

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Portland – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
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Mr R. Tozer, Financial Controller, Keppell Prince Engineering.

The CHAIRMAN — I declare this hearing of the Economic Development Committee open. I advise all present that all evidence taken by this committee, including submissions, is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act.

We welcome to this hearing Mr Robert Tozer, who is the financial controller of Keppell Prince Engineering. We have met. The names of all committee members are before you. Would you like to make an opening statement and then we might ask some questions? You are here to talk to us about Workcover.

Mr TOZER — Over the past 8 or 10 years the company has been concerned about the Workcover issue, particularly from the company perspective of costs and administrative processes. We are particularly concerned that premiums are starting to hurt the organisation financially. For example, over the past three years we have paid premiums of \$1.5 million. According to the information we have from our insurer, the total cost of claims paid out has been just over \$1 million. Therefore we have paid 47 per cent more in premiums than the cost of claims that Workcover has paid out on our behalf. The situation is not much different when looked at over an eight-year period. We still have substantial differences between premiums and costs, with premiums being higher than costs paid out.

I understand that in a macro sense the system works pretty much on an equilibrium basis, but that does not make a great deal of sense from the company's point of view. We also have a number of issues of concern about the operation of the system. We believe our organisation cares a lot for its employees. We have safety programs in place to make sure that people do not get injured, but the inevitable happens. What we are concerned about is that when an issue becomes a claim the employee can visit the local firm of solicitors, who are experts in the trade, pursue their case diligently and build up a relationship and share the passion and financial interests of the employee. But the employer ends up in a raffle. We are allocated a legal representative we do not know, with whom we have little contact and with whom we have little opportunity to build a relationship. They have very little understanding of the claims, the organisation or the circumstances associated with the injury, and ultimately have no care or passion about its impact upon our premium. We can have one legal representative for one case and a different legal representative for another case, and it moves on around.

Our particular concern does not relate to the legal aspect at all. We would prefer to have no legal intervention from either side and to work with an independent organisation — something that is totally away from the interests of both the employee and the employer — to try to settle the case or resolve the issues so that the employee comes back to work or is compensated correctly or whatever circumstances apply. To get that independence would be a problem, and I do not know if there is an answer to that, but we are concerned about the implications of legal involvement from both sides and the cost of that to the system.

Another concern — I am not casting doubt on any of our cases — is claims of questionable origin; in other words, the claim may not necessarily be work related. Without exception any cases we have had have been accepted. Very little emphasis has been put on the term 'significant contributing factor' being a work-related matter. It seems that if there is any possibility or potential for this type of injury to have occurred at work it is designated as a claim that can happen at work. That really throws some doubt on the credibility of the system as far as we are concerned. It is frustrating for an employer, and at times it can be frustrating for an employee. We also believe that very little, or not enough, suspicion is put on cases that are in doubt. Again, I am not saying anything about our particular employees who have claimed, but the credibility of the system is questioned when there are people out there who have injuries that have not been generated at work.

We have another problem about establishment splitting. Our organisation consists of about eight separate workplaces with eight separate establishments, and they all have different industry factors and different levels of premium percentages. In one case we have the same activity taking place in two different areas and the difference in premiums between the two is substantial — so much so that from an economies of scale perspective we wanted to move one operation from a place in Victoria Parade out to Darts Road, where we have our major operation, to centralise the operations. But the workplace out there has a higher premium and it would have cost us \$360 000 just to move the same number of people out to that workplace.

Mr CRAIGE — And do the same work?

Mr TOZER — And do the same work. It was a couple of claims at that particular workplace that caused the percentage out there to be high. There had been little at the other location. It would have cost us \$360 000, so we did not do it.

In real terms we have very few claims, but the impact of the maximum \$150 000 — or in realistic terms, the claim that goes its two years and does not look like having the employee return to work — has hurt us substantially. It seems to me that the minute there is legal intervention on behalf of the employee there is very little chance of getting that person back to work no matter how hard you try. It tends to be a matter of seeking financial reward rather than returning to work for long-term employment.

I could refer to a number of specific issues of concern, but I am sure you have heard the same thing from others all around the country. We look to have a system which is much fairer to both the employee and the employer. I know there are employees out there who cop it hard when an injury takes place; the investigations they go through are difficult and there tends to be a breaking apart of the relationship between the employee and the employer. We would like to see a system that has employee and employer working more closely together, grouping the ideas of both employers and employees and keeping the legal people out altogether. It should involve an interrelationship — something that allows the people who are responsible for the accident to be accountable. The costs should be worn where they should be and not spread across organisations that do not deserve to wear that share.

We pay a significant premium — it is more than \$600 000. It concerns me that that type of cost will eventually cripple organisations such as ours, particularly when we have major clients who are getting tight with their cost-cutting measures, so I am deeply concerned about that. We would like a system that is fair and shares the responsibility and accountability. We would like the deep consideration that work needs to be a significant factor in determining injuries, because people can come to work with hereditary problems or outside work activities that can have a major influence on the end result of a work-related injury where work has had only a very insignificant involvement. We would like to have more investigation and diligence in the matters that are of a dubious nature.

Principally, that is my submission. I am sure there are many cases I could throw at you and say, ‘I do not agree with this’, and I am sure an employee sitting next to me would see the situation differently; but we are concerned about the system itself and the way it costs organisations like ours. I am sure if we were in a smaller operation and had a premium of this size we would not be in business.

The CHAIRMAN — Thank you. You said you had about eight workplaces?

Mr TOZER — Yes, about eight separate establishments.

The CHAIRMAN — I might have missed it, but how many employees have you?

Mr TOZER — Two hundred and fifty-six at the moment. At one stage during 1999 or 1998 we had 450.

The CHAIRMAN — And the increase in your premium was 47 per cent?

Mr TOZER — It is not an increase in the premium. We have actually paid more in premiums than the Workcover system has paid out in claims, and that does not include the \$150 000 cap; it is actually the cost of the claim. So over the past three years we have paid \$1.5 million or nearly \$1.6 million, and the Workcover system has paid out \$1 million on behalf of our employees.

The CHAIRMAN — You said towards the finish that the system should be fairer. How would you change it to make it fairer?

Mr TOZER — I have been involved with Workcover for as long as I have been with this company — 13 years — and I find there has not been an answer to that anywhere. Realistically the right arrangement would be to have somebody who is independent or a group of people with independence who listen to the facts of the case and make their own decision based on the medical evidence, the circumstances of the claim and submissions from both sides. But I do not think that system would work in the long run because there tends to be bias going one way or the other. I am sure that type of system has been tried in the past. I do not know the answer to it.

Our problem is that we are an engineering organisation, which in many cases involves heavy work. The work is probably not as heavy as it used to be because we have cranes, modern lifting procedures, safe work procedures, et cetera. But because we are an engineering business we have cases and claims, when the origin of the injury is questioned it becomes likely that because the workers are in a boilermaking industry it happened at work. We have guys who drive race cars, play football, jump off cliffs and do all that sort of stuff but that is never given any consideration. Sorry, it is probably given consideration but it does not end up being accepted — but the view is that

their work could have caused it and that the business can afford to pay because the employee will be out of pocket, this is what concerns us.

Mr McQUILTEN — Is that because of the actions of insurance companies or lack of action or what? Does it have something to do with doctors and the way they look at cases?

Mr TOZER — In a case we had recently a guy had 10 days off on sick leave so it was not regarded as an injury; it was sick leave of his own choice over a period of months before the claim had been lodged. We get on quite well with that person and he actually said, 'This is not a work-related injury'. He went to work and sat in a chair and noticed his back got substantially sore. He left work and then submitted a Workcover claim. We said, 'Hey, there's some doubt about this. We are not questioning whether you did it at work or did not do it at work. Let's let the insurance company and the investigator do it'.

It comes back to exactly what I just said. He is a boilermaker and has been for many years. His outside activities may have contributed to it, but it is more than likely a Workcover claim because during the many years he has been a boilermaker he has done some heavy work. We were not forced to accept it, but it was recommended that the claim be accepted. I am not saying that it was or was not a Workcover claim, but I was not satisfied that there was enough investigation, given he had himself designated the injury as a non-work-related injury. At the end of the day this guy is badly injured, and it could be hereditary, it could be anything. However, he is on Workcover, we are paying for it, and it is likely he will have that problem for the rest of his life.

Mr CRAIGE — You mentioned with some passion the intervention of legal firms and those expert in the game and said you would like to see no legal intervention so that cases can be settled. Do you realise that common law has been reintroduced into Workcover and the exact opposite of what you want will occur?

Mr TOZER — Yes.

Mr CRAIGE — Does that worry you?

Mr TOZER — It worries us enormously. I have nothing against compensation being paid to a person who has been injured at work. I do not have any problems with that, nor does anybody at work, and we would not want it to be any different. The trouble is that some legal experts in this town are diligent and good at their jobs and sometimes they go beyond what we think is the right thing to do. It fights against the whole principle of returning people to work and encouraging them to get on with their lives. I have a problem with it, but I do not know that there is a great deal we can do about it other than voice our opinion.

Mr CRAIGE — And thank you for doing that. I was also disturbed to hear that businesses make decisions such as the one you mentioned about productivity and relocation. The firm obviously looked at the proposition and thought it could benefit from the relocation, yet it was looking at a substantial Workcover cost and so made the decision not to go ahead. Do you think businesses generally do that?

Mr TOZER — I think that type of business decision would be common. An example of what I was talking about involves another location we have. It is small but we are a big organisation. We are big in this town, and we are probably big in Victoria. We have one division that operates industrial coating, sand blasting and painting. We had one guy who had a back injury, and because he was 1 person in a 10-person operation it had a significant influence. At one stage the premium paid at that location was 32 per cent of remuneration. If there was no benefit to us from that operation we would have closed it for that very reason. As a sole operation it would not have lasted.

At the two places I am talking about the remuneration is substantial — one at \$5 million and one at \$2 million. However, the premium difference is substantial. It is 11 per cent versus point something of a per cent. That is a result of good claims performance in one location and a bit of bad luck in the other, or bad management.

Ms DARVENIZA — Big claims.

Mr TOZER — One big claim, yes.

Mr THEOPHANOUS — Mr Tozer, did your premium go up or down last year?

Mr TOZER — That question is one that I really find difficult to answer. Our organisation is large and our remuneration level fluctuates substantially. As I said before, we had 450 employees in 1999 or 1998 and now we

are down to 256. The claims performance was better and the remuneration was lower.

Mr THEOPHANOUS — Did it go up or down?

Mr TOZER — It was much the same.

Mr THEOPHANOUS — You have talked about legal issues and about the application of a significant contributory factor. I take it you have had those problems over a number of years. Is that a fair assessment?

Mr TOZER — Correct.

Mr THEOPHANOUS — Are you essentially telling the committee that the system as established by the Kennett government did not work properly?

