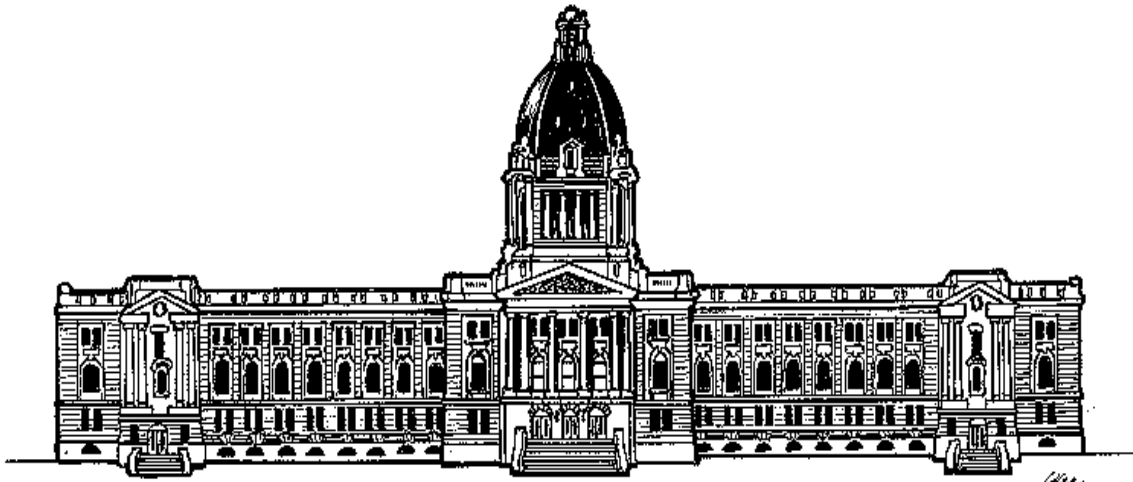




# **STANDING COMMITTEE ON HUMAN SERVICES**

## **Hansard Verbatim Report**

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**Legislative Assembly of Saskatchewan**

**Twenty-Seventh Legislature**

## **STANDING COMMITTEE ON HUMAN SERVICES**

Mr. Delbert Kirsch, Chair  
Batoche

Mr. David Forbes, Deputy Chair  
Saskatoon Centre

Mr. Mark Docherty  
Regina Coronation Park

Mr. Greg Lawrence  
Moose Jaw Wakamow

Mr. Paul Merriman  
Saskatoon Sutherland

Ms. Laura Ross  
Regina Qu'Appelle Valley

Ms. Nadine Wilson  
Saskatchewan Rivers

[The committee met at 14:00.]

**The Chair:** — Welcome, ladies and gentlemen to the Standing Committee on Human Services. I understand we're here for a long time, so let's make it a good time. I'm Delbert Kirsch and I'm Chair of this committee. And with us today is Mr. Mark Docherty, Mr. Bill Hutchinson, Mr. Paul Merriman, Ms. Laura Ross, and Ms. Doreen Eagles. Also Mr. David Forbes is Deputy Chair.

This afternoon we'll resume our consideration of Bill No. 85, *The Saskatchewan Employment Act*, clause 1, short title. Mr. Minister, the time is now 2 o'clock, so please introduce your officials and make your opening comments.

**Bill No. 85 — *The Saskatchewan Employment Act***

**Clause 1**

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. Pleased to be back here today. With me today are officials of the Ministry of Labour Relations and Workplace Safety. They include, to my left, Mike Carr, deputy minister; to my right, Tareq Al-Zabet, executive director of occupational health and safety. Behind me — and I'm not sure of the order — Ray Anthony, director of safety services; Megan Hunt, manager of radiation safety unit; Amanda Gorchynski, acting manager, legal and technical analysis unit; and Pat Parenteau, director of policy; and Rikki Boté, executive director of communications.

For consideration today are parts III and V of *The Saskatchewan Employment Act*. These are the occupational health and safety and radiation health and safety provisions of the Act. As you're aware, amendments were made to *The Occupational Health and Safety Act* in 2012. Those amendments were to address recommendations of the Occupational Health and Safety Council from 2006, as well as consultations in 2007 and 2011 to identify emerging issues since 2006.

Input was sought from over 200 stakeholders and 5,500 occupational health committees, as well as the general public. Feedback was received from 30 stakeholders. The result of these consultations was Bill 23. The work of the ministry officials, the Occupational Health and Safety Council, and the feedback from the stakeholders resulted in changes that are best practices in Canada. The majority of Bill 23 came into force in November 2012. Only two items were not proclaimed: prime contractors and the penalties. We want to review these two items within the context of the overall legislative review. These provisions are in Bill 85.

There have not been substantive changes to *The Occupational Health and Safety Act* or *The Radiation Health and Safety Act* as a result of being included in Bill 85. There have been language changes for consistency across the various parts of the Act as well as modernization purposes.

I don't want to take too much of the committee's time with opening remarks, but I would be remiss if I did not thank the Occupational Health and Safety Council, ministry officials, and those individuals that participated in the review process for their

work on bringing forward amendments to the occupational health and safety legislation.

The Ministry of Labour Relations and Workplace Safety has a mandate to support safety at work for all businesses, all employees, and all employers. We are working to ensure that everyone gets home safely. As you know, a few weeks ago was the Day of Mourning, and we had to read the names of those 60 fatalities of the Workers' Compensation Board claims accepted in 2012. The number, Mr. Chair, is simply unacceptable. These tragic deaths and injuries are predictable and preventable, and we must continue to work together to raise awareness about injury prevention. With that, I would open up for questions.

**The Chair:** — Thank you very much, Mr. Minister. And I understand that Mr. Forbes has questions so, Mr. Forbes, you have the floor.

**Mr. Forbes:** — Yes, thank you very much, Mr. Chair. I appreciate that. And before I get right into questions, I do want to introduce two people who are here in the gallery. We don't usually have a lot of visitors, but Lori Johb, who the minister will know as vice-president of the SFL [Saskatchewan Federation of Labour] and very active in occupational health and safety, is very interested in this issue. And she's accompanied with Deb Lussier of the SFL as well. They are here. Obviously a very, very important issue for everyone.

And I do also want to take a moment to welcome all the officials too. We've appreciated the conversation, the discussion so far on a very, very important topic in terms of labour relations and workplace safety.

I want to start off my remarks by agreeing with the minister in terms of how critical this particular part of the employment Act is in terms of occupational health and safety and how it's important that we get it right, we involve all the stakeholders as much as possible because it's a situation where we want to make sure everyone gets home safe and the workplace is as safe as possible.

And as the minister alluded to, the day of mourning was particularly a tough day for a lot more families than we'd sure like to have happen. We hope every family is happy and safe and sound every night.

And so this one really is a part that I think we all agree in terms of how we move forward in ensuring that discussion and speed at which work gets done, but also that it's done correctly so that . . . or can get done. That's the issue. That's what the goal of every workplace is, to get work done, but it can be done safely and in a timely manner and not in a reckless fashion.

I just want to take a moment, Mr. Chair, as well to acknowledge the questions and answers in the House today during question period. I appreciated the minister's answers, particularly around the highway safety aspect, that the government is undertaking a review of how we can make our highways safer, particularly as we've seen the tragic results in terms of the workplace where accidents can happen in going to or from or part of your work. And that's hugely important.

And so, as the minister at that point did allude to how can we work better to see the successful implementation of Bill 85, I want to remind him that I'm very interested in having that conversation. And I want to remind all members actually on the government side that the opposition is very interested in working towards the successful implementation of Bill 85.

I know we're coming down to the final days of the House for the spring session, but that's always when we have the most interesting conversations as we wrap things up. And it's not over until it's over. And so I do want to say that this an important piece of legislation. And if we can have some constructive conversations about that, I just want to put that out there and on the record that the opposition is willing to be part of those conversations. And we would think and hope that the government side would be as well.

We've seen some very productive discussions: our work around Jimmy's law and late-night retail workers has, I think, been very positive and very productive; the asbestos registry, which is probably leading the country in terms of that work.

And I think the government deserves a lot of credit from how we can work together and make this House work, I think, as citizens of Saskatchewan would like to see us work in a co-operative fashion. They do want to see us do and operate in the Westminster fashion of holding governments accountable. And the governments take the lead. They do have the mandate to govern. We acknowledge that, very much so. But I think in this day and age that they also want to see us, as much as possible, work together.

So with that, I just want to say that I know this is a big part of the government's mandate, and we do want to say that we're open to conversations about that. And especially when it comes to occupational health and safety, there's a lot here, and it's very important to have that done.

**Hon. Mr. Morgan:** — Mr. Chair, that wasn't really asked as a question, but I wouldn't mind responding to it. We'd certainly welcome any comments and input. It's not a process that's undertaken by this ministry; it's a subcommittee. The Premier directed that following the accident involving the young person working as a flagperson on a construction site.

The mandate of the committee is to look at traffic safety in a broader sense. And I think our officials from the ministry have opinions and will want to have some input, and I'd certainly want to encourage you to participate in it as much as is appropriate because I think we all travel on the highways. And I've met with a number of people that have worked as flagpersons on a construction site, and the specific indications on that one is that they're ignored. Traffic goes by them too fast; they wave but you can't slow people down. So I think the enforcement that we have there may address, to some extent, that issue. But any issues that would make it safer for a worker or anybody, we'd welcome the comments.

**Mr. Forbes:** — Absolutely. And I think that the point is well made, that not only do we have a significantly higher injury rate than anywhere else in Canada at work, but we also have it at home, which is really unfortunate. And that's what we need to get to, why is it particularly on our highways.

So the traffic safety aspect is really important. And I do note that there will be two members of the opposition on that, travelling around. And if this situation does allow, then I hope to sit in and listen to some of the presentations. So it's just really critical that we take this issue of safety so, so important and that we do all that we can to address that.

So my question's specifically dealing with parts III and V — and they're the occupational health and safety aspect and the radiation aspect — is again in terms of the implementation plan of this part. Because we've talked about if the bill is passed next week, then there will be regulations coming into play, and then there will be the part of when does it come into force, when does it actually come into force. So what is the plan going forward with this, with these two parts?

**Hon. Mr. Morgan:** — There's some consultations that will have to take place and there's still some unresolved issues. I think I had mentioned that we have not yet proclaimed either the area around fines or prime contractors. So it's certainly . . . But as far as the rollout timeline and the specifics of the rollout scheme, I'll let Mr. Carr answer that. And if I don't like his answer, I'll feel free to interrupt.

**Mr. Carr:** — No pressure. I think our intentions with respect to parts III and V are to move to proclamation fairly quickly. So sometime in the early fall, we would expect we would be in a position to proceed.

There's a few regulations around part III that we want to address over the summer. Those regulations would be related to some of the operational considerations of the Act, but in particular would be related to the asbestos registry and the impacts of changes to the *Public Safety Act* that were recently passed. And so . . . Or pardon me, *The Public Health Act*. And so from our perspective, we would anticipate being ready with those regulations and being in a position to proclaim parts III and V in the early fall. We would then engage in a fulsome review of the technical regulations associated with both parts, and there are a significant number of those regulations, as I'm sure you're aware. We will take that process forward, and our plan at this point is to engage in really a three-phased approach to *The Occupational Health and Safety Regulations* that are required.

The first phase would carry us starting in June and ending up sometime in December of this year. The next phase would start in September of this year and carry us through until approximately April. And then we would have a piece, the last final piece of the technical regulations, that would flow from sometime in April or May of next year and would run us through to the end of 2014. So that we would come to a point at the end of 2014 where our hope is that we'll have all of the technical regulations reviewed, updated, brought forward, and approved and so that we'll have a completely operational set of provisions. It's important I think to point out that in the interim, the Act makes provision for all of the existing regulations, in the various parts that exist as a result of the previous pieces of legislation, to continue to be in full force and effect until they're replaced as a result of this review process.

[14:15]

**Mr. Forbes:** — So how are . . . So the three-phase approach, those are the technical regulations that you're talking about. And so how will you decide which regulations go into one of those three phases?

**Mr. Carr:** — The planning at this stage is that we are going to take the regulations which presently exist — and they're divided by division — and so we're going to take a series of divisions, fold them together in one review cycle, and we'll be bringing forward a discussion piece that talks about what regulations are presently being reviewed. We'll consult the stakeholders and public very largely through media advertising and other events and create an opportunity where we can secure input into the technical operation of those regs. And then we would move forward through the normal regulatory development process of bringing the proposed changes forward to cabinet for approval.

**Mr. Forbes:** — And I'm just going by memory. I don't have the regulations here. But I know, for example, the mining regulations are very extensive.

**Mr. Carr:** — Yes.

**Mr. Forbes:** — And so I'm wondering if you're going to be giving some sort of notice to that group. Because they may need a bit of lead time to say, these are being reviewed and they're in phase 2, be September to April, so they can start to think ahead of that . . .

**Mr. Carr:** — We in fact will be publishing the approach that we intend to take once we have approval to do so. And that should be forthcoming fairly quickly. So there'll be ample opportunity for interest groups and stakeholders to be aware of what provisions are under review at what particular time, and what the process is that will allow them to fully engage in that process.

**Mr. Forbes:** — Now will this be done in conjunction with the Occupational Health and Safety Council that's . . . How will they be part of this? Or will it be going through them?

**Mr. Carr:** — The council will be the recipients of, first of all, the review process, and will be made aware of that review process. Officials within the ministry will undertake the review and shepherd the review. Then anything that is produced as a result of that review will come back to council to gain their input and their advice. And then that will come forward to the minister in the form of a final package.

**Hon. Mr. Morgan:** — The council would be sort of the first point of expertise or industry because, as you're aware, it's a diverse group. So they would sort of be the first point of reference as far as consultation. But we made a commitment to the advisory committee that we would make information available to them at the same time.

The nature of that discussion was that the members of the advisory committee felt that a lot of the information would be of a technical nature and felt that it may not benefit them. A lot of them were there because of an HR [human resources] background or a labour relations background. And they asked, and we agreed, if we could do a separate series where each one

of them would do a nominee of whoever their OH [occupational health] person or their . . . somebody that would have the technical background on it.

So we'll probably have another process, being delegates or appointees of the people on the advisory committee, which will get a sort of a twofold thing. First there would be a technical briefing of what the ministry is suggesting, and then look to them for commentary and input from . . . Assuming the people that are there, they would have the knowledge that would be able to identify what best practices are and what is or may not have been working.

**Mr. Forbes:** — It's again a . . . might be a big undertaking. I'm not sure. But the point is you're updating the regulations or you're looking for regulations that you might think are outdated, and then you're also . . . But by opening it up, you are opening it up to — and hopefully — potential improvements. But the question always remains, and this is the challenge in occupational health and safety, the balance between sort of the continuous improvement model where at some point you have to make a decision, get a regulation happening, or you can keep talking about it. And we're having that conversation on many different levels about this bill.

But is that going to be a challenge? Or how are you planning to go forward with that in terms of . . . Because people may not be on the same page here. What may seem to be an outdated regulation may to others may seem to be quite relevant or one that they want to see in place because of the 1 in 100 or 1 in 500 chance that it may actually happen. So I'm curious because of the timelines involved in this.

**Hon. Mr. Morgan:** — I think you make a really important point. We want the process to be as thorough and detailed as we can, that we get all the options brought forward, and that we're able to identify what best practices are. But we would at the same time have to make some determinations whether things need to be brought in over a period of time or what we need to do to ensure that there's a degree of public acceptability with it.

We went through a similar process when we introduced legislation banning people from texting and using their cellphones. There was certainly a push from safety officials at that time that you'd have been better off to ban them completely and not allow the use of hands-free, that the safest thing would be that. But we knew that the public acceptability just wasn't there for that. So we made a conscious decision that this was a relatively good compromise, that this would provide a significantly enhanced level of safety. So we felt that was a good balance to strike.

We're also wrestling with a similar one within this piece of legislation, and that's how we will deal with the definition of prime contractor. We initially felt that every, you know, on every job site there ought to be a contractor that assumed responsibility for safety for the overall job site. And then after the legislation was out and we started engaging in the consultation, people started raising examples where it wasn't practical.

