanted to make sure that got on the record as part of our consultations.

The Acting Chair (Mr. Joe Dickson): I was allowing your time by Newfoundland time, so it's now extended.

Mr. Tim Hudak: Thank you, Chair.

The Acting Chair (Mr. Joe Dickson): My pleasure. Thank you very much for your presentation, sir.

ONTARIO CONSTRUCTION SECRETARIAT

The Acting Chair (Mr. Joe Dickson): The next presenter is the Ontario Construction Secretariat. Welcome, sir. Please introduce yourself to the clerk. We look forward to hearing from you.

Mr. John O'Grady: My name is John O'Grady. I'm with Prism Economics and Analysis, and we do work with the Ontario Construction Secretariat. I have copies of my remarks here if you wish to have them circulated.

The Ontario Construction Secretariat appreciates the opportunity to make this representation to the standing committee. We hope that our remarks will be helpful to the committee in its deliberations. With me today are two other individuals: Mr. Sean Strickland, who is the incoming chief executive officer of the Ontario Construction Secretariat; and Mr. John Schel, who is the president of the secretariat and a member of the board of directors.

The Ontario Construction Secretariat, as many of you will know, is a joint labour-management organization. It was established under the authority of the Ontario Labour Relations Act and financed by equal contributions from employers and workers in the unionized segment of the non-residential building construction industry. The OCS was established in 1993.

The Ontario Construction Secretariat has undertaken a number of studies which I believe are germane to Bill 119. These studies have focused on the nature and magnitude of the underground economy in Ontario's construction industry, and I had the opportunity to undertake the majority of these studies or to be involved in them. I want to briefly review the key findings of these studies and explain how they bear on at least some aspects of Bill 119, particularly the provisions of Bill 119 that would make WSIB coverage compulsory for independent operators in the construction industry.

When the term "underground economy" is used, most people equate this with the cash economy, which is widespread in residential renovation. This is too narrow. The Ontario Construction Secretariat uses the term "underground economy" more broadly—and I believe properly so—to refer to any method of undertaking construction which is deliberately and in a significant way non-compliant with legislation pertaining to taxation, workers' compensation, health and safety standards, apprenticeship or employment standards, and which, by virtue of that non-compliance, confers a substantial and unfair competitive advantage. So we're not talking about trivial

non-compliance; we're talking about non-compliance which affects the nature of the competitive environment.

A key finding of our studies was that the cash economy in the residential renovation sector was only the tip of the iceberg. The majority of underground employment—we estimated 55%—is found outside the residential renovation sector. Furthermore, the majority of underground employment is not based on the cash economy but on an entirely different strategy.

Let me explain. In the construction industry, by far the most common form of non-compliance is styling employees as independent contractors—or independent operators, to use the WSIB's nomenclature—for the purpose, and I would say the sole purpose, of avoiding the costs and other obligations that arise from a conventional employment relationship. These avoided costs include: benefit entitlements under the Employment Standards Act, which is principally vacation and holiday pay, but also overtime pay; employer contributions to EI, CPP, WSIB premiums and in some instances the employer health tax, where the exemption does not apply.

Some construction contractors, of course, will argue that the persons they classify as independent operators do in fact meet the accepted common law tests of an independent contractor. However, as I will attempt to show, there is evidence that many of the individuals who are styled as independent operators are actually employees in the substantive sense of that term.

The savings in labour costs that arise from styling workers as independent operators are in the range—and this would depend on the trade and the branch of construction—of 18% to 31%. By some calculations, they can even be higher. At the same time, styling workers as independent operators also avoids the obligation to issue T4 slips and to report that remuneration. A report by Statistics Canada estimated that more than 60% of the net income earned by unincorporated construction businesses was concealed. Those are powerful financial incentives to style workers as independent operators—and I use the term "style" deliberately.

The under-reporting of income by so-called independent operators is a major source of revenue losses to governments and government agencies, such as the WSIB. In the most recent estimates that we did, which would have applied a couple of years ago, the gross estimate was approximately \$2 billion.

The styling of workers as independent operators so as to avoid deductions at source—WSIB premiums, EI and CPP contributions and Employment Standards Act benefits—is a major and unfair source of competitive advantage for non-compliant employers. Finally, excluding workers from the WSIB system removes a major economic incentive to maintain a safe workplace.