Mr TOZER — I am saying that the system as it exists now and as it existed under the Kennett government did not satisfy us.

Mr THEOPHANOUS — Would you like the committee to recommend a tightening up of some of those areas that are clearly not working properly?

Mr TOZER — Correct.

Mr THEOPHANOUS — I can assure you that the government is looking at all those issues because it wants it to work properly. You made a comment about common law because my colleague asked you a question. I will ask you the question this way: I do not know if you are an employee of the firm, but if you were an employee of the firm and the firm did something that was clearly unsafe, something it should not have done, and it caused you to have an accident resulting in your becoming a paraplegic, do you think you should have the right to sue the firm?

Mr TOZER — I made that clear a minute ago. I am happy that any firm that causes injury to somebody — —

Mr THEOPHANOUS — No, do you think you should be able to sue them at common law?

Mr TOZER — I think so, yes

Mr THEOPHANOUS — So you are not complaining about the introduction of the common-law system, you would like it to operate more efficiently and effectively in terms of the claims management?

Mr TOZER — What I do not like about the common-law system is where people are compensated for claims that do not exist or are unrelated to the workplace.

Mr THEOPHANOUS — On that we would totally agree with you. You mentioned that over three years your premiums were \$1.5 million and that \$1 million has been paid on your behalf by the Victorian Workcover Authority. Are there any ongoing outstanding claims in the system that are still being paid by the Workcover authority?

Mr TOZER — In the past three years the performance has been substantially better, so the existing claims would have occurred three years ago or longer, and some of those are incomplete.

Mr THEOPHANOUS — They could finish up paying in excess of \$1.5 million for the claims that have occurred?

Mr TOZER — But we also continue to pay premiums each year based on those calculations.

Mr THEOPHANOUS — You could have more claims, too?

Mr TOZER — You can take it back to eight years, but our premiums are still ahead of what Workcover has paid out on the system, including when common law existed.

Mrs COOTE — I understood from what you said that you and your company respect the rights of workers. You said you were concerned about somebody genuinely being hurt. Before you employ somebody, do

you think it would be a good idea to do a heredity check or something along those lines to ensure that it is clear from the outset exactly what they might be bringing with them?

Mr TOZER — We do an employment check on people that includes respiration and hearing and a physical check where they spend a fair bit of time with a doctor. Heredity checks might be difficult and can be invasive. Often if you do not employ that person on that basis it can be considered as unfairly prejudicing that person's employment. However, it would be a good idea.

Mrs COOTE — Would you use the same doctor who would be assessing later if there is an injury?

Mr TOZER — Probably not. We work in a different fashion as to where they go. We have company doctors or a practice we send people to mainly because they understand what work is involved. It is not always the same doctor.

Mrs COOTE — You said the \$360 000 would have affected your moving. Would that involve putting on apprentices? Do you employ apprentices in rural and regional Victoria?

Mr TOZER — We have about 12 apprentices on our books now. It would involve some apprentices, but the majority of apprentices are already employed at the location we are thinking of moving to.

Mrs COOTE — If the premiums go up, would you consider putting on more apprentices or putting them off?

Mr TOZER — Work really determines the number of apprentices we put on. Our premium is substantial, but it does not influence whether we put people on; work does.

Ms DARVENIZA — You do not have the details about your premiums and exactly how they compare with previous years. Would you have any difficulty with the committee getting information from the Workcover authority about whether your premiums have gone up and if so by how much?

Mr TOZER — I do not have any problem with the committee getting that from the Workcover authority, no.

Ms DARVENIZA — You said that employers should be responsible for their workplaces and that it is hard for some employees when they have an accident. Do you support an experience-rating system where employers with safer workplaces and fewer accidents pay less than those with less safe workplaces and more accidents?

Mr TOZER — Your concept is ideal. The application of it is the problem. If we have claims we should be penalised, but it seems to me that it is not an insurance system. It was never designed to be an insurance system. We are being penalised by paying more in premiums than what it is costing us. We have a fair control over that, and we are trying to influence it.

Mr BEST — Mr Tozer, you obviously have an occupational health and safety committee within your factories.

Mr TOZER — Yes.

Mr BEST — Can you explain the process behind that program?

Mr TOZER — We have a fairly significant occupational health and safety team which I head up. We have a dedicated occupational health and safety officer who does the running around for technical research or investigation or information flow. We have a safety committee in each work group that we meet with on a once-a-month basis, and then we have a larger committee that meets bimonthly. We have an active health and safety plan, so any issues that crop up are dealt with on the spot. If they cannot be helped or dealt with on the spot, they are taken through the process by either the safety officer or further up the tree through the work group to the group safety committee to the occupational health and safety committee of the company. Then we go beyond that. I think it works quite well, and there is deep involvement. I try to dispel any issue that becomes an alleged management versus employee issue so that we work as a team to overcome the issue. That is the ideal of any company. I think ours works quite well.

Mr BEST — Has the culture among the employees improved over the past three years?

Mr TOZER — Until last year we were extremely busy, so the culture and the work ethic have been good and the safety record has reflected that. We dropped off a little at the end of last year because the concentration dropped a little bit. The work ethic and culture have been much the same all the way through those three years.

Mr BEST — With the reintroduction of common law, did the company experience any increase in claims?

Mr TOZER — Yes.

Mr BEST — How many?

Mr TOZER — I do not know that I could answer that with any great accuracy, but there was certainly an increase, although not as much as I have heard with other companies around town. Probably what I am saying is that most of ours were in.

Mr BEST — Certainly the Tattslotto-type payout mentality was rife among employees?

Mr TOZER — Yes, there is no doubt.

The CHAIRMAN — Mr Tozer, thank you for your evidence today. The committee appreciates the time you have given. The committee will take into account what you have said to it when it reports back to Parliament. A copy of the transcript will be sent to you for your examination.

Witness withdrew.

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Witness

Mr R. McPherson, McPherson Plumbing Contractors Pty Ltd.

The CHAIRMAN — All evidence taken by the committee is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act. Mr McPherson, I invite you to make an opening statement and the committee will then ask you some questions.

Mr McPHERSON — I will be as blunt as I can. There are nine points I wish to cover. Our Workcover premium used to be about \$11 000 a year. It has gone up to about \$16 000, which is a 46 per cent rise, and that is quite a rise. We do not live in the world by ourselves, we talk to other people. We are in the building industry and work on construction sites, mainly of industrial size. We employ 20 people and we have 6 apprentices, which is probably as big a company as those of some of the big boys you talk to and take more notice of. However, six of us would probably drown them. Builders on construction sites are probably as big as any of the big boys around here.

I see that the committee has an interest in about six issues. We employ one lady who works in the office and does our work. We probably turn over several million dollars a year. She does all our work, mainly using MYOB. She has no trouble. We are doing our own BAS now. Some people ride with the electronics and some do not. It is up to the individual to get up to speed. Some people run four in the office; we only run one.

I refer to percentage of turnover. If we employ 20 people and the next bloke employs 40, why should we pay the same percentage on Workcover? I think the percentage should be calculated by damage alone and not by turnover. That is my opinion and I think it is a fair opinion.

Mr THEOPHANOUS — It is calculated on the wages bill, not on turnover.

Mr McPHERSON — It is the same thing. Wages are fairly big, but we should jump on one side of the fence and the bloke who does the most damage should pay the most money so far as I am concerned.

Mr McQUILTEN — You mean with the most claims.

Mr McPHERSON — Yes. The bloke who falls over all the time will keep falling over. Most people have Workcover in place and it is in place on construction sites.

Over the past few years one of the big things we have noticed with Workcover — and this relates to Workcover inspections — is that all the big jobs are supervised really well. They are probably wrapped up in cotton wool a little. However, there are not enough resources to police the small jobs, the villa work, all the cowboy jobs, all the ones out in the paddock. Tenancing jobs are big and that is where much of the damage comes from. A lot of the blokes will be in business for a year or two and then go out of business, or there are those who do a job here or there and for all we know probably have not got public risk insurance. It seems that the big jobs are being policed and it is time they started to have a good look at some of the smaller jobs. That is probably where all the claims are coming from.

Claims should be based on physical injuries. If a bloke breaks a finger or arm on the job, I reckon he should be in for a lump sum payment and should be looked after 100 per cent. But so far as I am concerned, based on all the years I have been in business, most of the injuries that are physical are okay, but some people are born with injuries such as bad backs. They are unforeseen and seem to be a helluva drag on Workcover, and we are paying for them. When someone is physically injured, he first goes to the solicitor, who builds up his ego. Then he goes to the doctor, who builds up his percentage. Those conditions are unpredictable and cannot be seen, but if a bloke has a broken arm or leg, he is physically damaged and should be looked after 100 per cent.

The launching pad factor of Workcover should be addressed in a vigorous way by the committee. If a bloke wants a \$750 000 payout because his back is sore and he worked for someone else before, he should be put on a three-year wage with a review every three years to see how he goes. He should not be teased with the big payout balloon figures unless the bloke was really damaged on a job and it was physical. That is my opinion.

We have been in business for 14 years. We have employed a lot of people and have employed a lot of blokes who have taken balloon payouts from other places. We have employed them for two or three years and they are good workers. Sometimes I think it is psychological, that once they have had a payout they do not seem to want another one. They are not usually people with one arm hanging off but those with sore backs or some psychological upset. Most people should be put on three years wages and then addressed after that to see how the injury goes rather than being paid out.

There should be some drawback factor from the employer to bring the injured person back to work as quickly as possible. From my experience I have found it is no good the person going to the doctor and getting two weeks

off if he can come back the next week on light duties. He may as well be in the office learning something if he is an apprentice. It is no good a doctor giving him two weeks off when he could be working two weeks on light duties and learning something or driving down to get fittings for us if there is not much wrong. Once the doctor has written out the certificate, it seems there is no return made until the next Monday. A person could come into work in two or three days if he feels better and do light duties for a couple of weeks. It is better for us and better for the payment, rather than paying them while they stay home.

I also wish to touch on the GST with the committee.

The CHAIRMAN — We will deal with that separately. We will finish with Workcover first.

Mr McPHERSON — I am not sure if the committee will cover this, but a Workcover audit came through to us which I think was unfair because we were randomly picked. So far as I am concerned, the bloke on the other side of the fence has two weeks advantage on me. The solicitor doing the audit on us is being paid by Workcover. He would not do it for nothing. We will have to put our lady into the office for a couple of weeks to withdraw a year or so of our files and information and then submit it at no cost, which is unfair. We could be quoting on jobs, working, getting our cash flow right or paying our bills. It is time consuming, it is personal and it is invasive. It is not like a tax audit, it is just something that came out of the wind. We were not pre-warned about it.