And if the legislation were to pass, my wife would have inadvertently been a prime contractor a couple of weeks ago.

She was doing some minor renovations at the house so she had a plumber, a painter, and an electrician there at the same time. Now she didn't know they were all going to be there at the same time but she'd left keys with a neighbour, and then somebody phoned her at work and said, oh well we're going to come today as well. So in any event, she had three subtrades working on her construction site because there was no general contractor while she was at work. So had there been an incident and this had been in place, there would have been an area of responsibility that it probably wouldn't have been fair — not that I like to stick up for my wife all the time.

But somebody else used another example — and I know you have a teaching background — what about the teacher that is acting as her own contractor to build a house? They're doing what they do best. What they're supposed to do is teach school. And they've engaged a handful of subtrades to help them build a house. You know, the teacher was doing some of their own drywalling, painting, whatever else, and acts as their own . . .

So we think it's incumbent on us to come up with either a threshold or series of exemptions to do it. And to do that, to allow for those exemptions, will certainly increase a risk on those smaller job sites, but we think it's a matter of striking a balance. And so you're right. That's what we're expecting to come out of the consultation process, is identifying what those exemptions are, what the threshold should be, what the level of public acceptability, and what the trade-off is for safety. And I don't have a landing place.

**Mr. Forbes:** — No, and I appreciate that. And I remember this conversation I think a year or two ago when I was talking about the anchors on my roof, and the minister became interested in how my roofing job was going along at the time. But it's very important to have that. So it's important to somehow appreciate the thresholds but how to make sure we have safety happening as much as we can.

So at this point though you've provided for the transition of existing regulations to be in force when the bill comes into force. And I think if I can go to division 13 on page 89, I just want to review that for a minute. Oh, regulations and codes of practice. So but you're really talking on page 94, the transitional, that all codes of practice that were issued are in existence on the day before coming in . . . that were in existence are continued and so on and so forth. Likewise with the Occupational Health and Safety Council. And so that provides for that.

But I want to take a look at the regulations and codes of practice. And are there any that are new in this division 3-83 as we go through this?

**Hon. Mr. Morgan:** — I don't think there is in this. I think everything that was in 85 was in 23, but there are things in 23 that aren't yet proclaimed and it's around . . . Had we not done 85, we would be going through the consultative process with regard to 23, so the regs would be coming forward there. But the Act or the legislative component I think is brought over . . .

**Mr. Forbes:** — So it's been brought over in total with no change in language?

**Hon. Mr. Morgan:** — Minor, minor changes. So that would've been changes that would've indicated no policy change, but an update in wording. And I guess I can have Pat come here and maybe go through some of them if you . . .

**Mr. Forbes:** — Well there's only one or two. I mean I'm not going through the whole list.

**Hon. Mr. Morgan:** — Sure.

**Mr. Forbes:** — But I'm just curious because it's quite a fairly extensive list of regulations or . . . And it's often brought up that, you know, with this bill, the fact that there are so many regulations, that's part of the big questions. What will the regulations look like and will there be significant changes? Because really that's where the detail is and . . .

**Hon. Mr. Morgan:** — I think that's a fair comment. Assuming again that we didn't do 85, we would want to be updating the regulations with regard to what we're doing around 23, so the process has to take place in any event. So it will be to some extent a parallel process or one done in conjunction with the rest of things. But that was an area of our legislative framework that needed an update.

**Mr. Forbes:** — For the minor changes, if you can . . .

**Ms. Parenteau:** — Well I mean we do have part (e), which is dealing with the prime contractors.

**Mr. Forbes:** — Right.

**Ms. Parenteau:** — And I'm just actually trying to get this to come up. Most of it is just wording changes to be consistent with language that we've used throughout the Act. Part (a) is almost exactly consistent; (b) as well; occupational health and safety programs; categories of persons, I believe is pretty much exactly the same. I believe the new provision with respect to supplier under (f).

We do have the ability to, under Bill 23, to add additional occupational health and safety committees and so that's been carried forward here, but for the most part these are very much consistent except for numbering changes.

[14:30]

**Mr. Forbes:** — There was, if I recall, there was a little bit of controversy over the ability to order the establishment of additional occupational health committees. There was some discussion around, especially in larger workplaces, whether there was one or if you're adding a second one, it might create some confusion. I don't have my notes in front of me, but whether that's like, I think, a large health centre where you . . . might be more appropriate to have a few more. I don't know. But has that been resolved or talked further?

**Mr. Carr:** — From the perspective of the ministry, it's resolved. We think that it's an appropriate policy decision to provide the executive director with the authority, in certain circumstances, to exercise discretion to ask that the employer do create additional occupational health and safety committees. Those decisions would be focused on things like the injury

performance in that particular workplace. It would be based on an assessment of whether the injury rate is perhaps driven by a lack of effective participation in the particular workplace by an OHC [occupational health committee], where we think there would be some benefit accruing to the workers in that place of employment as a result of having them more engaged in the day-to-day operation of the safety program.

The expectation would be that where the executive director is exercising that discretion, that it's being exercised in accordance with the provisions of the Act, which of course set out kind of the decision-making frame that should be followed. And it's really from that perspective that we see there would be a significant benefit derived from that decision.

**Mr. Forbes:** — What was the feeling of the occupational council on that, the OHS [Occupational Health and Safety] Council in terms of giving you the power to add . . .

**Mr. Carr:** — I don't offhand recall what the view of the council was. I think that we did provide council with a fulsome explanation when we did the review under Bill 23, and that provision was then there. I think at the end of the day there was a view that I think it would be seen as a positive activity for the executive director to have that authority.

There were certainly, I think, always some potential for questions as to how that authority might get used. That's why we were careful when we framed both Bill 23 and then part III of Bill 85 to ensure that the executive director had specific issues that needed to be considered when making that decision.

**Hon. Mr. Morgan:** — If your question is about the general acceptance of that particular provision, I'd met with, you know, a large number of groups on both sides. And I don't remember it coming up anywhere as being one that anybody had any concern with.

I think, from an operational point of view, if there's two parts in a workplace dealing with two areas, it's probably appropriate to have a separate committee structure. I know when we started talking to people about the provisions that were in 23, you know, we heard issues about the prime contractor. We heard issues about SOTs [summary offence ticketing] and the fines. We also heard issues about the level of which employees should have legal responsibility or be subject to penal provisions in the Act. But I don't remember that particular issue.

**Mr. Forbes:** — I want to go to the definitions, if I can. So we're back at 3.1. And I probably will be all over this book, so it'll be well-flipped by the time we . . .

**Hon. Mr. Morgan:** — We have binders.

**Mr. Forbes:** — You have binders.

**Hon. Mr. Morgan:** — Electronic and paper.

**Mr. Forbes:** — Oh, there you go. I've just got extra copies here. Now I'm not really familiar with discriminatory action. What's that? Can you just, as a . . . and this may be, is it the same definition as it was before? And what is this all about really?

**Mr. Carr:** — Discriminatory action refers to any sanction that's applied by an individual or against an individual as a result of them pursuing the exercise of a right under the Act. As it applies in particular to part III, our view is that there is no change in the application of the legislation.

If you look in Bill 23, section 27 talked about a discriminatory action being prohibited under certain circumstances. And part III, sub 35 makes a clear distinction, saying that discriminatory action is prohibited and it sets out, in language that's very similar to the previous Act, the circumstances under which discriminatory action would be found to have occurred.

**Mr. Morgan:** — In simple terms, it's the whistle-blower portion of the legislation. A worker should not be penalized for bringing forward a complaint or exercising . . . particularly in the area of workplace safety. So the policy decision when 23 was brought into 85 was that it was something that shouldn't be watered down or changed.

So I think any changes in language would just be with regard to numbering sections or having common definitions. But the idea is that it was an important section for workers to ensure that their rights aren't diminished to raise an issue. So it would be . . . it was brought forward essentially as is, on a policy point of view.

**Mr. Forbes:** — And the definition of occupational health and safety remains the same? There's no change in that?

**Mr. Carr:** — The particular definition, we think, is identical.

**Mr. Forbes:** — Okay. It's been raised and I'll probably raise this again, but under practicable:

(x) "practicable" means possible given current knowledge, technology and invention.

And some are concerned that that allows the responsibility to be avoided because prior to this definition . . . This definition, is it exactly the same?

**Mr. Carr:** — Yes.

**Mr. Forbes:** — Okay.

**Hon. Mr. Morgan:** — There's different levels of that kind of prohibition and where you're creating an offence. And the intention was that it would recognize best practices or sort of a current state of mind at the time that something is brought into . . . that you're dealing with it. So you're dealing with a set of circumstances as they are there. And that's something that may change as time goes on, as things . . . [inaudible].

But from a purely legal point of view, you could have an offence that's called a strict liability offence where you say this is, something is illegal per se, and you don't have a defence that you didn't know or did your best. So this one, it would be a defence to an offence to say this was the level of my knowledge, or this is what best practices were at that time.

An example of strict liability would be on your motor vehicle. You may not know that your tail light is burned out, but you're

guilty of driving your vehicle without a tail light because that's your obligation. Now you might be able to defend the ticket by saying, oh no, I use very best practices; here's my logbook where I walked around the vehicle every time before I get into it. And the logbook is genuine and you actually prove that you did. And you know, 20 minutes before you got the ticket, you had actually done the inspection and all the lights were working at that point in time. Then you know, you've probably done everything that's possible. Then you'd be entitled to an acquittal because you've met the reverse onus that's placed on you.

That's not the intention with this section to go to that level. The intention is to have the requirement on the prosecutor so they would have to prove all of the ordinary and usual offence elements of the offence.

**Mr. Carr:** — One of the things that I think is relevant and pertinent to the question that was asked is that the test of reasonably practicable has existed in our legislation, I believe, since 1971 when it was first introduced. It has created a standard within the occupational health and safety community that is well understood. And it is not seen as a slight or minimum standard; it's seen as a very significant and onerous standard that you're required to meet.

And so when the definition speaks to meaning “. . . practicable unless the person on whom a duty is placed can show that there is a gross disproportion between the benefit of the duty and the cost, in time, trouble and money, of the measures to secure the duty,” that's not an insignificant test. And in fact it does require and place upon the party a very significant level of responsibility. And it's not sufficient to say, well I didn't have the money to do it this week.

It depends. It depends on the evidence in terms of the consequence of the failure, in terms of either a risk to workers or the actual incident that gives rise to injury or death. And the circumstance is very real and it does require close and careful attention by the employer. And you're not able to fail to meet a standard under our legislation by virtue of a single element of that definition. You in fact have to meet the fulsome requirement. And the proportion is set by the courts. They determine the proportionality.

**Mr. Forbes:** — You were just . . . It sounded like you were reading from something. Is that the . . .

**Mr. Carr:** — It was the definition under the part, and it's the same as existed in the previous Act.

**Mr. Forbes:** — That's not the definition I have of practicable.

**Mr. Carr:** — I'm reading from page 53, and it's 3-1(1)(z), “reasonably practicable.”

**Mr. Forbes:** — Okay. So there's actually . . . Why would you have, you know, two definitions related to practicable?

**Mr. Carr:** — One, I think, provides the standard of reasonableness. The other defines practicable. And they're used differently in the legislation. And so, whereas practicable means “possible given current knowledge, technology and invention,”

it means that there's an expectation for continuous improvement. The compliance issue that you were raising in your question, I think, was more appropriately dealing with the standard of reasonably practicable, which means you have to discharge the effort in order to meet the obligation, based on the cost in time, trouble, and money, of the measures required to secure your obligation under the statute.

**Mr. Forbes:** — Can you give me an example where the legislation speaks to practicable but not reasonably practicable?

**Mr. Carr:** — Given enough time.

**Hon. Mr. Morgan:** — The incredible weight of Her Majesty's drafts people are aggressively seeking this out.

**Mr. Forbes:** — It is interesting that, and I didn't catch, it was right below it, you know . . .

**Mr. Carr:** — If you go to page 77 of the bill, it talks about . . .

**Mr. Forbes:** — What is the section?

**Mr. Carr:** — It's 3-39, and it deals with the notice of contravention.

A notice of contravention may include directions as to the measures to be taken to remedy the contravention to which the notice relates, and the directions must, if practicable, give the person on whom the notice is served a choice of different ways of remedying the contravention.

**Mr. Forbes:** — Now is there one with reasonable in front of it? I'm trying to get the difference because, to me, it would be . . .

**Mr. Carr:** — There's a significant . . .

**Mr. Forbes:** — I can't see why you wouldn't use the word reasonable in that case.

**Hon. Mr. Morgan:** — I think the distinction usually is one's in an objective sense and one's in a subjective sense. And where you use the word “reasonably,” it's more subjective, that you're dealing with the individual. And then when you talk about “practicably,” you'd be dealing with it more in a broader, objective sense. So you would be applying the word, “reasonably.” That would be the ordinary reason why that distinction would be there.

**Mr. Carr:** — So if you go to page 67, for example. In 3-15:

Every supplier shall:

(a) ensure, insofar as is reasonably practicable, that any biological substance or chemical substance or any plant supplied by the supplier to any owner, contractor, employer, worker or self-employed person for use in or at a place of employment:

(i) is . . . [etc., etc.]”

**Mr. Forbes:** — What section of . . .



**Mr. Carr:** — That's 3-15.

**Mr. Forbes:** — 15?

**Mr. Carr:** — Yes, 1-5, page 59. There are significant other examples in terms where the term reasonably practicable is used. It's used on page 66 in a number of varieties as well. A number of provisions in that part.

[14:45]

**Mr. Forbes:** — Well again I feel like this is like a grammar lesson — subjective clauses and objective.

**Hon. Mr. Morgan:** — I think where there's the potential of a penal sanction, you're imposing a duty on someone. By inclusion of the word reasonable, you're setting what the standard is for the *mens rea* or for the mental element of what the offence is.

**Mr. Forbes:** — And that speaks to the gross disproportion.

**Hon. Mr. Morgan:** — Correct. I think it's . . .

**Mr. Forbes:** — Right. Okay. Okay, good. Well that was good. And then I want to actually, and this is one that I see throughout and again I'm curious about, the old language had, but now that you have . . . Well I'll go right to the worker definition.

**Hon. Mr. Morgan:** — What section?

**Mr. Forbes:** — It's on page 54, (gg) of the definitions. And now I don't have the side by side with me open — (gg). You have, a worker means an individual, including supervisors, engaged in the service. And there's actually I think there's three differences here. One is you've used the word individual now as opposed to persons before. And why the change from persons to individual?

**Mr. Carr:** — It was a preference in the legislative drafting. And it was the drafting folks that said in modern drafting parlance, that's the preferred approach.

**Mr. Forbes:** — But we see throughout the Act, or through this part, the word person is used. And actually in that one section I had you looking at on page 89, I just noticed this just now. If you go to page 89, 3-83(c) there's, for the purposes of clause 3-1(1)(gg), which we're looking at, prescribing categories of persons as workers. So wouldn't it have made sense to use the word individual at that point if you're trying to be consistent through the Act?

**Hon. Mr. Morgan:** — We'll have our officials check with the drafts people in Justice and find out and give you a better answer rather than have Mr. Carr or myself speculate. I suspect there is a reason because they were pretty conscientious, but we'll . . . I don't know whether we can get that as we go through this through the afternoon . . .

**Mr. Forbes:** — I'm curious about that.

**Hon. Mr. Morgan:** — But it's a good question and we'll get you an answer.

**Mr. Forbes:** — And I think the better word is actually persons because especially when we get into the next line, the (gg)(ii), "a member of a prescribed category of individuals." So it just seems to be an odd phrase.

**Hon. Mr. Morgan:** — I don't have an answer, whether it's something that came out of another piece of legislation they brought forward and didn't change it or whether there is a specific reason. So we'll find out in the next . . .