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How many workers are involved; how many are affected? I've circulated to the committee two graphs. They're at the last two pages of the material you have. They're based on Statistics Canada's labour force survey. The first graph shows the actual increase in the number

of construction workers who were classed or who classed themselves as self-employed. As you can see today, that number is approximately 140,000 persons. The second graph, and it is perhaps the more important, shows the increase in the share of nominally self-employed workers. Over 20 years, that share has increased from an average of around 26% to a recent average of around 33%. Moreover, fully 83% of that growth is attributable to an increase in the number of so-called independent operators.

In other words, styling employees as independent operators has become very fashionable over the last 20 years. If you trace that historically, in fact, the trigger seems to have been the introduction of the GST. In 1987, independent operators were 44.3% of all nominally self-employed workers. Over the most recent 12 months, independent operators have accounted for 63.1% of self-employed workers.

The essential fraudulence behind the practice of styling workers as independent operators cannot really be captured by the statistics. To understand the nature of the practice requires an example. The following is taken from an affidavit that was filed as part of a litigation. The affidavit describes the employment conditions of a worker who's employed as a painter and was classed as an independent operator by his employer:

"(1) For the entire 12 months of the year 2000 I performed painting work for [Company X]... During this time, I performed ... work for [the company] in the Ottawa area, mainly in the ICI sector." I want to stress that "ICI sector." This was not low-rise residential renovation.

"(2) When I was hired by the company, the company made it clear to me that I would be paid a 'straight cheque.'" This was not a cash transaction; "I would be paid a 'straight cheque.' The company paid me \$16 per hour for performing painting work with no source deductions whatsoever... I was not paid vacation pay.

"(3) [The company] supplied all materials, tools and equipment required to do my job, including paint, brushes, ladders, rollers etc. The company required me to be at work every morning at 7 a.m. and I was required to work at least eight hours a day. However, at times, the company required me to work more than eight hours per day or on weekends when there was a deadline to meet.

"(4) My supervisor was basically the owner of the company and he worked alongside me. As such, he was constantly supervising my work and would often push me to work faster. He would also direct me as to what he wanted done on a particular day and the area he wanted me to work on and how it was to be done." In other words, this fellow sounds very much like an employee.

"(5) During my year with [the company], the number of painters working alongside me in the ICI sector would vary. However, during the busy summer months, there were as many as 15 painters working alongside me ... [A]ll of the painters working for the company were paid in the same manner as I was, with no source deductions whatsoever ... [T]hey were also working under the same conditions as I was with respect to the supply of tools,

equipment and materials and hours worked and level of direction and supervision by the company."

The affidavit that was part of these litigation proceedings clearly describes, in all relevant circumstances, an employer-employee relationship, but it was styled as an independent operator subcontract relationship in order to evade the obligations for deductions and so forth that are associated with an employment relationship.

The practice of styling workers as independent operators has nothing to do with changing the way construction work is undertaken or supervised. This is not about a flowering of entrepreneurship in the construction industry. The independent operator loophole is simply a licence to compete illegitimately. Bill 119 will close the independent operator loophole and, by doing so, Bill 119 will lay the foundation for more rigorous enforcement of income and employment reporting obligations and will put in place the necessary financial incentives to support overall workplace safety policies in construction. Again, on behalf of the Ontario Construction Secretariat, I express our thanks for the opportunity to meet with the committee.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will have two minutes each, commencing with the government, please.

Mr. Vic Dhillon: Thank you very much, sir, for appearing before the committee. We believe that Bill 119, if passed, will reduce the misclassification or improper styling of workers in the construction industry. How do you think reducing the improper styling will benefit the construction sector?

Mr. John O'Grady: The styling of workers as independent operators is at the heart of the underground economy. To make yourself work as a non-compliant contractor, the foundation of the strategy is to get out from under the employment relationship, or at least to create a paper trail that would seem to suggest that you've done so.

Folding workers who are nominally classified as independent operators into the WSIB opens the door to a range of enforcement. First of all, the suggestion in the legislation that workers may be required to have identification allows on-site inspection. Secondly, there's an existing statutory provision that allows the workers' compensation system and the Canada Revenue Agency to share information for purposes of enforcement so that payroll is not necessarily being audited twice, or non-compliance that is flagged by one agency is brought to the attention of another.