It is all very well for a solicitor to come in and tell us we have to have this in by two weeks or the company will be penalised because we did not have it in on time. It has come out of the blue. It is all very well for someone to come up with this idea but it upsets our business. We put all our books aside for a week or two to get our business up to scratch and we get a penalty if we do not. It would be quicker for us to chuck it in the bin and not do it and take the penalty. There is no difference between that and someone who a few years ago took a payout, which meant our penalty and percentage went up. We had to pay it back over three years because the bloke had a bad back and wanted a payout. He was paid two or three years and then went to court. He got the payout and he is now working for someone else and seems as good as he was before he came to us three or four years ago. I am not saying he does not have a back injury, but he is doing physical work. Two people have done that to us over the past five or six years.

Mr McQUILTEN — How much was his payout?

Mr HOPE — One for \$250 000, one for \$300 000, and another bloke went in for two payments up \$750 000. The QC told us it was a bottomless pit and they had to be paid out. We stuck the thumbs down and spent two days in court arguing it out. We said the bloke was entitled to his entitlement and not a big payout. He got the payout.

Mr THEOPHANOUS — How long ago was this?

Mr HOPE — About three years ago.

Mr THEOPHANOUS — That all happened under the previous Kennett government.

Mr McPHERSON — People still get their payouts and then work for other employers. We employ three people who have had payouts. They are good workers; there is nothing wrong with them. One of the big phobias with most people is that if a person has been on Workcover — and this probably needs to be addressed — everybody wants to stay about 10 miles away from them. It is as if they have leprosy. Employers do not want to touch them because they think they will do the same thing again. Our experience with the three people we put on — and we knew their history and took a punt on them — is that they are good employees. They did not do it to us, but they did it to previous employers.

Once someone is branded with a Workcover payment they are branded with a stigma by a lot of the big employers who have not got the gumption to give them a go. There is a grey area involving Workcover that needs to be given some balance. If that happened many more people would get jobs.

Mr BEST — On the common-law issue, the claims that you are talking about were three years ago. Does that mean they were claims put in before the removal of common-law rights?

Mr McPHERSON — I reckon they would have been in motion for two years before that payout, yes.

Mr BEST — Have you had any common-law applications since the reintroduction of common law?

When the Labor government came to power it indicated that it was going to reintroduce common law.

Mr McPHERSON — We have not.

Mr BEST — So there have been no retrospective claims for common law. This might be digressing but it interests me: what happened in the move to initiate an audit on your business?

Mr McPHERSON — You get a tax audit — that is one. Now we get a Workcover audit. So they send through all the information. They want to know exactly what turnover, what percentage you made, the whole rigmarole.

Mr CRAIGE — How did it happen? Did they come personally into your office?

Mr McPHERSON — No, it came in the mail. Actually there were two things. First off, the rise in the premium still surprised me. That was a pretty big change. We decided we would rather fight the second one with the penalty. I went and saw Dr Napthine and he had a look through it said, ‘Yes, it is an audit. You have to deal with it. That is the way it goes’. What surprised me was that it was not delivered by certified mail in a professional way. It was pretty basic because it could have got lost in the mail and I would never have received it

Mr BEST — But was it about a challenge by you about the premium?

Mr McPHERSON — No, it was just an audit. I suppose there was a spike in our business in the past year so they found it interesting. Whether they want to recover money, whether they are trying to find out what areas they can or cannot get money out of or whether they want other areas to be examined, it appears they want to decipher our business and find out whether there should be percentages paid to subcontractors and so on for extra amounts of money

Mr BEST — Was that an increase in — —

Mr McPHERSON — No, they were just doing an audit to find out — to really investigate our business, yes.

Mr McQUILTEN — That sounds like the tax department!

Mr CRAIGE — Workcover?

Mr McPHERSON — Workcover.

Mr THEOPHANOUS — You are sure it was not a safety audit?

Mr McPHERSON — No.

Mr THEOPHANOUS — So they asked for all your financial details?

Mr McPHERSON — They put it through one of the solicitors in Melbourne. I think it was Clarke but I am not sure. I have the information, so if someone gives us an address I can make it available to you.

Mr THEOPHANOUS — I would be pleased about that. Thank you.

Ms DARVENIZA — So your premiums have increased from \$11 000 to \$16 000 in the past 12 months. Has your remuneration gone up? Do you employ more people?

Mr McPHERSON — Yes, probably by about a quarter or a fifth.

Ms DARVENIZA — So that results in an increase in your premium. And have you had an increase in claims?

Mr McPHERSON — No, our claims have been pretty good in the past.

Ms DARVENIZA — So there was a 15 per cent increase for the introduction of common law and a couple of per cent for the GST on top, so that would have increased your premium a bit, and then an increase in the number of employees would have increased it. Would you have any difficulty with the committee talking to Workcover and getting the details of why your premium has gone up?

Mr McPHERSON — No.

Ms DARVENIZA — You do not have any problem with that?

Mr McPHERSON — No.

Mr THEOPHANOUS — As I understand it, there are only two audits that the Workcover authority does: one is a safety audit and the other one it will check on is remuneration to make sure that what you have put down as being the number of people you have employed is actually correct. So Workcover checks to see whether you have the number of people you say you have because there would be some people who might put down fewer people than they have actually employed. That is one form of checking. The other one is a safety check to make sure that you have safety procedures in place in case of an accident. They are the two that I am aware of. I suggest that those are very important parts of the organisation which have been in place for a long time, and that is why, when you went to see Dr Napthine, he told you that you had to comply.

Mr McPHERSON — Actually I think you will find that second one is the one that sounds like it. For someone in our office to spend two weeks to put it together is a lot more than just to see if you have enough employees because they want to decipher everything right down to your boots. I would say it is more deciphered than if a tax auditor went through it, because there were two split pages. They wanted to know all the amounts. It was too much information. They wanted to know how many employees you had. It was not safety.

Ms DARVENIZA — It was safety?

Mr McPHERSON — No, it was not.

Mr CRAIGE — Did they physically come into your office or did they ask you for certain material?

Mr McPHERSON — No, they sent it through a solicitor for Workcover in Melbourne.

Mr CRAIGE — So you got a letter from a solicitor asking for work on behalf of the Workcover authority. Did they ask for that detail in the letter?

Mr McPHERSON — Yes.

Mr CRAIGE — And in that letter you were asked about more than just how many employees you had?

Mr McPHERSON — A lot more than that.

Mr CRAIGE — A lot more?

Mr McPHERSON — Yes, if you added another 40 or 50 lines to that you would be getting somewhere near it.

Mr CRAIGE — And it took a member of your staff at least two weeks to get that information?

Mr McPHERSON — I would say without a doubt you have to go back to 1999 and go through all your records. You would nearly have to bring up all our accountant's yearly figures and decipher them off about 10 times from that.

Mr CRAIGE — Have you provided them with that information?

Mr McPHERSON — No, but I went and saw Dr Napthine and I said it is ridiculous to try. One week has gone by; we would have to have it tabled in a week.

Mr CRAIGE — Are you going to provide it?

Mr McPHERSON — No, I would rather fight it out. I will. We've got a week to do it. But he said he will ring up somebody to deal with it, and that there is a time frame for it. But I would rather handle it. I think it is unfair and I would like to get to the bottom of it.

Mrs COOTE — How much is the fine?

Mr McPHERSON — The fine is a percentage of last year's amount. If you don't do it, your percentage goes up from last year so it is a bit of a grey-area fine.

The CHAIRMAN — We will have to stop there. Thank you very much for coming along today, Mr McPherson. We appreciate the time you have given us. The information has been most interesting. We will send to you a copy of the transcript for any suggested corrections.

Mr BEST — I believe we will receive a copy of the letter that the solicitor has sent to the witness?

Mr McPHERSON — Yes, that would be good.

Witness withdrew..

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Portland – 6 March, 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witnesses

Ms K. Dean, President; and

Mr I. Grant, Public Officer, Green Triangle Injured Persons Support Group.

The CHAIRMAN — Ladies and gentlemen, we reopen the hearing and welcome to our midst Ms Kerry Dean, the President of the Green Triangle Injured Persons Support Group and Mr Iain Grant, whose position is?

Mr GRANT — Public officer and main mouthpiece.

The CHAIRMAN — I wish to advise that all evidence taken by this committee is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act.

Again, welcome. I have met you both. The names of members of the committee are before you. We will be joined shortly by some other members, but we need to keep moving, so we will start. You may like initially to make an opening statement to us and then we will ask you some questions.

Mr GRANT — That will be fine. We recognise, as I said before, that our group does not have a great deal of input into the concept of the increases of premiums for Workcover. Our group was formed initially to provide support, to act as a lobby group for victims injured under Workcover or victims who have claims under Workcover or the Transport Accident Commission (TAC). Although we have a small submission on the common-law issue, most of the rest of the articles in the submission do not actually concern this committee, but we take the opportunity of presenting to the committee the submission in total so you can take it away and receive a more balanced view of the problems associated with being a victim under Workcover. I hope that you will take a bipartisan approach to it all and take it on board and offer your support later in Parliament where it is appropriate.

We believe that the common-law claims are being used as a political football between the unions, the opposition and certain factions within the government. The group has been in despair over the misinformation supplied to media hacks who appear determined to not let the wish to tell the truth get in the way of a good story, as we all know.

Common Law claims exist in legislation covering the TAC, and we note that at no point has the suggestion been made that that is dragging the TAC into a financial black hole as has been suggested by those opponents to its inclusion in Workcover legislation. To use that perception as a weapon to further beat up those victims who cannot defend themselves to the press is most abhorrent to our members.

Those few who sue for compensation under common law must be able to prove beyond reasonable doubt in a court of law that the employer was negligent in supplying an unsafe workplace. Not all injuries can be proved beyond reasonable doubt to be the result of negligence on the part of the employer. This severely restricts the numbers of injured people able to mount a common-law claim. This should not be confused with section 98 claims where an injured person can make a claim under the table of maims and continue to receive weekly payments plus medical and like expenses. Victims suing under common law receive a lump sum payment and ongoing medical and like expenses. They do not receive weekly payments after settlement of their legal action. In some instances if an employer is negligent to such a degree that it results in serious injury or death that employer can be sued by Workcover. If a case of negligence brought by Workcover is proven, then they should pay punitive damages the same as under common law.

If those court actions result in massive increases in employers' Workcover levies and other overheads, the employers have only themselves to blame. If other employers within this particular industry adopt the same attitude — 'It won't happen to us' — then the industry weighting for them will also rapidly inflate. It beggars the imagination that these people are so lacking in business acumen, commonsense and compassion that they cannot see that it is their own fault they are being taxed out of existence.