**Mr. Forbes:** — If you could. Because to me it's odd. Category means . . . usually assumes that there's more than one person involved. And so to have more than one individual, it seems redundant actually to me. But I'm not a lawyer so I don't know.

**Hon. Mr. Morgan:** — We'll find out for you.

**Mr. Forbes:** — Great. And so then the other . . . And I mean right off the bat, and I talked about this last week, about the use of the word worker, where throughout the employment Act you're trying to move away from the word worker except in this one spot. And I think the answer last week was you're trying to be consistent with the old occupational health and safety Act. I don't know if you want to expand a bit on that, why the retention of the word worker here.

**Mr. Carr:** — I think there's . . . Again to follow up on what was said a week ago, the definition of worker in the safety context has a broader meaning than the definition of employee. Employee suggests that it's someone who is paid. And there may be circumstances in a workplace where you're working and you're not paid and you don't have that necessarily direct commercial relationship. And so you need to have an opportunity to apply the definition as to what was the individual engaged in. If they're engaged as it suggests here, the service of an employer, and that you're a member or a member of a prescribed category of individuals, the approach that we're trying to take is to make sure that we don't have a gap in the application in the context of occupational health and safety. And so the idea here was to look at that from that perspective and say that there was greater value in leaving the term worker rather than substituting employee.

**Mr. Forbes:** — And that was going to be another question about the word, and you brought up the word service, which some people have raised the question about whether that actually can allow for a broader definition. And you've raised the issue of paid, unpaid, but somebody who's in the service of someone else. So can you expand on that?

**Mr. Carr:** — You may have circumstances where you've got issues that are arising that are as a result of an educational undertaking. So you've got somebody engaged in a workplace on a work practicum or a work experience activity. That doesn't free the employer from the obligations that it has under our occupational health and safety part. But there may not be, for example, an employment relationship that would be considered relevant from the employment standards perspective.

**Mr. Forbes:** — I know it's always been a big debate around take your child to work and so the question about the risks and the coverage and that type of thing. So how would that apply in this definition?

**Hon. Mr. Morgan:** — The child would be seen as a member of the public. The child's not there as part of any kind of an employment relationship. I mean you could say, you know, to the extent that you use it, as say yes we're trading jobs or whatever else, you know. I mean that's verbiage there. The parent is still responsible for getting the work done. The parent assumes responsibility for the child on the job site. But in law, the rights and obligations accrue to the employer or the parent, the true employee. Any other . . . The child is a member of the public, the same as a customer or somebody else and doesn't assume or lose any rights because of that.

And I think if you sort of take it a step removed and look at it from a workers' compensation point of view, if the child fell or hurt him or herself you wouldn't say, oh well you're a worker therefore you've lost your rights; you're limited. Or you know, if that claim turned up at the Workers' Compensation Board, it doesn't fit within their definition. So I don't know if that answers . . .

**Mr. Forbes:** — Well it is an interesting question because I know that this has been brought up. I've had both experiences in terms of as a teacher where this has been an issue and sending kids out with their parents or, you know, as part of government and now part of this and from all different perspectives on the liability of taking kids to work. And we want to have lots of experiences in the workplace so people can get a sense of what kind of work they want to, what kind of career paths they may want to go down. We often hear about that, particularly in middle years settings where we want to see kids get a better sense of what the workplace is, that it's not a remote or a foreign idea, and particularly when it comes to trades, you know. I remember that discussion about how we want to see people exposed to all different types of workplaces.

So I'd be curious in terms of this definition and just . . . Has there been much work done in terms of, from the ministry's point of view, of how to arrive at a place that sort of allows that kind of thing to do but everybody knows what their rights and responsibilities are?

**Hon. Mr. Morgan:** — I think we started off from the point of view, we know who has an employer-employee relationship, who the employer is, who the employee is.

I think you're right. There's some significant social benefits to having those type of programs. Whether somebody comes there with the idea they're learning something else, I think it's good not just for the parent or for the child, but for other people in the workplace. I know there was some discussion with the Premier bringing one of his children to work and whether the child should sit in the Chamber and make decisions, and I sort of thought, it's not a bad idea.

In any event, you know, it happens in a variety of roles. We know it's commonplace. And it's, from an educational point of view, it's I think a really good idea. But when you talked about trades, about when you do take a child on to a work site, then the whole issue of safety in the workplace . . . You know, it's one thing where you're in a building such as this, but if you're on a construction site, then the issue of does a child need to wear protective safety gear, do they need to have the training and everything else. So you're dealing with another set of risks.

Same would exist in a warehouse or a variety of other workplaces.

So I think it's a matter of saying to the employer and the parent, you have to be aware there's a unique set of risks and trade-offs and you may well not want to pursue it, you know, given the best efforts that we make to reduce or minimize accidents or serious risks. How terrible, what a horror it would be for a parent to have an accident occur during what should be a happy learning experience for a child.

**Mr. Forbes:** — So has the ministry done, or do they have a . . .

**Hon. Mr. Morgan:** — We haven't, they haven't done work nor have they adopted policies on that. And I think the best we can say is, you treat the child as a stranger to the work site at the job site and, if there's a risk posed, it's the same as if somebody else walks on to a job site that's not part of the job site.

I think we do have reasonably adequate rules for summer students, for interns, and those where there is an employer-employee relationship there, notwithstanding the fact there may not be paycheque, and that gets into the area of the broader definition. But as a general rule, you know, unless you fall into one of the specific categories, you do not benefit from the workers' compensation legislation and you're not subject to these rules other than that you're there, that people have an obligation to ensure your safety and well-being.

**Mr. Forbes:** — So is the word service a new . . . This is a change I think, is it not?

**Mr. Carr:** — It's not new. The old definition was worker means a person who is engaged in the service of an employer. And the new definition says an individual, including a supervisor, who is engaged in the service of an employer.

**Mr. Forbes:** — And then the other change is a supervisor, and it's brought into the definition. And what was the rationale behind that?

**Mr. Carr:** — The rationale was to provide clarity to ensure that it was understood that supervisors are in fact workers.

**Mr. Forbes:** — Sorry. Clarity between the . . . Could you say again?

**Mr. Carr:** — It was to provide clarity that made clear to everyone that supervisors are in fact workers under part III.

**Mr. Forbes:** — Now it will be interesting. Tomorrow we'll have this discussion because of the role of supervisors and why that wasn't clear before, and now there needs to be clarity around that. And I guess that would be my question.

**Hon. Mr. Morgan:** — I guess it's a reasonable question to ask, whether there was a bad case experience. But here you've got a number of safety requirements or a comprehensive safety scheme where the duty falls on an employer to ensure that the requirements of the legislation are met. And then the purpose of it is to ensure the safety of workers.

Well for purposes of making sure that everybody is safe, a

supervisor should fall in that definition as well. You would want to ensure that you wouldn't want to give an employer the option of being able to withdraw from something — say, oh well, that person was a supervisor. Well no, you know, they're not withdrawing from it. The obligation to protect them and provide safety is the same for them as anyone else.

[15:00]

**Mr. Forbes:** — And I guess my question would be that it would seem that from past experience and . . .

**Hon. Mr. Morgan:** — And as I say, I can't say whether there was a specific case or a specific incident. And it could be just thoroughness on the part of the drafters or they may have been looking at it . . . [inaudible] . . . If they look back, I don't see an answer forthcoming on that. I'm sorry.

**Mr. Forbes:** — Okay. Well we'll watch that one because I know the whole issue about supervisors and labour relations will come . . .

**Hon. Mr. Morgan:** — If where you're going to is there's a reason for the distinction on the labour relations portion, you know, we're in a different part of the Act and we use different definitions. So I think the reasons here would be different.

**Mr. Forbes:** — And then I just want to then go down to number (5), it'd be 3-1(5), I think. It's on the bottom of page 54 anyways. Where it talks about:

For the purposes of paragraph (1)(l)(i)(B), harassment does not include any reasonable action that is taken by an employer, or a manager or supervisor employed or engaged by an employer, relating to the management and direction of the employer's workers or the place of employment.

Is that a new clause?

**Mr. Carr:** — No. It used to be (4) in the previous legislation.

**Mr. Forbes:** — And so you mean just up one?

**Mr. Carr:** — Yes.

**Mr. Forbes:** — And so was there an insertion, a new section? (4), the harassment was always there at that level.

**Mr. Carr:** — Yes. There was an addition of a new part, sub 3, that adds . . . It was some language added to the contractor provision, I believe. Just a second here. There was a renumbering of the provision. In the old Act, we had a 2.1. 2.1 became 3 under the new bill, and that moved everything then to 4 and to 5.

**Mr. Forbes:** — And there's no change in that, that was the old . . .

**Mr. Carr:** — There is no change.

**Mr. Forbes:** — Right, okay. I just want to shift gears for a bit. We'll definitely . . . I have more as we go through this, but there

were a couple of groups that I want to touch base on their concerns. But I do want to touch base on the whole issue about the workplace deaths and the role within the Act. Because, you know, when we see the kind of stuff, the numbers from last year, and I'm curious to know, with the implementation of this particular part — and we've talked about this in estimates — that there hopes to be between two and six new occupational health officers. Am I correct in that?

**Hon. Mr. Morgan:** — An additional three. And then there's actually another three that are filling vacant positions, so there's actually a net increase of six.

**Mr. Forbes:** — Okay. And so as they go out and implement this legislation — I'm just curious because the whole intent is to improve the workplace safety — so can you see a direct correlation between this and the reducing the number of workplace deaths?

**Hon. Mr. Morgan:** — I'm not sure how it will impact fatalities. There's two parts to the new mandate. One will be increased inspections on high-risk areas where they identify either employers or nature of construction or nature of work that adds additional risks. So there would be roughly half of the new workers, three or usually they move up or down depending on need.

So they would target where they think there's need, if they had an area where people weren't tying off or there was some excavations or that type of issue. And it's possible, but no decision made whether part of that would go towards driving issues — we saw driving fatalities go up — but at least three of them are half of the resources, would be committed to having additional inspections and working within the health care sector.

Now those aren't trauma-type injuries, so they wouldn't be fatalities. But we have a growing number of claims from sprains, lifts arising out of the health care sector, largely caused by moving patients. And the health authorities have provided more lifting devices, and whether they have enough and whether there's enough training remains to be seen. They regard it as a work in progress, and they're early on in the process of trying to deal with that.

I've met with some of the people from SUN [Saskatchewan Union of Nurses] and some of the people from SEIU [Service Employees International Union], and they're concerned about training, how to use the equipment, whether the equipment is available. So we'll want to have ongoing discussions with them. And that's the purpose of at least three of the workers, is to try and do that because that was one area where we didn't have good answers or good solutions. So we want to make a significant commitment to that.

In conjunction with that, I've met with both the Health minister and the deputy minister. It's not my role to go and meet with regional health authorities, but I've certainly met with some of the union officials that are working in that area. And I think they take it seriously. I share their concern, as does the Health minister and the Health deputy minister. So we look to them to provide some solutions, to provide some direction. And the analysis of the type of injuries that were happening were that it

was lifts, strains, I think. And I'll just . . . You had asked specifically about fatalities.

**Mr. Forbes:** — But also I'm interested in what you're saying too, in terms of . . . because I know, especially with the lifting, that has been a major concern for many years.

**Hon. Mr. Morgan:** — And it sounds trite and flip to say, but we're . . . A lot of people in the health force are, as you and I are, aging baby boomers. They can't lift as much or as well or get away with inappropriate lifting that we could when we were in our teens or 20s. So those people have to understand that they can't do what they did, and use the equipment that's there to try and facilitate them.

I know I have a neighbour that works in health care, and she's been off work a number of times for exactly that type of reason. And once you've had that type of an injury, it's very easy to damage or re-injure yourself with that. So it's a different challenge than working with a trauma type of injury, because a trauma type of injury — easy to identify — you walk in, oh yes, that worker isn't using a tie-off. Well you have somebody that moves a patient from a gurney to a bed, well you know what? Are they sliding them over? Are they lifting? Are they doing it properly? Are they using a lift? Should they be using it? If there's two of them there, do they . . . [inaudible] . . . And I can't answer what methodology need be done.

But on the accidents, I'll just . . . Of the 60 that were in the province, eight fell under federal jurisdiction. So I don't have much to provide for a background. Sixteen were related to exposures to cancer, to asbestos-related. So I think the work that has been done on asbestos hopefully will minimize or prevent future exposures, at least we expect that it will. But nonetheless that's something we're going to see for the next number of years because there's people that are ill, people that are ill that don't know they're ill, that have had exposure 10, 20, and 30 years before.

Of those 16, we have three that we think need some . . . [inaudible] . . . Thirteen were asbestos related, but three were firefighter deaths. And as you're aware, shortly before the last election we included esophageal cancer and some other cancers in the list where the presumptions were they were work related, specifically for firefighters. So we don't know whether they're using best practices or trying to avoid or minimize that exposure. In most of the cases with the firefighters, when you talk to them, the people have been ill for an extended period of time.

So hopefully we're not going to see any new ones of that type of thing. My note says that current exposures are more rigidly controlled by regulation and are less likely to cause future illnesses. I don't think we can guarantee it, but I think we've taken some significant steps.

Twenty-seven of the deaths were trauma related, but of that 27, 13 were heart attacks at work. And that raises the broader issue of employee health. You know, is it an employee that was prone to having a heart attack that had the heart attack at work? Well I'm glad for the sake of the worker, the worker's family that they're deemed to be covered. But from a government point of view, we need to do what we can to say, yes are our workers

doing things that cause them an inordinate amount of stress? Do we need to take inquiries or look at what their general health is before they go to work?

And to use you and I as an example, I haven't gone jogging in the last while and I don't eat the way I should. And so you know, it's something we should all be concerned about. You know, so there's some that were deaths at work that may just be natural causes, that's where a person passed away. But nonetheless, we need to be conscious of that.

Seven of the traumatic fatalities were provincially regulated work and were in the constructed . . . It's construction safe. So this was up from one the previous year, so that's where our significant increase is. And that's where the focus needs to be, on the area of our enforcement and our education programs.

Sadly, five of them were youth fatalities. Now these aren't people that are part of the youth readiness program. These are people . . . I think that's up to 24, isn't it?

**Mr. Carr:** — Youth is, yes.

**Hon. Mr. Morgan:** — Up to age 24. So you know, the young person that was killed was a flag person, would not have been under the young worker readiness program, but would have been a young worker, for instance. And most of the youth ones were traffic related. And then that gets into the area of, you know, that I've mentioned, that the member from Prince Albert Carleton is going to do some research somewhere in that.

So nonetheless, you know, our track record in that area is not good. And we need to look at it, not just saying we need to focus on one area because I think it's right across the area. Our fatality rate is the second highest in Canada — 8.9 per 100,000. So it's an area that we need to continue to identify where the issues are and continue to focus.

The only area that we did better on this year than the preceding year is homicides. And the homicide that we had the year before, you're aware, was Jimmy Ray Wiebe. You know, it's a sad day when we have to have a discussion about homicides that take place in the workplace, but in any event.

**Mr. Forbes:** — Thank you for that. And last year was, you know, was a startling number with 60. But in 2009 . . . So it went from 31 to 34 to 45 in the three previous years. So was the increase in those years related to asbestos and cancer? Did the numbers of cancers go up?

**Hon. Mr. Morgan:** — Yes, those were asbestos related. And I've seen some guesstimates that we're probably going to see the asbestos ones, as they work their way through the system, where probably another 10 years of asbestos-related claims will come through.

**Mr. Forbes:** — So you know, we look at, you know, just a tragic set of numbers where with 2008, 31, and then . . . And so they're going up. So you're saying they're related to cancers. And these are older folks that, whether they'd be firefighters, or electricians would be another subgroup that would be really exposed a lot . . .

**Hon. Mr. Morgan:** — Firefighters last year were three.

[15:15]

**Mr. Forbes:** — Three. Okay.

**Hon. Mr. Morgan:** — And once again the firefighters were some . . . You know, the exposure would have taken place some time before.