I see the folding in of the independent operator under WSIB coverage as being the lever that will bring about substantially increased enforcement of a whole range of obligations in the construction industry, and will make a very substantial contribution to creating a level playing field in that industry.

The Acting Chair (Mr. Joe Dickson): Thank you. That ends your time allocation. To the official opposition for two minutes, please.

Mr. Peter Shurman: Thank you, Mr. Chairman. You use the word "style" to describe people who operate on

an independent basis, but that is, in all respects, illegal now. Please tell me what you think this bill, if it should become law, will do to change that.

Mr. John O'Grady: If the independent operators must be covered, and especially if that is associated with a system of named insurance, then the auditing of payroll records, the determination of whether or not the individuals in fact are employees or whether they are bona fide independent contractors who are in business rather than employees, is much, much easier.

Right now the application of the common law test, while technically feasible, is administratively next to impossible, which is why it basically doesn't happen in the construction industry.

Mr. Peter Shurman: You have a lot of interesting statistics, and I noticed the graphs and listened to your description with interest. What I'm concerned about here and you haven't explained adequately to me—maybe it's my ability to listen well that's missing something. It strikes me that from everything you say and from the way this Bill 119 comes down, what you're doing is driving people underground. In other words, you're going to aggravate this problem, aren't you?

Mr. John O'Grady: Not at all. The way in which the statute is constructed would require any worker who's engaged in the covered portion of the construction industry, setting aside the debate over the residential renovation sector, to have premiums paid on that person's behalf—there's a mechanism set in the statute for how that is done—and it would therefore create the mechanisms by which that can be verified.

The requirement to have identification on the site then coincides with the various types of on-site inspections that already occur but which are impaired by, generally speaking, the lack of any requirement for workers to document who they are or what they're doing.

Mr. Peter Shurman: Is small business represented on the secretariat, Mr. O'Grady?

Mr. John O'Grady: By far the majority of unionized contractors—trade contractors, not generals but trades—are actually small businesses, so the majority of unionized contractors would have fewer than five employees.

Mr. Peter Shurman: I'm talking about representation on your secretariat. Is that what you're saying?

The Acting Chair (Mr. Joe Dickson): Twenty seconds.

Mr. John O'Grady: Well, that's—

Mr. Peter Shurman: Do you have small business on the secretariat?

Mr. John O'Grady: Well, the secretariat represents the bargaining agencies. The bargaining agencies would have those as members.

Mr. Peter Shurman: Will this bill impact small business in a bad way, in your estimation?

Mr. John O'Grady: Legitimate small businesses that are currently functioning in compliance with the statute will finally enjoy the opportunity to compete on a level playing field, an opportunity they don't have now.

The Acting Chair (Mr. Joe Dickson): Thank you. To the third party, please.

Mr. Paul Miller: Thanks, Mr. O'Grady. I have two quick questions.

In your opinion, what accounts for the significant increase in independent operators in construction?

Mr. John O'Grady: The opportunity to evade costs associated with an employment relationship—the incentive to style a worker as an independent operator so as to avoid the cost of workers' compensation, Canada pension plan, EI, employer health tax, if it's applicable, as well as the Employment Standards Act obligations. There are enormous financial incentives to style a worker as an independent operator, and that is why that practice is rampant in the construction industry.

Mr. Paul Miller: Thank you. The second question: What is the relationship between covering independent operators in the construction industry and reining in the underground economy in construction?

Mr. John O'Grady: The workers' compensation system is the gateway to better enforcement in the construction industry, first of all, through its records of employers; secondly, through its ability to audit; and then its ability to associate it with on-site inspections and its ability to link to Canada Revenue Agency records. The WSIB is Ontario's gateway to cleaning up the underground economy in the construction industry.

Mr. Paul Miller: Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. Just before we leave, I would like to remind you that, if there are any written submissions, they may be submitted up until 5 o'clock tomorrow. Secondly, the hearings on Bill 119 will resume here tomorrow afternoon at 4 o'clock.

Finally, in Newfoundland time, I'd like to move for adjournment. Thank you very much.

The committee adjourned at 1801.

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