Workcover legislation, enacted in 1985 as Workcare and amended from time to time including the changes to Workcover, has encouraged employers to become educated in occupational health and safety issues. It has for some time now also provided for punitive damages for supplying an unsafe workplace. How many times do they have to be told, and how many people have to be killed during their employment before employers start getting the message? Statistics such as three farm employees killed every week of the year across Australia are horrendous. How many are injured and maimed for life? How many are unable to continue farming because of the injuries they receive? More workers die each and every year — currently 3000 across Australia — than are killed in road accidents each year, yet there is no outcry. These are disgusting statistics that are hidden from view, left out of your debates, ignored and forgotten in any discussion about increases in premiums.

Again, what of the wounded — the so-called bludgers constantly referred to whose injuries are so severe that their working life is cut short, never to work again? Employees have the right to expect to return home after work uninjured and their wives, husbands, de factos and children share that expectation.

In reality, the system rewards employers for killing workers. Dead workers are less of a financial drain on the Workcover coffers; employers suffer only a minimum increase in their premiums; employers will pay only a minor fine after appearing in court. They then carry on as usual until the next poor soul becomes another victim. Why should the employer be allowed to continue in business at all after failing to provide a safe workplace?

Ladies and gentlemen, the question you should be addressing is not why premiums have risen so high but why employers are unwilling or unable to provide a safe working environment. Pray that you or members of your family are never counted among those killed or seriously injured in a workplace accident.

That is the section of the submission that you can take on board at this point, and we would be happy to answer any questions.

The CHAIRMAN — Ms Dean, do you wish to add anything to what Mr Grant said?

Ms DEAN — No, not at this time.

Mr GRANT — It has been a getting together of heads and many faxes backwards and forwards between here and Heywood to get it all down on paper.

The CHAIRMAN — Thank you. We will certainly read the rest of your document in due course and take into account what you have submitted there. As you have stated, we are looking at two particular issues, although that does not stop us reading the other information and being aware of it.

Mr GRANT — We had felt that we did not have any input to this forum, but we were told we were attending so we have spent the past few days getting it all together.

The CHAIRMAN — We appreciate the trouble you have gone to in preparing it for us. Thank you.

Mrs COOTE — How many people are involved with your injured workers support group?

Mr GRANT — We have probably had contact with more than 100 families in our region at this stage.

Mrs COOTE — Over what sort of time frame?

Mr GRANT — Over the last 18 months or so, two years.

Mrs COOTE — What sorts of accidents have they been involved in?

Mr GRANT — Heart attacks, back injuries.

Mrs COOTE — Heart attack being a workplace issue?

Mr GRANT — It is if you have a heart attack because of the way you are expected to perform your duties at work and have that heart attack at work.

Mrs COOTE — And the others?

Mr GRANT — Back injuries, limbs missing.

Ms DEAN — One resulting in fusions of the spine, the person developing multiple sclerosis and now being in the late stages of MS. So we have an adult male who now drinks out of what is the equivalent of a child's sippy cup and has no real in-home support, has only been able to enter and exit his home through a back door, could not get through a front door and get out in case of a fire. No safety measures have been taken there.

Mr GRANT — We have a higher than normal incidence of MS amongst our members than in the normal community, and we believe there is a causal link between major trauma and major stress and MS. We have had one case accepted just recently on that basis.

Mr THEOPHANOUS — Iain, could I first of all congratulate you and commend you on the valuable work you do in this community. As someone who has been involved in injured workers' groups for a very considerable time and has also had a member of my own family who had a heart attack at work and finished up receiving virtually nothing in the bad old days, I can certainly understand the work your group is doing, and I commend you for it.

Is it your suggestion to this committee that, to put it in a nutshell, if we want to keep premiums down in this state, the best way to do it is to avoid accidents?

Mr GRANT — That is close to the nub of the matter. The other problem is that the insurance companies seem to be determined to spend as much money as they wish — up to \$2000 or \$3000 — to deny something that someone needs that would cost only \$20. We find that a time-wasting exercise. The number of people who have to go and front S112 examiners up to 50 times before their cases are heard is phenomenal, and that happens to everybody. That is a disgusting waste of resources.

Mr THEOPHANOUS — The chairman has pointed out to you that the terms of reference are about premium increases, but you are suggesting that in looking at those premium increases we should be looking at a much broader range of causes, including the way claims are managed and occupational health and safety regimes that should avoid accidents in the first place. Is that what you are saying?

Mr GRANT — Definitely, yes.

Ms DEAN — At the moment insurance companies send occupational therapists, whom they claim are not attached to their companies — and we have found that they are; they use the same trademark — down to injured people in this area, but they will only come down if they have two or three cases to look at the time. We are asking them why they are not using local occupational therapists when injured persons and their families need them. Why waste money in those areas?

Mr GRANT — The government is pushing, 'Don't work harder but work smarter', and that applies to Workcover as well.

Mr THEOPHANOUS — Are you saying those Workcover issues developed over the past few years during the course of the previous government?

Mr GRANT — We are not singling out one particular government but singling out the system administered by both governments, of both political persuasions. I do not think we can lay the blame at anybody. We appear to have had a fair hearing from the Minister for Workcover, although I do not know that we have had a lot of wins from that area.

Mr THEOPHANOUS — Are you aware that 50 expert inspectors have been put on during the past year?

Mr GRANT — In Melbourne?

Mr THEOPHANOUS — Across the state, and it might be more than that, but at least 50.

Mr GRANT — From what has been reported to us, workplace inspections are fairly minimal.

Ms DEAN — We had a site inspected a second time because we were not happy with the first inspection. We asked the inspectors to go out to the company to speak to three workers — and we are talking about workplace bullying — who would support the case of the current injured worker. They went out and spoke to management and devised a return to work program, and that was it.

Mr CRAIGE — Were they from Melbourne?

Ms DEAN — One was from Ballarat — he had handled a case previously from Warrnambool — and the other was from Warrnambool.

Mr GRANT — We have reported that matter to the Victorian Workcover Authority (VWA) as well.

Mr BEST — Can you explain the redemption payments that you have been seeking to have resolved and the assurances given by Minister Cameron that have not been fulfilled?

Mr GRANT — The redemption payments I gather are in the pipeline, and we were told that at a meeting with Mr Cameron back in June last year. To this date nothing has been notified to us of any movement.

Mr BEST — What does that mean for the people in your group?

Mr GRANT — There are a couple of people who desperately want to get out of the system and redeem their future payments. One bloke has become psychotic and a worry because he has not sought treatment at this stage.

Mr BEST — The system is leading to greater stress and distress.

Mr GRANT — Further problems, exactly.

Ms DEAN — We have two families who have lost their homes. A redemption payment would have helped them out. One family was reliant on a dual income. The husband was injured causing the wife to give up her employment. They lost their home, after selling off their cars and contents, and they are still going backwards. They are living on \$260 on week and they have two children. I would like to know where the champagne and caviar system is. Are you aware of the way Centrelink applies its legislation to Workcover wages?

Mr BEST — I would be interested to hear your examples.

Ms DEAN — When a person receives Workcover the state government classes it as income, whereas the commonwealth government classifies it as compensation. Therefore, every dollar of income an injured person receives is deducted from any benefits they are entitled to, which leaves injured people receiving no backup from commonwealth departments.

Mr GRANT — If it were classified as income rather than compensation they would lose only 50 cents in every dollar for every dollar increase received over and above the pension.

Ms DEAN — Our belief is that every child, every mother and father has a right to know where they will lay their heads at night.

Mr BEST — In your submission you say that despite assurances at the meeting with Minister Cameron that changes to redemption payment regulations were in the pipeline, nothing further has happened.

Mr GRANT — That is to our knowledge. As we raised it with him, we would expect him, or one of his advisers, to let us know.

Mr BEST — It is nearly 12 months ago!

Mr GRANT — That is what we think. A fair percentage of the issues were raised with Mr Cameron. We regularly get visits from both the VWA and the TAC down here and regularly raise issues with them. But where it comes down to changes in legislation, it is down to the minister. If the minister closes his eyes, his ears and his mind, it is very difficult to get past that point. With a lot of the problems it will take legislative changes to improve the lot of injured persons and their families. We stress that our organisation is open to families because it is not only the person who is injured who suffers — the whole family suffers. My younger son is 23 and cannot remember a day when I was well enough to play with him. That is very difficult for him and me. It is a case of our just keeping on going, keeping on pushing for so long as our funding lasts. So there will be a hat at the door if you would like to toss a couple of dollars into it.

Mr BEST — Who are you funded by?

Mr GRANT — We are not funded by anybody in particular. I believe a letter went off yesterday to try to get both the VWA and the TAC into the one room, and the minister's advisers as well, to try to get some sort of funding from both organisations. We are limited to about \$1000 a year at the moment, which is made up of memberships and small donations that are not recurrent.

Mr THEOPHANOUS — Did you raise any of those matters with the previous Workcover minister, Mr Hallam?

Mr GRANT — Mr Hallam had a problem with seeing people. He was also blind to our plight and refused to meet with us. Mr Cameron at least made the effort to meet with us.

Mr THEOPHANOUS — He is your local member, isn't he?

Mr GRANT — That is what you might call him.

Ms DARVENIZA — I thank you for taking the time to come here today and for making a contribution. At every public hearing the committee hears from many employers who talk about their premium rates and whether they have increased or decreased, and what might have led to changes in their premiums. We hear time and again from employers their concerns about phoney and fake Workcover claims, ones that are bogus and are not genuine. I would like to hear about the genuine claims. From my own experience I know that there are many genuine and real claims. What do you think about the new government's introduction of common law and about the claims management system and how it might better be able to meet the needs of the many genuine Workcover claims?

Mr GRANT — Claims management seems to be ad hoc at best. We have a saying among our group members that most of the claims managers seem to be 19 or 20, have no real experience in the world, are unsure of and untrained to deal with the problems they are faced with, and take a proprietary air to the dollars they are doling out on behalf of the VWA, to the point where a lot of the refusals for equipment to make life easier for people are just arbitrarily denied for no reason whatsoever. I have personally got one in that has been sitting on somebody's desk for two months. The time limit under law is 28 days. It does not seem to faze the claims managers. The law is not there for them. The law is only there for the injured, the victims.

Ms DARVENIZA — And common law?

Mr GRANT — I would like to see common law made retrospective. I can see why it was not made retrospective but I feel extremely sorry for the people who missed out. I do not believe some of the figures bandied about by opposition or government were a fair reflection of the common-law claims that would have resulted from that 18-month period.

Mr THEOPHANOUS — Are you aware that the blow-out in the Workcover system at the moment, which I think the minister has announced is now approaching \$1 billion or so, is largely as a result of the previous government's backlog of common law and the way it mismanaged it?

Mr GRANT — We have heard that, and we believe that to be true. However, I do not believe that is a fair and accurate reflection of the true situation. You cannot take a six-month figure and say that it has blown out by X-number of billions of dollars or millions of dollars and expect that to be taken on board by thinking people, because it is not only common-law claims that have fallen within that six-month period but the backlog of claims that have been heard within that six-month period as well. So you are getting a very inflated figure. I do not think it is fair for the government to use those figures, or for the opposition, who are squealing about it, and I do not think it is fair to beat injured workers about the head with it, either.