**Mr. Forbes:** — Right. So how many traumatic . . . Have we seen the number of traumatic fatalities going up?

**Hon. Mr. Morgan:** — That went up this year as well.

**Mr. Forbes:** — It went 27. But what was it the year before? What's the trend line of that?

**Hon. Mr. Morgan:** — 21; 29 the previous year.

**Mr. Forbes:** — And 27 — 21, 29, 27. That's the trend.

In the division, occupational health and safety, when they're getting these numbers in, I'm wondering if there's a way . . . I just did it quick, and it's totally unscientific, but what time of year do these things happen, these deaths happen? And it would seem it happens a lot in the summer months, whether that's related to construction or not. But is there sort of, have you some sort of alarm system that goes off when you're seeing these numbers are going up — construction seems to be having a terrible kind of start to the year, and you want to send more inspectors over?

**Hon. Mr. Morgan:** — They monitor them as they go along. When a serious incident happens, either a serious injury or a fatality happens, a number of people, including myself, get notified by email, and then the OH workers will come and travel to the site to do the inspection and make the determination and the recommendation. So I can say anecdotally that it seems the summer months are the worst, and that's when you're seeing things happen weekends and evenings. I also get the notifications on farm fatalities, and those seem to be, not surprisingly, seeding and harvest. But we certainly see, I think going back to when I remember getting the emails and looking at them . . . And I know last year we had discussions because it seemed like there was just an inordinate number of them coming, and we had started having some discussions with the OH workers. And certainly it was . . . The nature of the discussion was, this is not a good year; what else can and should we do? So at that point they started focusing on the things as they are now, on the worst 50 employers and on the worst 20 in the health sector. But Tareq is new. You will remember we had, his predecessor was Glennis Bihun who had been here for a long time and was sort of the walking history book, but Tareq is rapidly coming up to speed.

Thirty-three per cent of our inspection activity relates to construction, 10 per cent in service and hospitality, and 8 per cent in health care. Hospitality is an area that seems to . . . There's risks that are there, but it's fairly well managed. It's predictable, and the employers are focused on it. It's not a matter if they're on a new construction site. And as you are aware, we no longer have mandatory retirement, and we have

some very senior people working. There's a hotel in Saskatoon that has a full-time worker that is 92 years old, who by the way has not had an injury or a workplace . . .

**Mr. Forbes:** — He or she has managed her life very well.

**Hon. Mr. Morgan:** — And she went to work to put — and it's not my mother — but went to work to put her son through law school. Actually there's no secret to it. Her name is Josie Der, and she works at the Hilton Garden Inn. And she started working at that property when it was a Holiday Inn. And her son is Balfour Der who's a lawyer in Alberta, and went to put him through university. And I met with her; they invited me to one of their functions. And I did a member's statement last year. And she said that if she stayed home, she would become bored and would spend too much money.

**Mr. Forbes:** — There you go. So with the construction now, is there a construction safety association? And how are they receptive to this kind of thing that . . .

**Mr. Carr:** — We in fact sat down with the Construction Safety Association about three years ago now and engaged them and their board of directors in a very significant conversation about injury rates in construction. We dedicated some significant resources to supporting some increased inspection in that area, and we found that it did have a positive impact in reducing the injury rate. We felt that we had got them to a point where they had a good understanding and appreciation for the circumstances related to their claims experience and their injury experience, and so we moved to other areas where we have ongoing concerns.

We've seen with the injury rates this past year that we need to attend more closely and renew that relationship with the safety association and its members. We think it works proactively and positively. They provide exceptional training, but one of the challenges they have is getting people off the job sites to attend the training because when construction season is on, it's on. So there's some practical issues that we're asking them to think about. We're also asking whether, in terms of their core certification program which we think delivers some real value to its members, whether there isn't an opportunity there for them to embark upon an auditing service to those members to ensure that there's a greater level of compliance without the regulator having to be on those work sites. The discussions have been positive, and I expect they'll continue to be positive.

But there is a significant issue with their injury rate. And the interesting thing again, as we all know, it's a partnership between the owners and operators of those workplaces and the employees that work in those work sites that is going to make safety the order of the day. And where that fails, we'll continue to see the injury rate that we've seen.

**Mr. Forbes:** — And there has been prosecutions in terms of construction sites. Did any of the seven deaths that happened in the construction area, were there charges or are there charges coming out of those? I should ask of the whole 60 probably . . .

**Hon. Mr. Morgan:** — I can tell you some of them have resulted in prosecutions. Some of them have activity pending with regard to both the investigation and the legal process, so

I'm not able to . . . It would be inappropriate to give specifics on matters where there's not decisions on charging or not. But as you are aware, we have a prosecutor assigned from Justice. I think it was the predecessor of the current minister ensured that there was that and the current minister has continued that. And that's I think it's a good decision to have the same prosecutor because they understand where the threshold might be. Seventy-four per cent of all cases recommended for prosecution were to employers in construction. Of those, 70 per cent were for fall protection violations. So between '10, '11, and '12, the number of cases recommended for prosecution have increased by 6 per cent and I know there's a number of them that are pending. And I've been having discussions with Mr. Wyant as to where and when, whether they need to make changes, whether Bill 23 is going to result in additional work for that prosecutor.

**Mr. Forbes:** — And the fines, we're still in . . .

**Hon. Mr. Morgan:** — These are not done under SOT. So these would have been done under the old regime where the maximum fine was \$400,000. And I can . . . It sounds like a lot of money but it's spread across a number of files. So anyway, go ahead, Tareq.

**Mr. Al-Zabet:** — So basically there was 119 files that were sent for prosecution. And as the minister said, the main ones are . . . [inaudible] . . . for the fall-arrest system, failing to have that system there. And the ones that were successfully processed where there was fines of around \$518,920 fines and surcharges.

**Mr. Forbes:** — Okay, good. With the heart attacks, it was interesting. When I was reading the ages, it's not just older folks. I mean there were a significant number of older folks, but it seemed to be wide-ranging. I think the youngest was in the 40s, I think, 50s anyways. So has there been any work done with Health around this in terms of . . . Or is this something we should be expecting in the workplace?

**Hon. Mr. Morgan:** — I think it's fair to say that, you know, it's broader than just a workplace, I think, because that same worker could have a heart attack while shovelling snow or something else if they're prone to having it. I think we want to approach it from sort of two directions, one from the area that we want to reduce the workplace injury aspect of it, but one we just want to promote safety and good health. Whether a person has a bad heart attack or a fatal heart attack at home on the weekend while doing yardwork or at work, it's a death. It's a person that got up one day and died that should not have died otherwise.

**Mr. Forbes:** — So and then just to conclude this part, so I'll look forward to seeing when the traffic safety report comes back and if there's anything for this section. It'll be interesting. And you'd be open to hearing from them if there are things.

**Hon. Mr. Morgan:** — Absolutely, and if it requires, you know, if we think there's something that's beneficial from an educational point of view or things that we should do, then we would have discussions with SGI [Saskatchewan Government Insurance] who would have the lead on the education or the training portion of it. But at the same time, if it's work related, then both Workers' Compensation and LRWS [Labour

Relations and Workplace Safety] should have a role in it. So I think there, that's why it's been tasked to a minister. But I think we want to make sure that we do what we can by way of education and then also by way of additional enforcement wherever it's appropriate.

And I think on the heart attack ones, it's a little more difficult to ascribe blame or say this is something that warrants an enforcement point of view or process. But I do think from an educational point of view or a preventive point of view, having workers lose weight, live a healthy lifestyle, avoid stress, avoid stress at home and at work, is something we should do.

**Mr. Forbes:** — Yes. And just I guess one last question though. Are there stats of near heart attacks or near recoveries? Which would be interesting because you know, it's not as you say in the typical type of realm of what we think about, but it is . . . You want to have a safe and healthy workplace. You want to have a safe and healthy place wherever if you're at risk of death. So if there are stats, that would be interesting.

**Hon. Mr. Morgan:** — Actually if a person has a heart attack at work, they would be usually transported or taken, you know, given medical attention. And that would be treated as a health issue. It's not treated as a work-related injury unless the worker's able to go to Workers' Compensation because of something specific which would happen, which would rarely happen. So the ones that we deal with from this ministry are either through WCB [Workers' Compensation Board] or OH or where there's a fatality. If it's not a fatality, it's treated as a health issue.

**Mr. Forbes:** — Now again going off on a bit of a tangent here, but there is *The Public Health Act* where the two ministries sort of co-operate in terms of monitoring different issues. I don't know if this would be one of them but I assume it's environmental, health risks that . . . The data that's coming out of, that's gathered through *The Public Health Act*, I don't know if you want to speak to that at all.

[15:30]

**Hon. Mr. Morgan:** — The area around the asbestos registry is unique . . . [inaudible interjection] . . . Okay, I'm told there's two places. The one area where it has been, we think health issues belong under *The Public Health Act*. The asbestos registry came forward out of the House as being an amendment to that Act. We didn't ask for it to be put under a different piece of legislation because we think it's a right place for it. It's where somebody would look for it. To say that asbestos should be under workplace, I mean people think of asbestos as a health issue. So we think it's best left as part of that, so we've done that.

But the people in Health don't have the inspectors or resources to go around and monitor that set-up of thing. So responsibility for that portion will be ascribed to, and I think there'll have to be an amending regulation to the government organization regulations that will ascribe that subsection to this ministry so that the OH inspectors will have the authority to go and do the inspections, create, ensure the registry is created, and take all the other steps that are there.

Mr. Carr indicates that there's another section, of which I wasn't aware, dealing with smoking in the workplace. So I will certainly let him provide us with a great deal of depth of knowledge in that area.

**Mr. Carr:** — My depth of knowledge is rather shallow. Let me simply say that we work collaboratively with Health on workplace smoking issues. And we've had quite an effective relationship with them on that file. And it's the kind of thing that we found was very fruitful in terms of getting the right balance of good health technical information and focusing the efforts of our officers with respect to workplace smoking bans.

**Mr. Forbes:** — Okay, good. I want to shift gears here and talk about privacy and how it relates to this part. And I've referred a little bit to this letter already, but there's some specific parts that I want to talk about. And you may have a copy of this letter but I'll . . . I was cc'd [carbon copied] it and I know it was a letter to the minister on March 1st, 2013. Submission 343(O), March 1st is he received it. And the first one speaks to section 3-2, the responsibilities of the minister. And he mentions, would benefit by some, including some generally enumerated responsibilities to take reasonable measures to protect the private, the PHI [personal health information], which — these acronyms — public health information or private health information, personal health information.

**Hon. Mr. Morgan:** — Which piece of legislation you're referring to?

**Mr. Forbes:** — I'm referring to 3-2.

**Hon. Mr. Morgan:** — Okay.

**Mr. Forbes:** — Yes, a minister's responsibility. And he talks about personal health information of individuals when such information is collected, used, or flows under part III and that would be occupational health and safety. And so I don't know if you want to speak to that. There's several that I think I wouldn't mind hearing from your . . . some introductory comments on . . .

**Hon. Mr. Morgan:** — There's actually several, two pieces of legislation that sort of come into play within the ministry that's . . . One is freedom of information and protection of privacy, which is just referred to as FOIP [*The Freedom of Information and Protection of Privacy Act*]. Mr. Dickson pronounces it FOIP, although it's protection and privacy Act and so it should probably be FOIPA, but anyway. So there's that one that deals with information in a general sense.

And then there is *The Health Information Protection Act*, which deals specifically with the health provisions and health records, and that one's, the acronym is HIPA [*The Health Information Protection Act*], so that's using Mr. Dickson's terms. So we create and we follow what we think are best practices. And we know that the Privacy Commissioner has made some commentary, and I'm going to let Tareq speak to . . .

**Mr. Al-Zabet:** — Basically as the minister said, the two Acts that are there, we have internal policies in the ministry and the division that are abiding with those two policies. We don't create other new ones. We are abiding, committed to those — the FOIP and the HIPA Act. So all the processes, all the

personnel, all the staff, all the officers, their interactions and their information processing is in accordance with the two Acts there.

**Mr. Forbes:** — And I think that he meant he would think that it would be wise to acknowledge that in the ministerial, in 3-2, when it talks about minister's responsibilities, just that particularly when you're talking about occupational health and safety, that there's a connection with the two Acts that you speak of.

**Hon. Mr. Morgan:** — Are you suggesting that there should be more particulars in, or something additional in?

**Mr. Forbes:** — It sounds like that's what the commissioner is suggesting, that some responsibility to take reasonable measures to protect the personal health information.

**Hon. Mr. Morgan:** — I think the, you know, his piece of legislation imposes the requirements on everybody. And his piece of legislation is the one that allows charges to be laid where appropriate. So the 3-1 really outlines what the purpose of this Act is for and says, you know, they're assigned to this minister. But there would be other pieces of legislation from a myriad of different directions where the employees and the minister would be subject to other pieces of legislation, or that . . . legislation regarding motor vehicles where people are travelling in a motor vehicle that . . . or environmental things, or whatever, or privacy issues.

So I don't think there's a need to specifically enumerate that as being part of that when it is already in the privacy legislation, in both pieces of legislation, both FOIP and HIPA. So I don't think it needs to be re-enumerated in here because it's dealt with otherwise, any more than saying that the minister is responsible to make sure that the vehicles driven by ministry workers don't break the speed limit. I mean, it's a given. There's, you know, penal sections and whatever.

**Mr. Al-Zabet:** — I just want to add exactly, just a couple of words there that the ministry follow a policy, the purpose of which is to provide guidance and direction to staff regarding the proper handling of personnel, confidential and personal health information. Training and support to staff is provided to ensure understanding of and consistent application of the legislation. Appeals are handled in the same internal policy . . . [inaudible] . . . matter, or as all other activities that include personal information, and personal health information as well. And adjudicators are held to the same standards and expectations and receive support from the division.

The collected information is stored in a protected and secure manner and stored according to the shredding and destruction policy and procedures. Privacy breaches are handled according to the privacy breach protocol and staff misconduct is handled according to division expectation and discipline protocol.

**Mr. Forbes:** — And you're reading from?

**Mr. Al-Zabet:** — I'm sorry?

**Mr. Forbes:** — Sorry, you're reading from?

**Mr. Al-Zabet:** — This is the interim policy within the division on dealing with the FOIP and the personal information. But the general, the bigger umbrella, is of course the two Acts there that explicitly defines the, you know, processes of how to protect and store and destroy that information.

**Mr. Forbes:** — Okay. Thanks.

**Hon. Mr. Morgan:** — I think Mr. Carr can give some information as to who is subject to the Act and who is not in a way that responds . . . [inaudible] . . . So anyway.

**Mr. Carr:** — Certainly. Our officials within the ministry are of course expected to comply with the provisions of both FOIP and HIPA in the conduct of their duties. It's also though important from the perspective of our legislation that there is some assurance to employers and to workers that they have certain obligations with respect to this personal information in accordance with the Act.

And so there will be times when there's an investigation for example where information in response to an incident investigation where there's been an injury will divulge the name of an individual and the nature of the injury they sustained, which is all prudent and part of the logical investigation that you would want to pursue in order to understand the cause and effect and the consequence of any mishap that has occurred.

We expect that similarly we will, as a result of our duties, want to access certain proprietary information in workplaces and that we would want to treat that information as confidential for our purposes as well and ensure that there's no disclosure of that that would be inappropriate.

So our officers actually operate under a pretty stringent guideline and policy that talk about the need for them to treat information gathered in the course of their duties as confidential and to ensure that it is not something that is shared with individuals who don't have a purpose for having access to that information.

**Mr. Forbes:** — And I think he alludes to that. He talks about 3-16(2), but when he talks there:

This imposes a duty on the employer to provide information but no corresponding duty to protect the personal information or personal health information to ensure it follows the data minimization rule and the need-to-know rule common to modern privacy laws.

And he talks about 3-17 which I think may be what you were talking about, that it's curious that there's a provision to protect the trade secrets of the employer but no privacy or confidentiality for the personal information or personal health information of the employee.

**Hon. Mr. Morgan:** — This actually gets dealt with later in the Act.

**Mr. Forbes:** — Okay. Well let me just finish reading what he says. And FOIP and LAFOIP [*The Local Authority Freedom of Information and Protection of Privacy Act*] would protect both kinds of information from inappropriate disclosure but only

one, at least in the bill, is deemed worthy of special protection. So you're saying it's dealt later on in the Act? And where would that be?

**Hon. Mr. Morgan:** — We have the one area that you're referring to is dealing with proprietary trade information which may be necessary to review or investigate. Section 3-62 states who may be required to provide the information and that the information would be provided to the occupational . . . [inaudible] . . . who is expected to follow the same protection mechanisms as all other division and ministry apply, by applying FOIP and HIPA and following internal policy and procedures. I think . . .

**Mr. Forbes:** — Sorry. I've got . . . 3-62?

**Hon. Mr. Morgan:** — 3-62.

**Mr. Forbes:** — I'm not seeing that.

**Hon. Mr. Morgan:** — The subsection (2) says, "Every physician . . . who is attending or who has been consulted . . . shall, on the request . . . provide the [information]."

And then they provide the reports. Now all of those people that work for the ministry are subject to HIPA and are subject to FOIP and are required to keep everything. See? So that's the other area where they're required to provide the information, but we don't have a specific section that says they're subject to the other legislation because they already are.

**Mr. Forbes:** — So you're — I don't know if the term is — self-evident, is that?

**Hon. Mr. Morgan:** — I don't think necessarily self-evident. I think because there's another law in there, self-evident might not be the right word. But they're required to, and they certainly are already under both Acts, but also are required to follow the internal policy and procedures. There's also section 3-18(2)(b) which speaks to the duty of the physician to keep information confidential.

[15:45]

**Mr. Forbes:** — I think the points that he's really alluding to, and I won't go through all the points, but the idea of need to know, that it's specified, I mean part of the issue around the employment Act is that this is supposed to aid in people understanding the laws and regulations around employment law in Saskatchewan.

And so I know you don't want to list absolutely every piece of legislation, but privacy is a big deal, especially when you're talking about provision of information and the other pieces, 3-17 — or is it 16 — you know, duty to provide information. It would seem relevant to include those sections that relate to the privacy of personal information. It would make a lot of sense, particularly in Saskatchewan where you have kind of a unique situation that's different from other provinces, that I understand that have moved towards including private employers. And we don't in Saskatchewan.

I think in Alberta they include private employers. I don't know



if you could talk about across the country, but somebody may assume that they're covered. And we had talked about it, I think last week, is that the commissioner was talking about the confusion that people have in their workplace. Am I covered? Am I not covered? So in some places they are covered, in some places they are not covered.

**Hon. Mr. Morgan:** — I think the point you're making is a valid one. And as a general practice, and I think you started to allude to it, is that it should be information — I think, from a policy point of view within the ministry — is shared on a need-to-know basis. And I think that's sort of the good fundamental to start with. And I think for the most part, that's where Mr. Dickson believes it should be, is on a need-to-know basis. And quite rightly he raises other and further . . . BC [British Columbia] and Alberta apply the legislation and it applies to private businesses. And it provides a much broader framework than what's done here.

I understand that Minister Wyant is having some preliminary discussions about when or how they might do a review of and an updating of the privacy legislation in the province. I don't know how far that's gone. It hadn't gone terribly far at the time that I left the ministry a year ago.

But I think it's a healthy discussion to have, to consider what and how the information should be handled and to who else should be regarded as a trustee for imposing a duty to keep the information secure. But I don't think it's something that belongs in the employment Act. It's something that belongs under the pieces of privacy legislation. And you're aware we have three of them in the province: FOIP, HIPA, and LAFOIP, which deals with local authorities. And then there's also the federal legislation PIPEDA [*Personal Information Protection and Electronic Documents Act*] which applies to a broader range of them.

I'm sure at a time when Minister Wyant, or whoever happens to be the Justice minister at the time, reviews the legislation, they'll do an interprovincial comparison, determine what best practices are, and how they need to go. I think within the ministry they have a good track record of keeping information secure, and I don't think they've been subject to criticism from the Privacy Commissioner from how things have been handled or how they've done it. Rather, he's made recommendations as to what are . . . And I guess the position we would take is that those recommendations should better be dealt with under privacy legislation rather than under the employment Act. And it doesn't necessarily mean we disagree with them, we just think if they're going to happen they belong elsewhere.

In the interim, we want to take every step that we can within the ministry to protect the privacy of the individuals. And I think it's fair to say, some of the information that becomes necessary to deal with a claim or an injury is some of people's most personal information and deserves our greatest amount of support for it. We're certainly not perfect at it, but it's one of the things we give a priority to and probably need to continue to do as much or more as we go forward.

**Mr. Forbes:** — It's definitely an area that's evolving over the last 20 years and we need to monitor as much as possible. Is there an avenue through regulation? When I quickly looked

through those sections I've been talking about — 3-16, 3-17 — there doesn't seem to be any prescribed parts or any parts of . . . It seems to be the parts that are already set in place. So there's no regulations attached to these ones, are there? Or are there any information regulations?

**Hon. Mr. Morgan:** — There are none at the present time. And at the present time there's none, as we go through the review process, there's none on the list of things that are to be contemplated. I'm not saying that, as a result of the consultations, something wouldn't come about that we would, that you'd add, but it wasn't something that would form part of the discussion paper. We think the processes that are there are good processes now, and the better vehicle to do that would be through the Ministry of Justice. But if something did come up as a result of it, we'd certainly be amenable to looking at it.

**Mr. Forbes:** — Good.

**Hon. Mr. Morgan:** — You made the very valid point that this is an evolving or a changing time. You know, we talked about what it was like 20 or 30 years ago where people were sharing information for *Henderson's Directory*, and that was a different time. People didn't lock their houses and didn't have to protect themselves to the extent that they do now. And maybe it's a bit of a sad statement about the nature of things.

You know, after we had the discussion, I remembered back to, had a couple of instances where when I was practising law, where I would have adult children come in concerned about their parents' well-being because they'd had a phone call from the bank that said, I don't know whether you're aware of this, but your mom is writing cheques for such and such a charity and has written so many thousand dollars worth in the last year. You may want to deal with whether they should still be having . . . And you know, absolutely wrong for the bank to be phoning somebody else who was not on the bank account to do it. But you know, they dealt with things with a good intention and, you know, wanted to do the right thing, but totally contrary to what the bank requirements are now. And those employees would probably be terminated as a result of it, and I think it's a bit of a sad thing.

On the other side, we also are protected against oh well, you're single. You ought to go after so and so. They've got a whole bunch of term certificates in the bank, you know, and I work there and I know. So you know, we just live in a very changed and different world. And, as you say, it's evolving and continuing to change.

**Mr. Forbes:** — That's interesting, very interesting. You just reminded me of the Cleveland story from yesterday where nine people walked by that door with a woman yelling behind it because it's a private issue. But it's not a very private issue. So I think there's that balance of how we evolve. We think of how we can do things much better.

**Hon. Mr. Morgan:** — Very much so. A remarkable credit to the one individual that chose to interrupt his McDonald's lunch and come forward.

**Mr. Forbes:** — Very interesting. Well I want to shift gears again, but I will keep coming back to the Privacy Commissioner

because, I think, as a province that we can be very proud of the work that we've done as we move forward. And this is one area.

I want to talk a bit about section 3-8. And there has been some concerns raised about this in terms of training, and the question that comes up talks about a duty on the employer to adequately train workers. And it's been raised with me that it creates a potential defence for employers, where a workplace incident occurs, to simply present evidence that they provided the training. And then it shifts the blame to the workers' supervisor. Is that intended, or does it not remain incumbent upon the employer to carry the burden of ensuring that the workplace is safe? So can you talk a bit about the training and the responsibility to . . .

**Hon. Mr. Morgan:** — I think it imposes, there's two things. It imposes a duty on the employer to provide the training, but it's not imposing, under this section, an obligation or a guarantee that . . . It's not the sections that's are dealing with providing a safe workplace you're referencing. The obligation to provide training? Yes, there's an obligation to provide training. It's an offense not to provide the training. So you don't need to wait until there's an accident or an occurrence to consider a prosecution under that if they're not . . . if they created a dangerous situation.

**Mr. Forbes:** — Now it is interesting. This is a good example of where the exchange of reasonably practicable and then reasonably attempt. And so . . .

**Hon. Mr. Morgan:** — Did you find a place where it's different because my note says there's no change on it.

**Mr. Forbes:** — Yes, I don't think there's any. I don't know if there's a change. I don't have a side by side with me.

**Hon. Mr. Morgan:** — No change.

**Mr. Forbes:** — But what I'm referring to is, now that I'm understanding, that in 3-8(a) it uses the phrase reasonably practicable. And then it doesn't really use that phrase in (b), but (c) is a reasonable, and (d) is a reasonably practicable, and (d) is co-operate and ensure. So this is an interesting . . . And then in (h) is back to reasonably practicable. And so I don't know if that impacts in terms of the responsibilities of the employer in terms of the extent in terms of training?

**Hon. Mr. Morgan:** — I'm not able to comment, you know, on what the purpose of the drafting was and what the history was of this section. It wasn't changed, but it certainly would have been reviewed by the drafts people.

And in a comment that I made earlier, that by inserting the term reasonable or practicable it comes down to the objectivity or the subjectivity of the provision when you look at these sections. This is probably a good example of the different things. You know, it says, co-operate and consult in a timely manner with the OH worker. So you're not giving the person the same level of a defence on that area. You co-operate. You do what they say.

And then, you know, that you're not going to be able to resolve

things, which would be the next, which would be subsection (c), so then we talk about a reasonable attempt in that one. So then, you know, that would be an objective thing. Well did they call meetings? Did they do whatever else?

And then the (a) one is the reasonably practicable, which is probably more of a subjective standard yet, that where you're talking about what's practical, what's reasonable. And you sort of have the combined effect where you look at what the particular word was.

So I think that you've got some examples of sort of all the situations that are there. And you know, the consult and co-operate, you're not going to be able to say, oh well, I think I was being reasonable, and you get into somebody's state of mind. You co-operate, period. So I think that's, I think this is one of the sections that I think gives sort of examples of the different levels of obligation that may be on an employer.

It's interesting that it went through the review process that our drafts people and our policy people had without coming back, without a recommendation to change it. And I know that they went through every section in detail, so I think the rationale that would have existed at the time that section was first enacted would have continued through.

I'll ask Pat if she wants to add . . .

**Ms. Parenteau:** — With respect to the duty of employers, which I understand is where we are, in part (b) what we've added is "in a timely manner." And that's the only real change, and that came from the recommendation of the Occupational Health and Safety Council back in 2006. And it's just to mean that we want a prompt provision of that information, you know, to act promptly.

Subsection (c) was new, and it was recommended by the ministry and has been consulted on in 2007. And the intent there was to ensure the resolution of health and safety concerns in a prompt manner.

So what we were trying to get at with many of these is to ensure that things are dealt with in a quick manner for a resolution to be achieved.

**Mr. Forbes:** — And so in talking about (f), ensure that the workers are trained, like there is no reasonable. There's no reasonably practicable, it's that they will be. And that can be measured and that's . . . And that they're sufficiently competently supervised. So that's straightforward.

[16:00]

**Ms. Parenteau:** — There was always a requirement for the employer to train and supervise their workers. It just repeats that in the Act, and it doesn't change any standard of proof or awareness of their duties. It was just a clarification issue.

**Mr. Forbes:** — Okay. I want to go to 3-78. And this has come up a few times, so I don't know if you've heard the discussion around this.

**Hon. Mr. Morgan:** — 3-78?

**Mr. Forbes:** — Yes, 3-78, and the issue around reasonably co-operate, and that would be (c), no person shall fail to reasonably cooperate with the director of occupational health and safety in the exercise of . . .

So the question, and I'll just read this. This together with the 2012 amendment, which is set out in 3-67 . . . And I'm not sure whether that's referring to the old bill or not but, oh, well maybe it's 3-67. Let me just take a look back where the inquiry . . .

**Hon. Mr. Morgan:** — 3-67?

**Mr. Forbes:** — Yes, the “occupational health officer . . . [can] require . . . full and correct answers to any questions that the occupational health officer believes it necessary to ask.”

Now the person writing me talks about, means that in circumstances where there's potential for criminal charges, an individual may lose their right to remain silent. And this raises the question of whether the Charter violations are present.

So have you folks thought that through? Actually several people have written to me about this as one of their concerns about the full and correct answers. What does that leave individuals? . . . [inaudible interjection] . . . The first part refers to section 3-78. And then you go back to 3-67 is the full and correct answer.

**Hon. Mr. Morgan:** — There is, if a person is potentially being charged under the Criminal Code, their right to . . . [inaudible] . . . their right to a warrant statement would continue to exist.

For purposes of the investigative provisions under the Act, they do not maintain the right not to make a statement. The right to obtain the information and complete the investigation would override that right. I'm told by Mr. Carr that the officials from Justice indicate this does not contravene somebody's Charter right. It may make a difference if there's a criminal proceeding whether they would feel obliged to give a warrant statement or not take a statement in that case. But there's an overriding need to have the information provided to complete an investigation under occupational health and safety.

**Mr. Forbes:** — Just to be clear here, then the person, if they feel that there may be a charge coming, they can remain silent?

**Hon. Mr. Morgan:** — If they feel they're likely to be charged under the Criminal Code, they . . . I should actually have somebody from Justice answer it. But if they feel that what they're saying, the OH worker may if — want to phrase this carefully — if they're likely to want to lay a criminal charge, they would probably want to provide them with a warning before they make a statement or before they take a statement. If they choose to take a statement for purposes of this Act, it is a good likelihood that that statement would not be admissible against them in a criminal proceeding.

**Mr. Forbes:** — So when you say they would give them a warning, are you referring to the occupational health officer or are you referring to the police?

**Hon. Mr. Morgan:** — Or a police officer, whoever else is involved in that.

**Mr. Carr:** — The view that we have of this particular provision is that there is a significant impediment to the work that officers do in the field when they are called out to investigate a serious incident resulting in injury or death. And the circumstance that often comes across is people don't want to co-operate with the investigation because they don't want to get someone else in trouble.

The perspective that we've taken is that if someone has material knowledge of an incident, they ought to have an obligation to divulge that information. If they feel that they themselves may be subject to a criminal issue, they are given the opportunity to retain someone to advise them. If there is that risk, they can disclose that risk and say I'm not co-operating with your investigation on these grounds. That will cause us then to elevate our activity and to involve appropriate other authorities if in fact that's the risk.

From our perspective, what we're trying to do is to get at the information and gather the evidence necessary to reach a conclusion as to the cause and the effect of an incident so that we can apply remedial efforts to ensure there's no recurrence either in that particular work setting or in any other.

**Mr. Forbes:** — But the question becomes how do people know that?

**Hon. Mr. Morgan:** — I think it's something . . . Becomes a matter of education for the worker that's asking for the information. If they're asking for the information from somebody that's not likely to be charged, then they're obligated to provide the information, full stop. If it's somebody that's likely to be charged, then the worker has to decide the trade-off. Do you want the information to complete the investigation or do you wish to put the charge at risk, or do you wish to give them, you know, try and obtain the warrant statement, advise them of their right to counsel and then not obtain, not obtain them.

You know, the right to counsel is a fundamental right under the Charter. The right against, you know, not to self-incriminate is fundamental and absolute. We can't require somebody to do that. We certainly can require them to give a statement for purposes of the investigation, but then there's limits to what that statement can be used for.

**Mr. Forbes:** — So is that different than what happens now, that this is a new change requiring people to provide full and correct . . .

**Mr. Carr:** — It was a provision that came forward under Bill 23. It's been continued in Bill 85. And again, the rationale for that is that we are not dealing with criminal matters here generally.