Mr CRAIGE — Iain, trying to get the politics out of it and looking at Workcover itself — —

Mr GRANT — We are not having a go at anybody. We are not into politics.

Mr CRAIGE — No, I am with you on this.

Mr GRANT — So people keep telling us, but we cannot get anything done!

Mr CRAIGE — Okay. How do we overcome the difficulty that we have with Workcover, Workcare or whatever system it is, of employers consistently complaining to us about the rorts, rip-offs and the bogus person in the system, when there are all those genuine claims from workers with genuine work-related injuries? There is a stigma attached to Workcover. The folklore, or society's view on Workcover, is that there are many people out there who want to rip the system off. How do we as politicians get to move from that position? How do we try to take the thing to the next step?

Mr GRANT — I suggest that you support more injured persons support groups such as ours, groups that are into advocacy and support for injured workers and their families, because we find that most of our members — excluding one we have some doubts about, and we have reported him to the VWA — are genuine. All of our people are genuine. We find that the people who are fiddling the system know the system even better than we do, and they do not need us, so the more of our sort of people you have on the ground, the more likely you are to find out who those people are and the more likely you are to solve that problem.

I do not believe the rorts and rip-offs are as manifest as the employers would have us believe. They are not diagnosticians, yet they are making so-called value judgments about a person's health and ability to work.

Mr CRAIGE — They talked about the issue of the local guy who plays footy or whatever and fronts up to work on the Monday with an injury he says is related to work, and we keep getting that.

Mr GRANT — We have heard that too, but we have no proof of it.

Mr CRAIGE — Yes. We are the same.

Mr GRANT — Once you can provide proof — let the employers put their money where their mouths are.

Mr CRAIGE — But that becomes the folklore at the end of the day, doesn't it? It becomes what people hear out there.

Ms DEAN — The employers are probably the worst ones for saying it.

Mr GRANT — If I go to anywhere socially — which is very few times a year — and people ask me what I do, I come straight out front and say, 'I am a Workcare bludger', and they immediately get defensive and say, 'Oh, no, you're not!'. I know I am not, but it takes the wind out of their sails. Otherwise you are just another Workcare bludger and you get ignored because you are a Workcare bludger — they don't know me. I have been out of work for nearly 14 years now.

Ms DARVENIZA — How hard is that for you?

Mr GRANT — Madam, if you were not a lady I could really tell you that. I find it extremely difficult.

Ms DEAN — We find that most injured workers look for the day that they can return to work. As time goes on they start to realise, 'Well, this is perhaps never going to happen'. Until they can come to that realisation — 'I am definitely not going to work again in my life' — they are very hard to live with. In most cases the families separate.

Mr GRANT — Or come close to it. It is like a death in the family or losing a child. That is the sort of divorce rate you are looking at.

Ms DEAN — We had one guy who did have a common-law claim and bought a lovely home for himself and his family, but his wife could not live with him as he was. She now rents with her two children. So there is a great deal of stress. No-one realises the stress of living with an injured person. The insurance companies do not help. If an injured person needs an ambulance, you ring and say, 'I need an ambulance to come and pick up this person and take them to the hospital', their answer is, 'No'. How can they deny you an ambulance?

Mr GRANT — You still feel as if you are bashing your head up against a brick wall, even though your court case has been heard and settled and you are on weekly payments. You are still sent to S112 examiners every time you make a request that will cost the insurance company money, so from this distance you are into a 720-kilometre round trip. That involves travelling allowance, overnight accommodation — which is another bugbear of ours. The severely injured, and you do not have to have a limb missing to be severely injured, require someone — your wife or husband — to travel with them. That is not recompensed. There is no way you can get that expense back. They will not pay my wife's share of the accommodation in my instance. They will not pay her meals. My wife does volunteer work and some paid work. She has to take time off this week because I have to go to Melbourne, and she will receive no benefit for that at all other than finding her pay packet next week will be a lot lighter than it should be.

Mr THEOPHANOUS — Do we need to do more to get people back to meaningful work?

Mr GRANT — There will always be a percentage of people who cannot possibly return to work.

Mr THEOPHANOUS — We understand that.

Mr GRANT — No, the system is not geared to that. The system is geared to getting people back to work and refusing to believe that a certain percentage of people will never ever go back to work.

Mr THEOPHANOUS — I understand that, but my question is a different one. Many people could do some kind of work and are denied that sort of work perhaps because of the way the system is set up. If we are

talking about reducing the costs of Workcover, one of the ways is to find, through educational programs perhaps, other ways of giving people access to meaningful work. My question is: are employers cooperating?

Mr GRANT — No. They are too scared to put on a person who has been on Workcover. People lie and say they have not had a Workcover claim. At Safeway recently an employee worked there under cover, shall we say, for six months. The employer found out and sacked her immediately; they put two weeks pay in her hand and said, 'Goodbye. We don't need you'.

Mr THEOPHANOUS — So they are stigmatised?

Mr GRANT — You are stigmatised for the rest of your life.

Mr THEOPHANOUS — And that means there are many people who could be working and are not?

Mr GRANT — If you are assessed by an S112 examiner to be fit enough to return to work your pay goes down anyway, and the issue of whether you can find employment is not the issue that concerns the VWA. The VWA is concerned only with the possibility of a return to work. If the S112 examiner says you are fit enough to go back to part-time work or part-time duties, that is the way it is viewed. The fact that you cannot find a job is tough.

Ms DEAN — What action are you going to take with employers who change the naming of a job so that job no longer exists, in a manner of speaking, and the position is therefore no longer open for the injured person to come back to?

The CHAIRMAN — That is not a question we can get involved with. We are here to ask the questions and to take evidence. I will say you have asked a rhetorical question. If we have an answer collectively to your question we will put that in our report to Parliament, which is probably a better answer for you than our trying individually to give you an answer now.

Ms DEAN — We have employers who change the name of a job so that that position is no longer available for an injured person to come back to.

Ms DARVENIZA — And they do that so that the person with the injury cannot come back to that job?

Ms DEAN — Yes.

Ms DARVENIZA — So you are saying there is a deliberate ploy by employers when they have had someone who is injured and they have a victim to change the name of the position and the nature of the work?

Ms DEAN — From secretary to personal assistant so that job in actual fact has gone.

Mr CRAIGE — Have you reported that to the inspectors at Workcover?

Ms DEAN — If we could get the inspectors at Workcover to listen, it would be a wonderful thing.

Mr CRAIGE — What final message would you like to give the Workcover authority?

Mr GRANT — Before we leave that issue, according to the regional newspaper, the *Warrnambool Standard*, I gather that Camperdown and Warrnambool hospitals are two of the transgressors in that situation. They have reclassified the positions of nurses who had injuries. The positions were no longer there, and the people found themselves out the door and they could not understand why. It became a political football in the newspapers at least.

Mr THEOPHANOUS — That was about two years ago?

Mr GRANT — Yes, 12 months or two years ago; could well have been.

The CHAIRMAN — We have run out of time. Thank you very much for your time in coming here today. You have gone to a great deal of work in preparing this document, and we appreciate it. We will send you a copy of the transcript and you can submit any alterations you think are appropriate. Thank you for coming.

Mr GRANT — Thank you for giving us the opportunity to present the document to you.

Witnesses withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool – 6 March 2001

Members

Mr R. A. Best

Mrs A. Coote

Mr G. R. Craige

Ms K. Darveniza

Mr N. B. Lucas

Mr J. M. McQuilten

Mr T. C. Theophanous

Chairman: Mr N. B. Lucas

Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witnesses

Cr D. Atkinson, Mayor;

Mr L. Merritt, Chief Executive Officer; and

Mr D. Keenan, Director Economic Development, City of Warrnambool.

The CHAIRMAN — All evidence taken by the committee, including submissions, is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act. I welcome to our hearing Cr David Atkinson, Mr Lindsay Merritt, a former colleague of mine, and Mr David Keenan. Mr Mayor, thank you for allowing the committee to use your council facilities. As the committee travels around Victoria it relies on the cooperation of councils and it is much appreciated.

Cr ATKINSON — Mr Chairman, as the first level of government and not the third level, we are only too happy to oblige and look after our colleagues from other areas.

The CHAIRMAN — Mr Mayor, I hand over to you to talk to the committee about Workcover after which committee members may ask some questions.

Cr ATKINSON — We are delighted to be given an opportunity to put a case to the committee and we appreciate the opportunity as regional residents of Victoria. It is pleasing to have the committee back again. I think most members were here some months ago.

Anecdotally, Workcover premiums have caused some concern to many of our businesses, and the committee will be hearing from those as the day goes by. From the City's point of view, I call on the Chief Executive Officer to present the case and I am sure he will be backed up by Mr David Keenan.

Mr MERRITT — I will make some general comments about the City of Warrnambool's role as a significant local employer. As everyone is aware, we cover a diverse range of services for this community. The City's total work force is approximately 331. Of that, 64 per cent are female employees and 36 per cent are males. Typically, the female employees are well represented in part-time employment, mainly in home care and so on. The City is one of the major employers within the municipality and within the region.

Referring to our own Workcover position, I will circulate copies of a graph and refer to the coloured columns on the graph. From the left, the 1.1 per cent represents the best performing council that is insured with Civic Workers Plus (CWP), which is the primary insurer for local government, so that is the best in the State. Warrnambool is second on the left at 1.5 per cent. The next figure represents an average of all Victorian employers. The next, which is 2.51 per cent, is the average of the CWP employers. Then the worst-performing council is 6.13 per cent.

Mr CRAIGE — Who is it?

Mr MERRITT — I am unaware of who it is. The City is proud of the fact that it is ranked the fifth best of the 41 councils that are covered by CWP. If, however, we were the worst-performing city, it would have a dramatic effect on our ratepayers. It would mean we would be up for an increase of almost \$450 000 in premiums, which would be close to a 4.5 per cent rate rise. It is critical, from the City's point of view, as an employer and in response to its community, that it is a good performer and stays that way.

That gives a general picture of our current position within the sector. Our premiums last year were \$149 089. Our premiums this year, without GST, have gone down a little to \$141 595. That is the premium for 2000–2001.

The City seriously wants to remain a high-performing council. I might just add that this has to be completely embedded in the culture of the organisation. We are just completing an enterprise agreement that has five organisational continuous arrangements, among which is workplace safety. Half the pay increases to our employees over the next three years will be predicated on performance, including the target of attendance and workplace safety. We have set within this draft agreement, which is almost completed, even higher levels of performance in reducing lost time.

To ensure that we remain a good performer we have to be highly committed to workplace safety, and that has to be part and parcel of the culture of the organisation. Naturally, that means a high degree of commitment from Council to reduce time lost due to incidents and also to provide a safe system of work. I can table a draft enterprise agreement, but it is only an example and there are others in government.