In most, if not all, of the circumstances that we would be dealing with, we're dealing with the aftermath of an incident in a workplace. We're pursuing it from the perspective to address as much evidence as we can to determine what has gone on — when, why, how, etc. And we're gathering that information in a situation where, prior to Bill 23, there was a commonly held belief that you didn't have to co-operate with an investigation. We've now made it clear that there is an obligation on the part

of people in that workplace to co-operate with an investigation and to tell us what they know within the parameters of the constitution.

**Hon. Mr. Morgan:** — A subsection (b) was added to clarify that obstruction is an offence.

**Mr. Forbes:** — Okay. And you've added section . . .

**Hon. Mr. Morgan:** — No, that's 3-78. No person shall intentionally obstruct the director of OH . . . [inaudible] . . . It used to just say, intentionally obstruct the OHO [occupational health officer] in the exercise of OH workers. Now it lists a number of other people and clarifies that that becomes an offence.

**Mr. Forbes:** — So will there be an internal policy or procedures about how to deal with this because I can really see the potential for the . . .

**Hon. Mr. Morgan:** — Tareq indicates that there is or will be, and I'll let him . . .

**Mr. Al-Zabet:** — So particularly this a big question for us, as well a big challenge that we want to make sure that all our field officers, including offence ticketing, other kinds of compliance tools are used in a fashion that first looks into education, orientation, and training before we go to that level. And we want to make sure that that meets our legislative and legal requirements, how to issue that, and if it meets the requirements. And actually as some of those are . . . The officer needs sometimes to call his supervisor before he goes to that level. So there are a couple of layers of actions that needs to be done before going to that level. So we're very conscious about that, and we hope that doesn't become the first thing. We want to make it the last thing to be done.

But we have seen situations where the field officers were, you know, prevented from doing their work. Or you know, when you're looking for the information, you cannot get it because you're not dealing all the time with co-operative people. And that is really impacting the mentality, you know, of the people who are going to those sites because sometimes they feel like they are being pushed back. You know, some of them, their trucks were kicked and so on. So that's an issue that we needed to tackle to maintain that those guys still have the same passion for their work as well.

**Mr. Forbes:** — Yes, and it just happens, you know, what you're talking about, the failure to co-operate. But the other hand where there's a criminal issue and, you know, as the minister alluded to with the homicide last year, I've actually asked questions about the relationship with the police as well, where it's really important to have that, especially in late-night retail.

**Mr. Carr:** — Where there is a suggestion of criminal misconduct that would invite prosecution, we will always contact the local police service to ensure that they are aware and participate in their process to make a determination as to whether there's a potential for criminal charges to be brought, in which case, we would defer to their process and continue our process once theirs has concluded.

It's the investigation I'm talking about, not the prosecution. Once they have secured their evidence for whatever the criminal matter is that they're pursuing, we would then continue down the road and do our work with respect to any potential offences that occur under our legislation.

**Mr. Forbes:** — So is there training to that effect of the occupational health officers right now about that kind of procedure or implementing this?

**Mr. Carr:** — Our officers have certainly been aware of circumstances such as you mentioned with homicide. We have a good working relationship with all of the police services in the province. We do work co-operatively with them and we do defer to them when there is a suggestion of criminal wrongdoing. Our officers are trained in that regard because we want to make sure that we maintain that high standard of co-operation with the police authority. But we also want to ensure that none of the evidence necessary for our investigation is removed or altered during their process.

So for example, where there is police involvement in a fatality, often they are the first on the scene and they will have secured the scene. And our officers report at some point later in the day or the day following. And so from that perspective again, our officers are trained to deal with that in a very co-operative and very collaborative way. But they're also there to ensure that the interests of the ministry are assured in terms of making a determination at an appropriate point as to what the cause and effect was of an incident.

And so you can think about it in the context of late-night retail. You can think about it in the context of motor vehicle accidents. You can think about it in the context of a fall from a height where there's been a call. And those circumstances are extremely unfortunate but, where they occur, we do spend a lot of time.

And in direct answer to your question about training, that is an integral part of the training that our officers undertake in the normal course of their development.

**Mr. Forbes:** — Well again we'll be watching to see how that plays out in making sure that it works well. But it has been raised as a concern so I'll flag that as something that . . .

**Hon. Mr. Morgan:** — Are you saying the ability to obtain a statement or the ability to investigate?

[16:15]

**Mr. Forbes:** — The requirement to fully co-operate and the concern that that may impede on the Charter, their right to remain silent.

**Hon. Mr. Morgan:** — I think the officials are aware of it and will work to develop some protocols.

Where I thought you were going was on the issue of who should take a lead on an investigation, at what point are the OH workers part of it and what point are police officers worked in. And I know there's been some commentary and some discussion about whether OH workers are brought in early

enough. And I think the fact of the matter is they're brought in virtually simultaneous to the police. You know, it usually starts with a 911 call to the ambulance or emergency workers, and then within minutes of it, the next call is to the OH workers who usually attend on the scene within a matter of minutes or hours, depending on where the incident occurred. So we think it's working adequately, but it was raised in one of the review processes as to who would take the lead on it.

Well the way it works right now, I think the priority is (a) get the worker extricated, get him medical treatment as they can. Secondly, to the extent that there's police activity, co-operate fully with that, and then our processes follow in the system and it's been good co-operation.

So although we didn't reject the recommendation, the concern, it's something we want to monitor and watch it as we go forward. And so far I'm told by Tareq's predecessor it was not an issue, and I haven't discussed it with him.

**Mr. Forbes:** — That was not an issue. And I know I had raised it during the whole discussion about late-night retail workers, making sure that some of the incidents seemed to be perceived more as a criminal incident and not a workplace incident. And so I'm not sure how the calls are made, but I think they're both an occupational health and safety and police.

But I do agree that the criminal . . . First, safety — getting people to a safe place — then the police, then occupational health and safety, I agree with that priority. I just want to make sure that occupational health and safety is involved.

**Mr. Carr:** — I think that's a very worthwhile concern and one that we take extremely seriously. One of the more frequent events that we seem to be seeing is incidents of assault in health care or in retail establishments, and we want to be very clear that where there's an assertion of wilful misconduct, an assault under way, that the appropriate police authority is notified and an appropriate investigation take place. And again we tend, as we've said, to do that in a very close collaborative way to ensure that the evidence gathered affects not detrimentally either investigation.

**Mr. Forbes:** — And I think actually it's more of a maybe a Justice issue because whether the police understand it's a workplace that they're dealing with and not just . . . They may perceive it as a public place. It is a public place. A store is a public place, but it's also a workplace.

**Mr. Carr:** — Again I can't say strongly enough, we've had a very, very good working relationship with all of the police authorities in Saskatchewan. And we often receive a call very quickly following their 911 dispatch.

**Mr. Forbes:** — That's good to hear. Now just shifting . . . Well continuing on. But I'm going back as I said to all over this part. But there was a question raised that one of the definitions that have been left out is the definition of division, and the fact that we do have the director and officers and all of those folks are defined. But section 3-1 does not contain the definition of division anymore. It had at one point. And so what is the reasoning behind that?

**Hon. Mr. Morgan:** — I'd like to give you a detailed explanation about how it's part of our lean process and how we flattened the whole ministry and we no longer need to have divisions, but that wouldn't be correct. Actually it was a conscious decision to remove it because it was referenced in section 68. It was repealed because it is now included in the general provisions at the beginning of the Act. So it's no longer referenced in section 68. So it goes back to the beginning of the Act.

**Mr. Forbes:** — Okay. So right to the very beginning, is that what you're saying? Whereabouts in the very beginning?

**Hon. Mr. Morgan:** — There isn't a definition to it because what it was in 68, it was assigning duties to different people, and those duties are no longer assigned. They're either assigned to the minister or the ministry rather than to a division within. The only reason it was there at any point in time was so that section 68 could assign where things were going to. And it was defined as meaning the OH & S [occupational health and safety] division mentioned in 68. Now those duties are just assigned to the ministry generally.

**Mr. Forbes:** — The ministry.

**Hon. Mr. Morgan:** — Specific duties. Under the administration section, which is division 2, 3-3(1), it lists the duties that are assigned to specific individuals. So if you look at 3-3(1), 3-4, it lists the appointment and sort of creates those different provisions. So it's just I guess rather than creating things and assigning to a division, it creates the . . . identifies who the officers are.

**Mr. Forbes:** — So you're talking about division 2, the administration?

**Hon. Mr. Morgan:** — Yes, 3-3(1) and then it just says, "The minister shall appoint an employee of the ministry as director of . . ." And then elsewhere in the Act it identifies what the duties of those individuals are, rather than just assigning duties to the ministry, or to the division, rather. I see heads nodding, so I'm . . .

**Mr. Forbes:** — Does that interfere or does that cause any kind of problem in terms of funding provided by Workers' Comp? Because there is a statutory obligation. I can't remember whether it was in Bill 58 or in this that I was reading that the financial contributions . . .

**Hon. Mr. Morgan:** — This is how duties are assigned within the Act, but it wouldn't make a difference to a funding that would come from WCB. WCB makes a funding — I don't know that contribution is the word — but bears part of the cost of the operating of the OH division. It's billed back to them en masse and how the duties are assigned within.

**Mr. Forbes:** — Right, but (a) where is that obligation? Is it in this . . .

**Hon. Mr. Morgan:** — Of WCB?

**Mr. Forbes:** — Yes, or is it in their legislation?

**Hon. Mr. Morgan:** — If you go to section 3-74(1) it says, “On or before June 30 in each year, the minister shall advise the Workers’ Compensation Board of the estimated cost for that calendar year of the administration of this Part and the regulations made . . .” and then the (2): “On being advised of the estimated cost . . . the Workers’ Compensation Board shall, on or before January 31 of the following year, pay into the general revenue fund with respect to those costs the sum that the minister may direct, not exceeding the actual costs of the administration of this Part . . .”

**Mr. Forbes:** — Though when we say administration of this part and regulations made pursuant to this part, so the administration, is it referring to division 2, the administration? Like that is what they’re paying for: the director, the medical officers, and . . .

**Hon. Mr. Morgan:** — All of the OHOs. Virtually the operation of everybody that is doing work within OHS. It does not include labour standards or things that are . . . or work done by the ministry with regard to *The Trade Union Act*, Labour Relations Board. So the significant thing is, both under this Act and the previous Act, it continues that WCB fully reimburses the operation of OH & S. And the change that’s in here between old 82 and current 3-74 is it removes the requirement for the Lieutenant Governor to confirm the amount that should be paid and so on. I think there’s a companion provision in WCB that doesn’t require an order in council. We tell them what it is and they pay.

**Mr. Forbes:** — So taking out the order in council, takes out cabinet in the role of . . . So they no longer . . .

**Hon. Mr. Morgan:** — Yes. It shows up as part of budget estimates because it has to be approved as part of budget estimates, and all it does is it takes cabinet out. Like the determination of the amount is part of the budget finalization process, so it eliminates one order in council to allow the transfer over of that amount of money.

**Mr. Forbes:** — Now the other part, and I don’t know if it’s included in here, is the office of the workers’ advocate?

**Hon. Mr. Morgan:** — Bill 58.

**Mr. Forbes:** — So that’s an obligation on their part to provide the office of the workers’ advocate, which is not actually connected to the occupational health and safety or the employment Act?

**Hon. Mr. Morgan:** — Or WCB, although it’s within WCB. But it’s somewhat of a free-standing entity within because it works on behalf of the worker rather than on behalf of an employer or on behalf of the board.

**Mr. Forbes:** — And it’s seen more symbolically to be located in the ministry’s office as opposed to the . . . Has it always been at the ministry’s office or was it at one point over . . .

**Mr. Carr:** — No, it’s my understanding is that since its creation, it’s been within the department, ministry, that had carriage of the legislation.

**Hon. Mr. Morgan:** — For as long as it was a department, it was there; for so long as it’s been a ministry, it’s been there.

**Mr. Forbes:** — There you go. Okay. So we don’t, when we don’t see — and you know, I appreciate the humour at the beginning — but that there won’t be a decrease, or as we said . . .

**Hon. Mr. Morgan:** — No. And actually somewhat to the contrary, but unrelated to the legislation, we’ve actually increased the funding this year that will flow from WCB to allow for the three additional officers, and also to allow for the filling of the vacancies. So I had discussions with WCB about doing that and the answer was, we’re certainly willing to do whatever . . . And then I think there was a smile and the comment was, and you are the minister, and under the Act we’re obliged to do. But it’s something that they were pleased and supportive of doing.

And I think they see it as being two roles, their role to educate, train, work collaboratively with, and then the OH part, which is the enforcement side. So they know that they fund both of them and know that when we make the request, it was the right thing to do and they were certainly, certainly supportive.

**Mr. Forbes:** — And all of these positions are the same? There’s no additional parts, no additional . . .

**Mr. Carr:** — No additional officers.

[16:30]

**Hon. Mr. Morgan:** — Legislation? No. No additional positions or no layers. It carries through the existing management framework.

**Mr. Forbes:** — Now I do want to say, and this has come up and it is controversial, that under the appointment of occupational health officers “(2) The minister may set any limit or condition on any appointment . . .”

So in that it seems odd that it’s not . . . The director doesn’t have that limit, or the chief of occupational health, occupational medical officer, or chief mines inspector. But not that these folks seem to be lower, but it seems to be these are the front-line folks that the minister may set any limit or condition or appointment. That’s new I think, is it not?

**Hon. Mr. Morgan:** — No. The existing legislation, 71(1), it said, “The minister may appoint as occupational health officers any of the persons employed by or providing . . .” So I think it’s a change in language and probably in updating. And it clarifies that the officers are employees of the ministry is the explanation that I have. But I don’t think there’s a policy change on it.

The old Act says, “The minister may appoint as occupational health officers any of the persons employed by . . .” And then the new wording is, “The minister may appoint any employees of the ministry or category of employees . . . as occupational health officers for the purpose of enforcing this Part . . .” So I think it’s just an updating of legislation.

**Mr. Forbes:** — So under the old Act, were the officers hired

through Public Service Commission? Or were they . . .

**Hon. Mr. Morgan:** — Yes, and I think that continues.

**Mr. Forbes:** — So you have the written credentials. It's somewhere else, is it? Or is it on the next . . . What is it?

**Mr. Carr:** — 3-7. Written credentials for occupational health officers.

**Mr. Forbes:** — 3-7. Okay. So it's moved into a different area.

**Hon. Mr. Morgan:** — Actually it didn't exist under the . . . That section is new under this Act. And it just says it formalizes the need of the minister to provide written credentials to all officers. So it's not credentials from them; it's credentials to them appointing them as an OHO.

**Mr. Forbes:** — I'm not seeing the big difference between what is in the existing legislation and the new one.

**Hon. Mr. Morgan:** — I'm told it's a section change. It was a subsection now so it formalizes it by putting it into its own section, but it's not a difference.

**Mr. Forbes:** — Right. Okay. And so . . . But I'm not seeing, for that 3-6(2) where it “. . . may set any limit or condition on any appointment pursuant to subsection (1) . . .” I'm not seeing where that is in the old Act.

**Hon. Mr. Morgan:** — Actually it's 71(2). It says, the minister may enter into an agreement with the government specifying the terms and conditions under which a person employed by the government for that purpose may act as an OHO.

And I think it's just sort of an update of wording. It says, “. . . may set any limit or condition on any appointment . . .” So it's maybe a rewording, but I don't think a change in policy.

**Mr. Forbes:** — Well one of the concerns the group had and this was . . . I know a few years ago there was a controversial situation with one of the occupational health officers and it went to court. I'm going to find this here, so . . . Well I'll leave it for now but it seems to me that there may be a bit of a difference because the question is, the old part had the minister may enter into an agreement with . . . Well, sorry, did you say 71.2?

**Hon. Mr. Morgan:** — 71(2) says the minister, this is the old Act:

. . . may enter into an agreement with the government of any province [including Saskatchewan] specifying the terms . . . under which a person employed by the government of that province may, for the purposes of this Act, act as an . . . [OH] in Saskatchewan.

So it talks about that you would have an agreement that could be, thinking it would be with Public Service Commission. And then it also talks about reciprocal agreements with other provinces.

**Mr. Forbes:** — Sure But that refers to . . . And what I'm

focusing on now is 3-6(2).

**Hon. Mr. Morgan:** — Yes.

**Mr. Forbes:** — And what I'm thinking that you're referring to is 3-6(4).

**Hon. Mr. Morgan:** — 3-6(4) deals with providing credentials. What you're saying, if I understand you correctly, is “The minister may set any limit or condition on any . . . pursuant . . . that the minister considers reasonable.”

**Mr. Forbes:** — Right, right.

**Hon. Mr. Morgan:** — I don't believe that existed in the other Act. I can tell you it wasn't . . . It was put forward by the drafters as just being current best practices, but it was not intended as a policy difference.

**Mr. Forbes:** — That's pretty significant, isn't it? That's a pretty catch-all type of thing with an occupational health officer, especially after the fact that if there are situations arising that . . .

**Hon. Mr. Morgan:** — Go ahead. Sorry, I missed your . . .

**Mr. Forbes:** — Well I'm just thinking that it seems that, you know, you're hiring these people to do their work. And they have to do it professionally, and they may come up with decisions that are pretty tough and that the minister may set or limit any condition on any appointment. So I don't, I guess I don't see the rationale of why you would need that.

**Hon. Mr. Morgan:** — They're an appointee in the same way that a prosecutor might be. They've got a discretionary element to them. And at one time, under the earlier . . . they were appointees or designates of the ministry.

Now they're saying that they should be . . . they really should clarify it all the way through, that they're responsible to the minister. And that, you know, the time somebody's appointed, you would put a limit or a condition on the appointment saying you're there, you may well be designated as a peace officer for purposes of carrying out your duties. And the restrictions might well be you will only conduct prosecutions or investigations under this Act. Because you happen to be a peace officer, you don't have the ability to go around and charge your neighbours for a dog bylaw or a traffic offence.

So I think it would be a matter of defining what their roles, responsibilities, and the definitions are. I don't see it . . . I think it would be an abuse of ministerial authority to try and direct what or who they . . . And in the same way, the Minister of Justice does not direct prosecutions or police investigations.

**Mr. Forbes:** — It seems to be odd that you can have that for the level of occupational health officers but it doesn't apply to the other three positions: the director, the medical officer, or the mines inspector.

**Hon. Mr. Morgan:** — Mr. Carr is waving his hand vigorously.

**Mr. Carr:** — Vigorously? The crafting of the legislation, if you

look at the overall provisions of division 2 under administration, you have a circumstance where there is the creation and establishing of the director of occupational health and safety, the appointment of a chief occupational medical officer, the appointment of a chief mines inspector, and the appointment then of occupational health officers.

And again, the point to be made here is that the directors are also considered to be officers, and so the same authorities that an officer enjoys are also enjoyed by the directors and by the executive director. And so the idea is that administratively you have a situation where you've got the same kinds of provisions applying.

**Mr. Forbes:** — So I don't see how, when it's part of 3-62, and it says pursuant to subsection 1, which I assume was 3-61, and it doesn't refer back to the other three positions.

**Mr. Carr:** — The expectation is again that the activities of these officers and the directors are as a result of a delegated authority from the minister. And so the expectation again is that, when you look at the conduct of their duties, the director and the chief mines inspector have the authorities of an officer as well. And so when you're . . .

**Mr. Forbes:** — That's not explicit in here, though.

**Mr. Carr:** — Well I guess the perspective that we have is that when you look at the appointment of officers and the authorities that they have, the expectation is always that there is that chain of command. The officers are still members of the public service of Saskatchewan and they're still subject to all of the provisions of the Public Service Commission.

So the idea here again is that what we're simply doing here as we establish the Act, instead of delegating to the authorities, to a department or a ministry, the authorities have been delegated to the minister responsible, and then in turn delegated through him to the various officers inside the ministry.

**Hon. Mr. Morgan:** — We have an officer here that I think will give an example of how the process would work in reality, and I think it's more of an operational thing. You'll have to give them your name when you come up and your role.

**Ms. Hunt:** — Hi, I'm Megan Hunt, and I'm the manager of radiation safety for occupational health and safety. I'm appointed as a radiation health officer, but I'm also appointed as a occupational health officer. And so my belief is that the idea was that although I have then been given the authorities under all of *The Occupational Health and Safety Act*, my specialty is not in cranes or some of the other provisions that I might have authority over. So by the minister having that ability to specialize credentials for those who have specialties, that was my understanding for that provision.

**Mr. Forbes:** — So how I can relate to this is I'm a teacher. Every principal in this province is required to be licensed as a teacher, you know, and the same with a vice-principal. And they have different duties and different responsibilities. But I'm just not seeing that being explicit in here, that everyone's required within the team to be an occupational health officer.

**Hon. Mr. Morgan:** — I think that's 3-6(1), the minister may appoint employees as OHOs. So that's 3-6(1). The minister may appoint the employees, and the employees would of course be PSC [Public Service Commission] employees. Then 3-6(2) is, the minister may set a limit or a condition on the appointment. So in Megan's situation, we would have a restriction on her that she would only do work in the area of radiation, that she wouldn't, to use her example, deal with cranes or other areas, that she would be defined to be working in that category.

**Mr. Forbes:** — So in a sense, this is a good discussion because I see what you're really saying. Are these positive limits or positive conditions, as opposed to negative limits or negative conditions? I don't like your report, so the limit is three more days on the job as opposed to the condition of your . . . is that you are now the director of mines inspection.

[16:45]

**Hon. Mr. Morgan:** — I think, if you want to look at it as a negative one, we've placed a limit on Megan that she will work in the area of her expertise, which is in radiation, and that she will not work on the other one. So it's negative in the effect that it defines what her area of expertise is and that's the area that she works in.

And you may have an OHO that isn't restricted, that's going out as part of a broader investigative officer that would be able to lay a charge, conduct an investigation across virtually every area. And then you may have some that have been hired specifically for an area of expertise or specific training that they have. I don't know if that gets you . . .

**Mr. Forbes:** — It does. This is why we have these discussions, so we can understand. It wouldn't be, to me, this is . . .

**Hon. Mr. Morgan:** — I've gone on a tour of their head office, and I was surprised with the high areas of expertise that they have in areas, not just in radiation but in building materials, on boilers — areas where, anywhere where there's a potential fault or a breakdown or something like that, there's somebody in there has done some research or has some expertise so they know who they may need to call in.

So we've got a remarkably diverse group of people in there with expertise. You know, they can understand how a crane might fail or how different pieces of equipment might fail. And you know, I know there's some that are ascribed to different areas, but there's certainly a lot of them that are within the broader area of what OHS is doing.

**Mr. Forbes:** — My comment would be, in terms of clear language, this is not very clear in terms of what the intention is — that you're actually setting out job descriptions for the occupational health officers — because that's not how I at first read it. I thought when you're talking about setting limits or conditions, there probably, there might . . . But I'm not a lawyer, so this is why we go through this, to understand what do you really mean by this. Because usually I would have thought that under the appointments of the top three, there would have been some requirement that they be appointed as or that they have the requirements of an occupational officer.



**Hon. Mr. Morgan:** — I think the point that you're making, I'd indicated to you, and you can tell from the length of time it took us to provide an answer, that there was not an intended policy change in the area. We know that they've gone through the updating process, so I look at it and I'm not going to second-guess the folks at the Ministry of Justice that crafted it. I'm assuming that they did some comparisons with other pieces of legislation or other provinces to come up with it.

So if it's, you know, the advice or the indication I can tell you is that there was not a policy or a plan change, so that's the wording that they've come with. So I don't want to wordsmith with them, but if you like I can certainly ask somebody to come and have an off-line meeting with you and explain to you why they came to that particular choice of words.

**Mr. Forbes:** — Well I did get a set of questions from people who are concerned about this. And it talks about the security of tenure of occupational health officers. So there's no change in terms of the tenure or the . . .

**Mr. Carr:** — I can speak to that.

**Mr. Forbes:** — Sure.

**Mr. Carr:** — There's absolutely no change in the legislation that would impact the tenure of officers. The tenure of officers would be determined on the basis of their performance and the application and responsiveness to their duties in accordance with the Public Service Commission.

**Mr. Forbes:** — And is it accurate to say that the new section empowers the minister to unilaterally cancel the appointment of an occupational health and safety officer?

**Hon. Mr. Morgan:** — If you're asking if these people are effectively OC [order in council] employees at will, they're not. They're hired as employees of the ministry through the Public Service Commission. The minister's discretion is on the appointment or the nature of the terms that fill the duties as to . . . [inaudible].

So I don't see that there would be . . . you know, it uses the term, the minister considers reasonable. Well, I know we've had some debate earlier today about the term reasonable. I don't think in anyone's mind that it would be reasonable to say, oh yes, and by the way your term is up. I don't read that into the Act that it's there, or that the minister would have the right to impose such difficult conditions that would make it untenable. I mean, that would amount to constructive dismissal.

So I think all the rights and remedies that that person may have under their collective agreement or that they might have at common law would continue to exist. And the fact that there is a ministerial responsibility to designate what those responsibilities are, I don't think that would in any way diminish that.

**Mr. Forbes:** — And I'm just going through some of this. It's just that they talked about who requested this change, and it sounds like it was something that Justice wanted to have done.

And I guess if you're giving feedback to Justice, I mean I

understand where these questions come from because I thought really it was the negative aspect. I would not have written it this way because it makes complete sense when you explain it. And I understand it as a teacher; it seems reasonable you would not have somebody who is a director who doesn't understand occupational health. You've got to have that as a criteria. That's reasonable. But that doesn't come through in reading the Act.

**Hon. Mr. Morgan:** — I will share your concerns with the drafts folks in . . .

**Mr. Forbes:** — I don't want to say that about the whole Act, but this one I think can actually set off fire alarms unintentionally because it's just the way it's framed.

**Hon. Mr. Morgan:** — Without wanting to be combative, that is one of the reasons why I think we want to have the Act in place so that people can see there was no policy change here, that you know, things continue on as normal. But I'm glad you're raising them, and I see folks, as you're raising them, taking notes that will no doubt be shared with the folks in Justice.

**Mr. Forbes:** — I don't know. Maybe nobody will raise this, but it was raised with me by two or three or four groups that have gone through this, and just wondering what is this all about.

And the other one is of course the special adjudicators, which is interesting because as many of us will remember what happened a few years ago . . . I actually think these notes are wrong because they were added in 2007, not 1997. So they're just a few years old. But now they've been replaced by just adjudicators. And why the change from special adjudicators to adjudicators, and what's the impact on the harassment?

**Hon. Mr. Morgan:** — It has nothing to do that we didn't regard them as special. They continue to be as loved and as special as they ever were. It was just a straight . . . There was no distinction between adjudicators and special adjudicators. There was no need to maintain the separate distinction, so it was just a wording tidy-up.

**Mr. Forbes:** — So will they be . . . The idea behind a special adjudicator, and I don't remember all the unique qualities, in fact some were the ability to summon and call witnesses that regular adjudicators can't. But I notice now adjudicators actually have that, so that's been bumped up. The other one was to have unique training or expertise in the area of harassment, that the other adjudicators may not have that background. In fact we were hoping that we could develop a group of adjudicators that had that unique pool of knowledge because, well, all adjudication should happen on a relatively quick and efficient, effective manner, that the whole point around harassment and what drove us to that point was that we wanted to see the issues of harassment resolved in a timely manner.

So have you developed that group of people with those special, that knowledge base?

**Mr. Carr:** — I would say, yes we have. We in fact have continued with those appointments. And the expectation going forward is that those folks with that special expertise will continue to operate going forward and that they would be available to the Labour Relations Board for appointment in

accordance with the provisions of Part IV.

**Mr. Forbes:** — Okay. We'll talk about Part IV tomorrow afternoon, but I'm thinking this . . . How many adjudicators or how many people actually are in that pool?

**Mr. Carr:** — As special adjudicators?

**Mr. Forbes:** — Yes.

**Mr. Carr:** — We have currently five special adjudicators serving.

**Mr. Forbes:** — And they're on a retainer? They're not working . . .

**Mr. Carr:** — They're an OC appointment. And they're retained as an appeal comes forward and is referred to them.

**Mr. Forbes:** — How busy? What is the activity within the harassment unit? And are there . . .?

**Hon. Mr. Morgan:** — Are you asking with regard to the adjudicators or the officials investigating?

**Mr. Forbes:** — Both, actually.

**Hon. Mr. Morgan:** — I think the adjudicators . . . We've appointed — and we usually try and find somebody with a legal background — and I think we've appointed enough that there's a quick turnaround once the appointment's made. And I'll let Mr. Carr and his officials talk about the number of investigations there are or what type of activity is in that area.

**Mr. Carr:** — So in terms of the activities of the harassment unit, in the past fiscal year there were 2,332 inquiries. One hundred and fifty-seven investigations were conducted. There were 56 presentations or training sessions conducted during that period and more than 30 discriminatory action investigations conducted at that time. In terms of adjudications, we had 36 appeals in total referred to appeal. Eighteen of those were addressed by the executive director, six by a standard adjudicator, and 12 by special adjudicator.

**Mr. Forbes:** — When you say a standard adjudicator . . .

**Mr. Carr:** — That would be non-harassment related.

**Mr. Forbes:** — And there was special requirements or the previous legislation had called for the special adjudicator to have some, was it just training or to be a lawyer? I can't remember. There was some qualities they had to have.

**Hon. Mr. Morgan:** — We're told that they all have special training in that area. I guess what we're looking for right now is trying to determine whether there's a requirement that they have it. But in practice, they have had the additional training for that. Is that . . .

**Mr. Carr:** — Yes. We certainly, when we were recruiting the special adjudicators, applied . . . and solicited individuals that had a knowledge and expertise in the area of harassment.

**Mr. Forbes:** — All right. And I may be recalling this incorrectly. But I think at one point when this was first introduced in 2007, there was some thought around ensuring that they were lawyers or they were . . . And it may not have made it in. It doesn't look like it did.

**Mr. Carr:** — In fact the individuals that currently are delivering service as special adjudicators are all members of the bar.

[17:00]

**Mr. Forbes:** — And that seems to be a natural thing. So, yes. Okay, good. And so now when this all moves over to the LRB [Labour Relations Board] and the adjudicators are over there, will there be a grouping of special adjudicators or will there be an expectation that they will be matching the harassment cases with appropriate adjudicators?

**Hon. Mr. Morgan:** — I think the LRB is going to develop, and we'll work with them to develop their own set of rules, which has to be done as well. I think the expectation would be that they would. I think the reason for wanting to remove it one step from government is some of the complaints originated from within, in government, and we think that the LRB, as a quasi-judicial function, can do it. You know, the broader policy is we want a single avenue for appeals of employment standards, OHS. But I think the proper process there is just a healthier thing to have that a step removed.

**Mr. Carr:** — In fact, in answer to your question, we've confirmed that there is no special requirement that an adjudicator be a lawyer, special or otherwise.

**Hon. Mr. Morgan:** — But having said that, they likely all would be because you would want them to have legal training for purposes of doing the adjudication, but also whatever additional training might be necessary to have them deal with harassment. I think this is something . . .

**Mr. Forbes:** — Well it's part of having the confidence, when you come forward with these situations, that it's just not going to be looked after by anybody, but it's going to be looked after by competent people and that this is actually something that's taken serious by the government of the day. And that, you know, I mean so I want to talk a bit about . . . There was some concerns, and again this sort of gets back to the role of regulations, but 3-20, duty to provide occupational health and safety programs, and the issue around what does "prescribed place of employment" mean? And I don't have a side by side, so I don't know if that's new or different or . . . That'll just come forward?

**Hon. Mr. Morgan:** — The old one was 13(1) and it says that "An employer at a prescribed place of employment shall establish and maintain," so I think the wording is not quite exact. The new one I think adds some additional or prescribe part of an . . . [inaudible] . . . in accordance with the regulations.