That completes my comments about the Council as an employer. David Keenan, as Director, Economic Development, can talk in broad terms about Workcover as a component of economic development within the City.

Mr KEENAN — In commenting on how businesses are performing within the business environment it is hard to separate Workcover as a single entity. A holistic approach needs to be taken to the way businesses have been operating this year or the last financial year. Regional businesses have had the impost of the Workcover

premiums, the GST, increases in fuel prices and a fluctuating Australian dollar, so it has been one of the toughest years ever for businesses, whether small, medium or large scale.

Certainly the topic of Workcover premiums has been a hot one that has been presented through economic development advisory committees and through the work of the Victorian Employers Chamber of Commerce and Industry and communicated to council through some of the larger organisations. Attracting businesses to regional areas will always be a big challenge. Perhaps reduced premiums for regional areas compared with urban areas or metropolitan areas could be looked at as a way of attracting further investment into regional and rural Victoria. In that regard, and I say this blatantly, we are happy with the calibre of people presenting to the committee today. They represent some of the best businesses in the City of Warrnambool and the Shire of Moyne and will be able to communicate the real issues of GST and Workcover premiums, among other things, and I am sure petrol prices will be raised at some stage, probably linked to the GST.

All in all, a number of variables need to be looked at to create environments that will encourage businesses to expand in regional areas or to be attracted to regional areas. One of the variables to be taken into account in the whole environment of the GST is Workcover premiums and some of the other factors I have mentioned.

That completes the economic development view of the real scenario we are looking at. I am glad there will be a diversity of people appearing before the committee, ranging from representatives of the Racing Club to the construction industry, the meat processing industry, hospitality and food processing. I am sure the Committee will get some good information from those people.

Mr THEOPHANOUS — In your submission you refer to a general increase of 17 per cent due to the reinstatement of common-law rights. It is actually 17 per cent for common law and GST, made up of 15 per cent common law and 2 per cent GST.

I congratulate the Council on its record on Workcover premiums. As you say, despite the reintroduction of common-law claim rights you have had a reduction in premiums. I understand that is what you are telling the committee, which is important because there has been a bit of misinformation about this. I do not know if you are aware of it, but 35 per cent of businesses across Victoria have had a reduction in their premiums.

The CHAIRMAN — Do you have a question?

Mr THEOPHANOUS — Yes, I do have a question. You did not make much comment about the GST as it affected your local businesses. If the Council does not want to talk about the GST, that is up to it, but I am asking the question —

The CHAIRMAN — About what?

Mr THEOPHANOUS — About the relative impact of the GST versus Workcover on local businesses. What are your local businesses telling you about which of those two are having the greatest effect? I put it in the context that we just heard from some of the accountants in the region that up to \$3 million has been taken out of the community in fees for filling out BASs and for other compliance costs on GST.

The CHAIRMAN — Mr Theophanous, you are testing my patience. Do you have a question on Workcover?

Mr THEOPHANOUS — Can you tell the committee which of the two you think is having the bigger impact?

Mr KEENAN — The GST when introduced was done so with a large amount of public information and seminars. Council was heavily involved in information sessions about GST and is involved in information promotion and assisting small business on GST. A GST signpost officer is located in Hamilton to deal with issues on GST.

The CHAIRMAN — I am sorry to interrupt. We are dealing with Workcover at the moment, and the question is specifically asked between the two. You will need to direct your answer to your opinion in relation to the difference.

Mr KEENAN — The GST has been followed with a large amount of information and education about its implementation, Workcover has perhaps not been as adequately done as required, as was the case with GST, so

further information to businesses about Workcover and the way premiums are worked out would be welcome.

Mrs COOTE — I have no questions, but I would like to thank you very much for your time, and I congratulate you on the graph.

Mr BEST — I apologise for being late. I note that part of your submission relates to the degree of reliance on manufacturing industry within your municipality and the types of businesses involved. The general health of your community employment rate would be of interest to me.

Mr KEENAN — The unemployment rate in Warrnambool is approximately 8.7 per cent. It is considered relatively high. Predominantly retail businesses would comprise the largest component of the economy in Warrnambool, followed by construction and to a lesser degree education providers and professional services and manufacturing on a small scale as well. It would appear that the Warrnambool economy is certainly moving more towards having a retail focus and becoming a retail hub for the rest of the region. Our retail businesses serve a catchment of approximately 100 000 people, and that is probably expanding at the moment.

The CHAIRMAN — Mr Mayor and your officers, thank you very much for coming along today. We will send you a copy of the transcript to look at. Again, we appreciate the time you have given us and your general assistance in setting up for us today. We appreciate it.

Witnesses withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witnesses

Mr M. Clarke, Managing Director; and
Mr T. McLennan, Finance Manager, Clarke's Pies.

The CHAIRMAN — Welcome to the hearing. All evidence taken by this committee is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act.

Mr Clarke, would you like to make an opening statement, and would Mr McLennan like to follow. I understand you are talking about Workcover. We have about 10 or 15 minutes in which to do that.

Mr CLARKE — Thank you for the opportunity. We are in the Shire of Moyne, so I am representing the Moyne Regional Development Board as well. Workcover, as outlined in the submission we made to your committee, has had an enormous impact on our business this year. The premiums went up by a large amount. I will ask Terry to give some details on that.

Basically, we understand that there needs to be Workcover or some such system of insurance and support for employees who may have some work injuries. But the problem we have is that in this one year our premiums have taken a tremendous jump — somewhere in the vicinity of about 70 per cent. In 1997 we met with the then minister, Mr Roger Hallam, and his CEO because at that time our company had a high premium. The biggest problem with that premium was that we were doing the appropriate things about returning to work and making certain that the system was working properly.

We spent much time and effort and money. Resources were invested into improving the way our company worked within the Workcover system over the period of years leading up to this past financial year, to the extent where our claims went down markedly. We have three people involved in return to work human resources within the company, and everything we thought we could possibly do to work the system properly from both sides of the fence we thought we were doing. Yet in one year we had a massive impost on our premium. That was the biggest thing that affected us. We could not see how that could happen, given the way we were working through the systems and procedures.

What has the biggest impact on us is that there does not seem to be a level playing field between us, the employer, and the regulations that are placed on us as employers and the way the medical and legal professions handle their part of the equation. We would like to see a more equitable playing field.

I will ask Terry to give some details on the increases we face this year.

Mr McLENNAN — Initially when we received notice of our premium in August we probably had budgeted on a 20 per cent increase but we were pretty shocked when it came to a 70 per cent increase including GST. It had gone from \$169 000 to \$300 000. Our employment and sales had dropped over the previous 12 months, yet after taking out GST we were going to pay \$272 000 — \$103 000 extra, with less employees and less sales. Definitely our claims were almost nil, and in the nine months since then we have had no claims. We got a reduction from \$272 000 to \$220 000 by reducing our wages by \$400 000.

Mr CLARKE — That reduction came from cutting our sales from five days delivery to three days to cut our wages bill down so we could fit GST into our budget.

Mr McLENNAN — We cut our wages by \$400 000, probably lost at least half a million in sales. Cutting our wages by \$400 000 meant full-time staff that had been working five days a week started working three or four days a week. The hours went from a range of from 38 to 44 hours maximum to 20 to 30 hours maximum. The \$400 000 cut in wages got us a reduction of \$50 000, which was probably of \$25 000 benefit to our bottom line. We have had no claims except for one long-term one, who gets \$1300 a month. I would say we will pay \$220 000, the insurance company will pay out \$30 000 to Workcover and \$190 000 will just go into a black hole. We would like to know where that money goes.

The government said it would increase by only 17 per cent just for common-law claims, but our industry rates increased by 21 per cent and our Workcover agent, the F-factor, also increased by a further 17 per cent.

All in all, a 60 per cent increase without the GST was just a huge impost on a business. Our business is slowly drifting away because our sales base has changed. We are going to have to change our manufacturing from fresh to probably frozen. Our industry is still tough. A number of pie manufacturers in country Victoria are probably going to fall over in the next couple of months. We just hope we are not one of them.

The CHAIRMAN — Have you any further submissions to make to us about Workcover?

Mr CLARKE — As employers we are accountable. We cannot get a full explanation as to what affects our premium. We find when we go through the process of return to work that we can have employees who could go to a doctor, sit across a desk from that doctor and say what they think is wrong with them and the doctor will give them a certificate. When we challenge that certificate, we have to send three people from our employment who are on wages — the director involved with that responsibility, the human resources manager and the return-to-work coordinator — to talk to the doctor about the issues to then get some sort of coming together on how we will proceed with whatever the employee's claim is. It is costing us a great deal of money to work through the system.

We are talking about a situation where we as employers do not have the same ability to put our case to the medical profession as have the employees.

The CHAIRMAN — You stated that your understanding of why the premium had gone up in the order of 60 per cent without GST was as a result of the 15 per cent plus 2 per cent for common law and 21 per cent in industry rate. Then you mentioned 17 per cent as a result of the F-factor — —

Mr CLARKE — Yes, the F-factor.

The CHAIRMAN — My question is: a number of people have said to us that they do not understand this F-factor business and they do not have enough information from Workcover to be satisfied that they understand why their premiums have gone up. What is your understanding of the F-factor situation?

Mr McLENNAN — It differs for different insurance companies apparently, but my understanding is that the insurance company — in our case HIH — had a percentage of 3.269858, and it was later increased to 3.826055, which is a 17 per cent increase. I think that is what the insurance company gets out of Workcover to act as an agent. That is the way I see that charge.

Mr CLARKE — But we would like to know.

Mr McLENNAN — I have asked them, and they come back and want more information.

The CHAIRMAN — I take it from what you are saying that this basic information about why these increases have occurred has not been given to you, or you find it difficult to obtain it from your agent or from Workcover itself?

Mr McLENNAN — We have written to Workcover and to HIH. We have had contact with our local member. We obtained a response from the chief of Workcover, who basically said that that is the way it is, the costs have gone up as a result of the reintroduction of common-law claims. But they do not seem to think that the industry rates, which went up only a few years ago by about the same percentage, have gone up again. To us, they have just gone out and decided they wanted some extra millions of dollars coming in so they just whacked it up, and that is how it came about.

The CHAIRMAN — Mr Clarke, how would you summarise the effect on your business of the fact that that your organisation is now up for a further \$103 000?

Mr CLARKE — This year has been catastrophic in that, as Terry said before, we are in a difficult industry at present. We have had a falling sales book over the past couple of years for a variety of reasons — for example, competition — and we have had to adjust the range to fit changing consumer demands, et cetera. If we did not have some contracts that were put in place in the past six months to start up in April — next month — we would probably be out of business.

Mr McLENNAN — That would put 100 employees out of a job. Luckily, with this contract coming up we will probably increase our employment by 20 over the next six months.