It adds a few words at the end. It's with "regulations made pursuant to this part," and the old one just says, "in accordance with the regulations." So I think it just provides better particularity. But no change. Are you inquiring about the

terminology, prescribed place?

**Mr. Forbes:** — Yes. So what are the current regulations and what do they look like? And I understand and they'll be part of the transition. They'll move forward and they'll be examined by the council. So I have part of the answer, but I'm just curious about the current regulations.

**Hon. Mr. Morgan:** — The explanation that I have, and I don't think there's a policy change on it, is that the consultation is required at the place of employment, so I think the prescribed place of employment would indicate, you may have people that are working at different locations, a person working out of their home or wherever else.

It says there may be circumstances where a workplace not listed in the regulations may benefit from the creation of a health and safety program, so it may be something that would be outside of what you would ordinarily think of as, that you would require . . .

There's a table in the existing regulations that identifies where it's required automatically and that would be larger construction, a variety of them, but this would allow for the designation of additional sites.

**Mr. Carr:** — This is again speaking to the authority of the director to require a program in particular workplaces. And it would be where there is a high frequency of occupationally related illness or injury, a large number of contraventions or compliance orders being issued, and any other criteria that the director might think is appropriate in the context of a poor safety performance.

**Mr. Forbes:** — And then concerned about 3-21, and I assume maybe the same logic behind this. "An employer operating at a prescribed place of employment where violent situations have occurred or may reasonably be expected to occur shall develop . . ." So really the prescribed places, you're meaning that you're going to be establishing a list, a set of criteria, where in the old it did not say that. And if you have the side by side . . .

**Hon. Mr. Morgan:** — Actually it does. There's no change. I'm just looking.

**Mr. Forbes:** — From what I have, my notes say it's all employers, where there's a risk of violence.

**Hon. Mr. Morgan:** — It says, the old Act says, an employer at a prescribed place of employment where violence have occurred or may reasonably shall develop, and then the next one just says an employer operating at. So there's next to no change in the words.

But I think your question is, would we continue to . . . There's not a policy change indicated here, so I think, you know, late-night establishments, bars, that type of thing where there's a potential for violence, you'd be required to have it, and there would be a listing in the regulations.

**Mr. Forbes:** — And people would be expected to look or the officer could say, here you are on this list, and we're expecting you to have this.

**Hon. Mr. Morgan:** — I think yes, the officer attending at the site would say, where's your policy for that? And the policies, you know, might be quite straightforward — that you don't engage in combative behaviour, that you withdraw from a bad situation, you phone the police. Well you and I have had the discussion before about things that workers need to do.

**Mr. Forbes:** — And the other one that's come up is the section 3-51, and we've talked a little bit about it. I think that's the one, and 3-52. Maybe more appropriately that we talk a little bit about 3-52(2).

**Hon. Mr. Morgan:** — 3-52 with the definitions?

**Mr. Forbes:** — Yes, when it talks about the interpretation in (2), the person who is directly affected by a decision. And so I understand this to be new, the part about a person who is directly affected by a decision.

**Mr. Carr:** — That in fact, no. That is a direct transfer from Bill 23, 49(1). The only change in (2) was the addition of prime contractor.

**Mr. Forbes:** — That's interesting. I think this is where we're getting some confusion between we're working with three. One, the old Act, and working with the old Act.

**Hon. Mr. Morgan:** — You're exactly right. You're working with the original occupational health and safety Act, you're working with Bill 23, and now you're working with Bill 85. And a lot of the provisions under 23 have not yet been proclaimed or had regulations provided for them.

**Mr. Forbes:** — And would this have been one of them?

**Mr. Carr:** — No. The only two pieces of Bill 23 not proclaimed were the fines section and the prime contractor.

**Mr. Forbes:** — Now was Bill 23 . . . Was it an amendment to *The Occupational Health and Safety Act* or is it a stand-alone Act by itself? It was an amendment, wasn't it?

**Mr. Carr:** — It was an amendment to *The Occupational Health and Safety Act*.

**Mr. Forbes:** — I'm just trying to think about this flow of information.

**Hon. Mr. Morgan:** — It was a pretty major makeover. It was amendments, but it was substantial amendments. It was a long piece. And as you'll recall, there was a process in place for consultation before then. I think it's a mandatory review process as well. So there was a mandatory review that was some time before that.

Then there was a fairly extensive consultation, and I made reference to that in my opening remarks today, to the number of submissions on it. And compared to Bill 85, the submissions were . . . It was low in numbers, 20 and 30, so we assumed either people weren't engaged or that there was some significant support for the people who regarded this as a routine and productive upgrading of the legislation. But it's strange when you look at the number of submissions for the lengthy

period of time that there was for this Act compared to what there was for 85.

**Mr. Forbes:** — So now when did it go into force?

**Hon. Mr. Morgan:** — November 7th of '12.

**Mr. Forbes:** — November 7th. And then Bill 85 was announced December 4th, you know, like 25 days later, something like that.

**Hon. Mr. Morgan:** — I mean the process for 23 started before the court challenge, before any of the work did, so we knew as we were developing 85 that, you know, even though 23 was, you know, the dates were close, but the process for it was long before, and then it, you know because it was an overlapping process the decision was made that 23 should come into 85 almost intact because of all the work that had been done on that.

**Mr. Forbes:** — I'm just trying to get this straight in my mind about, you know, if you're downloading the old occupational health and safety Act, it may not have been updated in those 25 days. Or did it get updated right away?

**Hon. Mr. Morgan:** — I think they're updated when . . . [inaudible interjection] . . . Yes, as they're proclaimed.

**Mr. Forbes:** — Okay. Or people were just getting ready for it and using the old Act. That's what I'm just thinking, whether we're just using the old Act over the course of the year. But, okay. Well that's something to know. That's good.

And then, now would this be the same case where 3-52 in . . . No this is actually 3-53, an appeal of the occupational health officer and not to . . . may choose not to hold a oral hearing of an appeal from an occupational health officer decision. Now is that 23 as well?

**Hon. Mr. Morgan:** — No it's a consolidation and a bit of an update, bringing the appeals of all the officer decisions to the one section, because we're trying to have all of the appeals focused through LRB. So it uses the language to bring all of the appeals of officer decisions now moving into one section. It was not in 23, but it's part of the consolidated appeal process of 85.

**Mr. Forbes:** — We should take a minute and just talk about the radiation health and safety.

**Hon. Mr. Morgan:** — We have an expert here for that.

**Mr. Forbes:** — Right. It's part V, and my questions would be is there anything new or changed or is this brought completely all into . . .

**Hon. Mr. Morgan:** — Most of the sections, you know, there's been things that were either . . . I'm looking through to see whether there is anything where there was a policy change. And I don't believe that there was . . . [inaudible interjection] . . . Megan is telling me that there is no policy changes, but a number of the sections have language modernized for clarity. And I see there was one that corrected a reference error, so there was a cleaning up of language.

Tareq's notes say, we've used this review to address a number of recommendations made by the radiation health and safety committee. So the amendments include expanded membership on the committee to better reflect where radiation is an issue today like uranium mines and veterinary clinics; limits the equipment that students who've not yet completed training can use; makes language consistent with the Human Rights Code, which we've done, and elsewhere through the Act; and it modernizes the languages to refer to the prevention of radiation exposure rather than the broader terms previously used. This is danger to health.

But no policy change. And I see that we've repealed the section that dealt with untrained workers that were grandfathered prior to 1985. So there's certainly updates but there's nothing that would be by way of a policy change, unless you regard the others that are there.

[17:15]

**Mr. Forbes:** — So how often does the radiation health and safety committee . . . When I look at it, it's a fairly significant group. How often do they meet?

**Hon. Mr. Morgan:** — The other change that's here that's probably significant, I should point out, is fines have increased here, as they have throughout, from 15,000 to 100,000. So you're wanting to ask how often they meet?

**Mr. Forbes:** — How often do they meet?

**Hon. Mr. Morgan:** — Twice a year.

**Mr. Forbes:** — A full-day meeting. and it seems like when I look at the . . .

**Hon. Mr. Morgan:** — We're going to substitute officials because it's an area that I've never become involved in. Megan Hunt is back in the hot seat.

**Ms. Hunt:** — Thank you. So the committee meets twice a year in April and November, and it's a full-day meeting.

**Mr. Forbes:** — And how many people on the council or committee?

**Ms. Hunt:** — I don't want to forget anyone, so let me just . . . 11.

**Mr. Forbes:** — 11. And now do you take . . . What kind of issues does the committee deal with?

**Ms. Hunt:** — Well we've provided the committee with some recommendations from stakeholder groups, if they don't come from the committee members themselves. The committee is based on our stakeholder groups. So we go through the amendments to the Act so they are aware of, you know, the different processes through the drafting instructions. We also have something of a round table discussion from each of the stakeholders so that they can bring forward any of their concerns and hear from the other members where the concerns are for radiation protection in the province.

**Mr. Forbes:** — Now do you take concerns from the public? Do you often get letters from the public about radiation levels in communities or in mines urging you to have better levels of protection?

**Ms. Hunt:** — We do take letters from the citizens and phone calls, and most of them are questions more of concern that need some information to address them. And I'm trying to think of something that we might have brought up through that process through the committee. I can't think of an example.

**Hon. Mr. Morgan:** — We talked about how public health deals with asbestos registry and we've hived it out. We have had a discussion on tanning beds as to which ministry should be responsible for that because it affects the employees that work there as well as members of the public. Because it's largely a public issue and an age issue, we've made the determination that it will fall under the Ministry of Health to determine whether there should be changes or legislative changes. But likely when it comes back to enforcing or dealing with it, it will likely fall back on the officials of this ministry that will have monitoring equipment or whatever else.

**Mr. Forbes:** — How many workers are exposed to radiation in this province right now?

**Ms. Hunt:** — I don't have exact numbers because there isn't a registry that we would have access to but, for example, one of the requirements in the regulations for dose monitoring requires that if there are levels over a certain amount, that they would report them to the ministry. And we do review the dose reports for workers, so sometimes it's just easier for the business to send us their dose reports consistently, for example, Cameco.

**Mr. Forbes:** — Yes, and so how many would be fitting in that category?

**Ms. Hunt:** — Probably we do dose reports for something, I think this year about 12,000 workers. And divide that by four because they report quarterly. So yes, it's about . . .

**Mr. Forbes:** — And I appreciate that. And you know, I had a tour to the mines and, you know, it's always good to have that. So I think it's good work that's being done. So I appreciate that.

I have questions now about the farm safety council, if I can. Thank you. And just again, the farm safety council, is it . . . Farm Health and Safety Council, is it an active council right now?

**Hon. Mr. Morgan:** — We know that the council exists but we don't have anyone here that's . . . [inaudible interjection] . . . They met twice last year. But I don't think anybody here is able to comment with any great degree of specifics as to what was discussed or how long the meetings . . . No, sorry.

**Mr. Forbes:** — Okay. So do you know . . . or that would be that person who could talk about the number of farm workers and that situation?

**Hon. Mr. Morgan:** — As you're likely aware, there's a requirement in the legislation to have and maintain the council. I'm just going to see whether Pat's got any information about

the activity there.

**Ms. Parenteau:** — Normally I know that they have met last year. I would actually have to check through other sources to find out if they met.

**Mr. Forbes:** — So how many deaths on farms? Fourteen?

**Hon. Mr. Morgan:** — Fourteen, yes.

**Mr. Forbes:** — Okay. This did come up when we were touring around, was the idea that — and it has come up in the House before — that names of people who died at farms should be included on the Day of Mourning. And the decision apparently was not made to include that. And actually, it's interesting, the Day of Mourning legislation was one of the three that wasn't rolled into this bill. But what is the rationale or the difficulty of including people who work at farms?

**Hon. Mr. Morgan:** — We include, for purposes of the Day of Mourning . . . It's an initiative driven by Workers' Compensation, so a farm worker who had voluntarily participated in workers' compensation or was a Workers' Compensation worker, would have shown up in the Day of Mourning statistics. A worker that was not part of workers' compensation would not have. And I don't think it's a matter that you want to recognize those people any less. It's a matter that this is how it's been done. So for statistical consistency, this is the methodology that's been used.

And I don't want to minimize tragedies that happen on the farm. We as a province worry about that, as I'm sure when you were in government it was the same thing. The tragedies happen. It was difficult to identify who was an employer. Frequently it was a farmer working alone that would have a serious accident or a catastrophe and, you know, the investigation would determine, well somebody was tired, didn't use a shut-off. You know the myriad of different causes that are there.

We're probably not going to change it. The main sponsor of the day, to the extent that it is, is CLC [Canadian Labour Congress], and I think that's probably done on a national basis. We certainly don't have any problem providing the data that we have.

**Mr. Forbes:** — You know, as a teacher I always feel bad that teachers aren't recognized on the Day of Mourning either because often they are in very violent situations, as we've seen in the States or around the world, and in Canada. I know of teachers who have died of heart attacks in schools, different situations. So it would be an interesting discussion at some point further down the road to have that as a much more inclusive discussion about people who die at work, and including business people, small-business people. And actually we know of that and it's come through in the stats of contractors, those kind of folks. But I think that's something that we should be having maybe, as I say, further down the road. But I don't know if the minister wants to respond to that.

**Hon. Mr. Morgan:** — You know, it's something that we may want to have some discussion about. You and I may want to discuss it informally some time before we were to go. Anything

we do that improves safety and awareness is a worthwhile thing to do, whether going through the Day of Mourning as a tool is the most effective thing or whether we're better to focus on specific initiatives to deal with it. I'd be glad to chat with you over coffee and hear your views and see what we can do on it.

I want to correct something. I'd indicated there was two meetings last year. My officials tell me that there was only one last year.

And in any event, it's an area where the farm accidents are traumatic and whatever. And I think the things that we can do . . . You know, we recognize that people in seeding and harvest work long hours and are frequently tired. The need is make it or break it for their annual year in a short period of time, and often aren't as safety conscious as they can . . . Oh hang on. I'm going to let Mr. Carr speak.

**Mr. Carr:** — You had asked earlier about the number of people employed or engaged in farming occupations. According to the last farm census, there were 36,952 individuals engaged in farming and that was as of 2011. The size of farms is growing significantly. Farm operators, in other words individuals reporting income from farming, is 49,475, which is 16.4 per cent lower than the last census period, which was 2006.

**Mr. Forbes:** — And I would think that's interesting because as farms grow in size and the nature of the worker and temporary foreign workers, but also people who are much more skilled in the farm, in farming, I think this is an area that needs a lot of attention and we should pay close attention to. So yes.

[17:30]

**Mr. Carr:** — One of the challenges we have as an administration in terms of trying to gain the information that would help us focus attention is that often the way we become aware of a fatality on a farm or ranching operation is through a local police service. And there's a great many things that occur where there's serious incidents. The police aren't called. They take the person to the closest emergency room. They may or may not survive the circumstances of their injury. And those we generally are unaware of and so there is a problem with the data.

But I certainly take your point, that it would be of some service to the public if we started to get attention paid to the number of fatalities and serious injuries that arise as a result of the work that people do.

**Mr. Al-Zabet:** — Actually the division has applications that are tailored towards the farming industry, you know, from driving a tractor there and others. Actually we have also researched confined space entry processes for manure-handling systems and so on.

**Hon. Mr. Morgan:** — You're welcome to go through that section by section and ask Tareq any question you want, and we'll give him marks as to how successfully he answers them. You know, he's still on probation.

**Mr. Forbes:** — There you go. Well, Mr. Chair, I think we've reached the time.

**The Chair:** — Thank you very much, Mr. Forbes. Mr. Minister, do you have any closing comments?

**Hon. Mr. Morgan:** — Once again I want to thank the members of the committee for being here, the officials for being here, and everybody for their patience, politeness, and professionalism, and those that endured my bad humour for yet another afternoon. Thank you.

**The Chair:** — Thank you, one and all. It now being after 5:30, I would ask a member to move a motion of adjournment. Ms. Eagles has moved. All agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — This committee stands adjourned until Friday, May 10th at 9 a.m.

[The committee adjourned at 17:32.]