Mr THEOPHANOUS — How many employees have you got altogether?

Mr McLENNAN — Originally, five years ago, we employed 170 people. We had our own drivers in those days. We have since gone to owner-drivers. Last week we would have employed 70 plus 30 owner-drivers — around the 100 mark.

Mr THEOPHANOUS — I am trying to understand why you have had an increase. A number of factors contribute to that. You said there has been a 17 per cent increase, which is the common law and the GST. There

is a further increase of 21 per cent, which relates to the industry rate, which has gone up by one category. Is that correct?

Mr McLENNAN — Our industry rate increased by 21 per cent.

Mr THEOPHANOUS — You said there is an additional 17 per cent. The F-factor relates to your own company's experience. That must mean you have had some accidents. If you are being graded up as a result of a poor performance, you must have had some accidents or some claims.

Mr McLENNAN — There have been a number of claims probably going back, and a specific one I will tell the committee about involved one of our drivers in a van travelling down to Port Campbell. There was an overseas tourist coming over the hill on the wrong side of the road and our driver had nowhere to go. He almost lost his life, and it is a Workcover claim. It should have been a TAC claim.

Mr CLARKE — Our claims in the financial year 1998–99 cost \$99 043; our claims cost for the financial year 1999–2000 was \$28 940. Yes, we have had some claims, but the claims history was going in that direction when we hit the particular financial year to which this premium is relevant.

Mr THEOPHANOUS — Do you understand that the 17 per cent you are talking about was simply an application of the system as it has been in place for the past eight years where the experience of individual companies is taken into account? We heard from the council that it has had a reduction in its premium. Are you suggesting that organisations and companies with good records should pay more so that you can have a reduction? Is that what you are suggesting?

Mr CLARKE — What we are saying is that our claims history and our number of employees have been going down, but our premiums went up by the figures we have outlined

Mr THEOPHANOUS — But you have just told the committee that you have had accidents in the workplace.

Mr McLENNAN — A number of years ago.

Mr THEOPHANOUS — Those accidents are taken into account, as they would have been if the council had had accidents. There is no different rule being applied.

Mr CLARKE — Would you like us to give you a complete history of the past three or four years and the accidents in each year?

Mr THEOPHANOUS — If you do not mind we will ask the Victorian Workcover Authority to provide that to us.

Mr CLARKE — Certainly not. The thing we are trying to get at simply is that we have been doing everything in our power as a business to drive our premium down. We have been driving our claims down, our accidents down, and we have been driving every aspect of the procedure in that direction to give us — —

Mr THEOPHANOUS — That will eventually pay dividends but it will not do it immediately.

Mr CLARKE — What you do not understand is that it is only one part of it to get the result of 70 per cent growth in one single year. The 70 per cent growth in one year is a massive impost on any business.

Mr THEOPHANOUS — All I can say to you is that only 17 per cent of that increase, in fact only 15 per cent of that increase, has to do with the introduction of common law. The rest of it has to do with the GST or — —

Mr CLARKE — Could I ask you a question?

The CHAIRMAN — The committee is not in a position to be able to debate a position with you or to be asked questions. It is here to get information from you. You are allowed to make a statement.

Mr CLARKE — I will make a statement. If 17 per cent, or 15 per cent as I understand from what you are saying, is the amount of premium levied for the reintroduction of common law, what do you think it will be next year and the year after if common-law claims become larger?

Mr THEOPHANOUS — The solution to that is not to have any accidents in your workplace. The answer is zero.

Mr McLENNAN — We have not had any this year.

Mr CLARKE — One of the problems I have is the inference that we have accidents in our workplace. You see ads on television telling you it is all the employer's responsibility. No matter what happens, it gets down to our poor staff training, our poor induction methods, we as managers being negligent. Why is there not some emphasis placed on employees being less negligent in the workplace? Why is it that the buck ends up with the employer?

Ms DARVENIZA — Are you aware that Victoria has the second-lowest rate for Workcover out of all the states?

Mr CLARKE — No, I was not.

Mr McLENNAN — That is hard to believe when you look at some of the figures presented over the past six months.

Mrs COOTE — Mr Clarke, I love your pies, they are delicious. Mr Keenan said earlier that an enormous amount of information had been given about the GST but that in comparison not much information had been given on Workcover. You said that you thought the increase would be about 20 per cent and you got a huge surprise. Have you contacted Workcover or HIH?

Mr McLENNAN — I have contacted HIH and Workcover.

Mrs COOTE — Has the response from Workcover been positive or helpful? Has it sent you information and has it explained the F-factor?

Mr McLENNAN — HIH tried to explain the F-factor and the industry rates, but they had no control over it. Workcover controlled the increase in the industry rates. Also, the government, or Workcover, also approves the F-factor rise for that particular insurance company. I have a list of all the companies that are involved in Workcover and they all have different F-factor percentages.

Mr CLARKE — In answer to your question, we certainly have not had it explained to us by Workcover, and we have asked the question. As simple pie makers in Mortlake we have not had a definitive explanation from Workcover or HIH as to the breakdown and how it affects us and how it quantifies the rises in the various areas.

Mrs COOTE — You cannot plan for what will happen next year.

Mr CLARKE — No, we cannot.

Witnesses withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witnesses

Mrs Y. Bartlett, Owner, BAM Stone; and
Mr J. McGrath, Managing Director, McGrath Consulting.

Mrs BARTLETT — Our Workcover premiums went up markedly, along with everybody else's — up at least 20 per cent. To address Mr Theophanous's statement that we must have had accidents, we have had claims. If you wish I can send you details of three claims. One was settled last year; one is still on the go and one we had recently.

Four years ago we had an accident at work which was severe. That employee has returned to work. He submitted a common-law claim and got \$150 000.

Last year we settled an employee's claim. For over a period of two years we tried everything we could to get him to return to work. He would come back to work, work for two or three weeks, then he would have another problem. It was either he could not come to work because he did not have a car, so we sent somebody out to pick him up, or it was inconvenient for the school times for the children so he wanted to work different hours. He was on light duties. In the meantime he went to the two Workcover-appointed doctors approximately three times. They each said that he could do light duties. At the end of the two years he went again and they said same thing. He went back to the GP who had been treating him for two years and she said, 'Yes, you can go back permanently to work on light duties'. The very next day he went to another doctor who had never seen him before and who gave him a medical certificate for total incapacity. He got \$273 000. That is what is wrong with the Workcover system.

Another had left our employ. While he was working with us he did not come to work because he injured his back driving a tractor and — —

Mr THEOPHANOUS — He got \$273 000 because one doctor gave him one certificate?

Mrs BARTLETT — Yes, that is right.

Mr THEOPHANOUS — Would you mind if we got the details of that from the Victorian Workcover Authority and had a look at it, because I would be very surprised if it occurred on the basis of one doctor's decision when two other doctors and his own GP said no?

Mrs BARTLETT — Exactly. That is why we could not understand it. What we found amazing was that he gave us the certificate to say that he could return to work.

Mr THEOPHANOUS — When was that?

Mrs BARTLETT — That one came under the old system with common law and everything, but it took two years to settle.

Mr THEOPHANOUS — So it was under the previous government?

Mrs BARTLETT — Before that all started, yes. Under the previous government. But the common-law claim system was still in place. From what I can see of it there has been no change to the administrative side of Workcover by the Workcover authority. The government has reintroduced the common-law claim system. All that has done is give the solicitors a heap of money. Your own inquiry into Stringer Clarke — which you can all read about on the Internet — shows that they got an average of \$16 000 per claimant, and that is public knowledge.

Then we had another worker who had personal problems and was behaving at work in a dangerous manner. He became a threat to himself and his fellow employees so he was reprimanded. He was sat down and we said, 'Look, you're not to behave this way,' and we had to go through this whole procedure. We did all that and in the end his attitude was, 'You can't do anything to me', so he drove round the yard in the forklift with his feet on the dash. I got advice on what to do with him and we called him into the office and said, 'You are not to drive a forklift again until you are retrained'. He walked out of the office, left our employ, never came back and went for a stress claim, which he got. We went to conciliation because we would not accept it and the conciliator told us, 'There is nothing you can do. The doctor worded it in such a way that work could have contributed to the man's condition, therefore you are liable'.

Mr BEST — Cost?

Mrs BARTLETT — That one cost us \$15 000. We were lucky to get out of it for that. Then we have another one where a worker left our employ. Two or three months after he left we got a claim. He has been on the go. He has been offered money, he has refused it, and the case may even go to court.

The problem you have is that with a back injury claim they can come along and say, 'Oh, gee, I have pulled a muscle,' and it is an aggravated injury and there is nothing we can do about it. A back injury claim is very difficult to disprove.

The Workcover authority has to realise that there are bad employees and bad employers, so each case should be looked at separately. If Workcover appoints doctors who say that the employee can go back to work, that employee should receive no more payments. That is where the fault is with the common-law system, because common law is separate. Even if you can prove you have followed all the procedures, that you have all the training in place and you have done all those things, they can still go for you and say, 'You are a bad employer'.

Employees have no sense of their own responsibility. They come in and drive on a forklift in an irresponsible manner and it does not matter whether they have had adequate training because you can't do anything. You can't fire them; you have to get them in and say, 'You are not allowed to do that,' and you have to do it four or five times before you can actually do something. In the meantime they could have injured somebody else by the way they have behaved.

I agree with the previous speaker that the employees have to take equal responsibility. If you have trained them adequately and you have proved that you have trained them, they themselves should be responsible up to a point. If they contribute to their own injury they should not get such massive payouts, because it is the common-law claims that are giving the Workcover authority financial difficulties. It is just a field day — 'Just sign here. I will get the claim for you'.

Mrs COOTE — Mr McGrath, are you employed by BAM or do you do consulting for other people as well?

Mr McGRATH — We are involved in consulting to a number of organisations across the state, predominantly Melbourne based. I wanted to do some work with BAM today and Yvonne suggested it would be a help to come along. We represent a number of employers in many industries across the state.

Mrs COOTE — So the experiences that Mrs Bartlett has spoken about are something you are experiencing right across the state?

Mr McGRATH — Absolutely.

Mrs COOTE — Very high premium increases?

Mr McGRATH — Depending on the industry, and particularly the stone industry, which BAM is in. The stone industry rate moved last year by 45 per cent. The major concern that people in that industry will experience is the way the premium moved so significantly. Considerable comment has been made about the limit to the premium increases being 20 per cent year on year. In essence that is correct. The base increase is limited to 20 per cent. The 17 per cent or 15 plus 2 — however we like to refer to it — is added on. Then the GST is added on. Forget the GST; it comes back; it is a minor cash-flow issue.

One of the major concerns is that this year an organisation like BAM, regardless of its experience — which has been improving significantly over the past couple of years and which I will talk about in a second — because of the 20 per cent cap that was set on its premium last year and regardless of the fact that a significant increase occurred last year is facing another 20 per cent increase this year because of the 45 per cent movement in the industry rate.

I am concerned about what will happen to businesses next time. I hope the Workcover authority will get premium notices out before the start of the financial year this year. What are businesses going to do in May or June when they are hit with another 20 per cent increase? Yes, as Mr Theophanous said before, a number of industries did have reductions, and that was greeted with joy by those industries. I think you quoted 35 per cent. On that basis, 65 per cent have not.

Mr THEOPHANOUS — The industry rate has gone up. The system has been in place for eight years and it is based on the idea that some industry rates will go up and others will come down. It depends on the performance of the whole industry. I understand that your particular business may not have performed as badly as the whole industry did but that is the system that we have. Rather than argue to and fro, I would be interested in whether you think that the current government should look at changing that system in some way when looking at the industry rates — perhaps differentiate it more so they are smaller industries. Is that what you are suggesting we should be looking at? I would be interested to hear your views about that.

Mr McGRATH — Without doubt, the last premium increases were made based on the legislation as it had existed for a number of years. No changes were made by the current government to change the process of calculation, that is correct.

However, I understand that within Workcover there was a principle whereby an industry classification jumped year by year, and industry moved one classification year by year. As a consequence the movements were held. I understand that last year it was determined that each industry would go to direct true experience, regardless of where it took it, which took the crop dusting industry, for example, from 0.86 per cent to up around 5 per cent, an increase of 570 per cent. It will continue to increase 20 per cent or thereabouts year on year.

In relation to your question, the appropriate course of action would be to break those industry classifications down; to be able to differentiate between different industries within an industry, if you like. There are a number of classifications within the current premiums audit that are catch-all classifications designed to catch those that do not fit anywhere else, such as metal trades processes, et cetera. That would help. By breaking the number of classifications down you are able to match the experience of truly like industries as opposed to a conglomeration of vaguely like industries.

Mr THEOPHANOUS — Assuming that is done, given that you have to collect a certain pool of money for Workcover, you have no problem with the industries that are creating more accidents being charged more and the ones that have fewer accidents being charged less; is that a reasonable position, and do you support that?

Mr McGRATH — That is an extremely reasonable position and I could not consider a position other than that. It is almost a user-pays process. If that is where the claims costs are, more particularly than accidents, if we assume that claims costs reflect the severity of accidents, that is appropriate.

Mr THEOPHANOUS — Finally, addressing Yvonne's point, I understand you would like the committee to look more closely at claims management so that is tightened up and the unfair claims do not slip through the system.

Mrs BARTLETT — Yes, because over the past three to four years we have had one claim that was a work accident at the workplace. The man concerned was badly injured and was in hospital for three months, but he came back to work. We have no problems with that. We object to paying premiums when claims have slipped through the system that should never have been through the system in the first place. Employees who can go back to work should do so. It is not right that they can go to a doctor they have never been to before and get one certificate that is accepted.

Mr THEOPHANOUS — I can assure you that the current government will try to fix the claims management system.

Mrs BARTLETT — I can send you all the relevant details of that claim.

Ms DARVENIZA — Do you have any problem with the committee getting in touch with the Workcover authority so that it can get the information, not only about that incident, but in relation to your premium increases?

Mrs BARTLETT — We realise that our premium increase was directly related to those claims, even though the government increased premiums because it needed the money — governments always need money. We were already on a high rate, but a portion of the increase was directly related to those claims. That is how we feel about it. If you go ahead and make the premiums too high, the result will be less employment, because we are down to a third of our work force compared with the situation 12 months ago.

The CHAIRMAN — Is that because of Workcover?

Mrs BARTLETT — Yes. When people left we did not replace them. For the first five months of last year the construction industry went into a real lull.

Mr McQUILTEN — That was because of the GST?

Mrs BARTLETT — No, I don't think so. A huge amount of work was done in Sydney before the Olympic Games, and that dropped off.

Mr BEST — The final point I would like to raise with you refers to evidence given by the previous witness relating to the culture. I have a major concern with what has been put to the committee about doctors

finding it too easy to simply sign a certificate. In areas of my electorate we refer to them as Dr How Long because it is basically, 'How long do you want?'

Mrs BARTLETT — Yes, and 'How much do you want?'

Mr BEST — With lawyers it is, 'How much do you want?'. Can you explain the culture here, because the previous witness alluded to it?

Mrs BARTLETT — A good example was the claim I mentioned before about the employee who was told by Workcover doctors that he could return to work permanently on light duties. He went to his GP, who agreed. He gave us the return-to-work certificate, but the very next day he went to another doctor in the area who was known for this. They all go to the same doctor; he is known in the district. I will not mention his name, but everyone knows him.

Mr McQUILTEN — Mr McGrath, what can you do for those companies? Does it require an occupational health and safety audit, or more than that?

Mr McGRATH — Rather than that, our involvement is in making their workplaces safer and making their processes more appropriate from a safe workplace point of view, in addition to providing some claims management assistance and assistance in regard to compliance with what they are supposed to be doing in fulfilling their obligations.

Mr McQUILTEN — If more businesses used people such as yourself we would save a lot of money, wouldn't we?

Mrs BARTLETT — We hope so.

The CHAIRMAN — Mrs Bartlett and Mr McGrath, thank you for coming today. The committee will send you a copy of the transcript for your comments.

Witnesses withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witness

Mr C. Nolan, Chief Executive, Warrnambool Racing Club.

The CHAIRMAN — All evidence taken by the committee is granted immunity from judicial review and is subject to parliamentary privilege pursuant to the Constitution Act and the Parliamentary Committees Act. Mr Nolan, I understand you will be talking to the committee about both Workcover and the GST. Our discussions need to be separated so I ask you to make an opening statement on Workcover first. Then the committee will ask some questions, after which we will move on to the GST.

Mr NOLAN — I represent the Warrnambool Racing Club as the chief executive. Our Workcover premium has increased by some 20 per cent, in round terms \$4000, of which obviously \$1720-odd was applicable to the GST. It is not a huge increase, but my concern is the reintroduction of common-law rights to sue the employer. I heard with interest the previous speakers saying perhaps the user-pays system might be the best, and I agree with that simply because we have a fairly good record as a racing club with regard to claims. The racing industry is a dangerous area to be in with common-law claims, and it will see an increase in the number of claims.

I have spoken to some of my counterparts in other areas of the state and they have the same concerns. Because of the nature of the business — it is all outdoor activities and dealing with machinery — accidents are likely to happen every now and again. I make that point about Workcover. My concern, as I said, is mainly about the reintroduction of common-law rights to sue the employer, and the increase of 20 per cent to 21 per cent with the remuneration exactly the same as salaries.

Mr BEST — Are you the employer, or is the committee of the jockey club the employer?

Mr NOLAN — The Warrnambool Racing Club is the employer.

Mr BEST — How many employees do you have? What type of work do they do and can you give a profile of your work force?

Mr NOLAN — We have eight permanent employees, and through the course of the year, mainly due to our cup carnival in May, we employ another 150 to 160 casuals. Probably 15 of those are employed on a reasonably regular basis. The balance is purely for that week. We contribute to the economic viability of the region.

Mr BEST — I have some experience of the industry because I worked with a couple of trainers at Bendigo a few years ago. Who covers jockeys now?

Mr NOLAN — Racing Victoria, through a blanket policy.

Mr THEOPHANOUS — I understand from what you are saying that you had a bit of an increase, but not a great increase in your premiums. The major issue you want to bring to the committee's attention is the reintroduction of common-law rights to sue an employer.

Mr NOLAN — The fact that there is no cap to it is a concern.

Mr THEOPHANOUS — There is actually, but that aside, you can only get a certain amount under the common law; it is not unlimited. I do not know what the present cap is, but it is around about \$500 000 or something like that. My question is a different one, and I want you to think about this. I don't know if you are an employee or an employer, but if you were an employee and your employer did something in the workplace which was his fault and it caused you to have an accident, after which you became a paraplegic, do you think you should have the right to sue that employer?

Mr NOLAN — What you are saying is correct, and I take the view that I am an employer and an employee, so I can look over both sides of the fence. No-one in their right mind would be able to say they could avoid those issues. With that sort of incident, yes, of course I would take that view. If the employer was found to be negligent, of course a claim should be made. We are talking about backdating those claims as well, aren't we?

Mr THEOPHANOUS — No, it was not backdated, and quite a few people were upset about it not being backdated. It is in the hands of the employers to make sure that they do not cause accidents so that they can avoid paying anything in common law. It is as simple as that.

Mr NOLAN — I still have a concern. Although I said there was no capping, people are entitled to go for a fairly substantial claim.

Mr THEOPHANOUS — Even before the reintroduction of common-law rights, if somebody became a paraplegic he or she would be paid his or her salary for his or her entire life if something happened in the

workplace. You could be talking about millions of dollars on one case, even without using the common law. Common law just adds something extra in the event that the accident is actually caused by the employer as opposed to just happening.

Mrs COOTE — Mr Nolan, several people have talked about the cultural change as in rorting the system, and you heard Mrs Bartlett's examples of people abusing the system. On the other hand, we have heard a cultural debate with the emphasis on the employer, saying that the employers are always in the wrong rather than that it could possibly be the employee who is at fault. Could you comment on both those aspects of entrenched cultural views?

Mr NOLAN — The first thing I must say is that within the racing industry a great deal of the employment factor is fairly static in that employees have had long-term employment, so I do not see too much rorting of the system in our area. Obviously, I hear of it in other areas but I do not see it as too much of a concern. Speaking personally, I have no real problems with it in my own business. Therefore I do not see it being a personal problem for the employer. So far as the employee goes, we all hear about rorts but I cannot comment on it simply because I have not had first-hand cases of it.

Mr CRAIGE — You classified under horseracing eight permanent employees. Do any of those eight work with horses?

Mr NOLAN — No.

Mr CRAIGE — Could you describe what they do?

Mr NOLAN — One is administrative and the other seven are purely what we term varying rangers, or turf tradesmen. They could be a gardeners — —

Mr CRAIGE — I have a query for you, and I think you should take it up. The industry rating for horse and dog racing is 3.26. It is much lower than that for sport and other recreational activities and it is even lower for administration. You should pursue the fact that none of those employees deals directly with horses. They are not involved.

Mr NOLAN — They are not in contact with horses.

Mr CRAIGE — The way I see it, the classification is based on having an involvement with the animals — for example, the casual who helps the drays and floats move around, and so on. I can understand that, but I think you should pursue with your agents and Workcover the fact that those employees are not involved directly with horses, or even dogs. Imagine a dog kicking you. I find that incredible. There is a legal difference. I encourage you to pursue that with both the agent and Workcover. Get the industry to do it, too, because it is worth while. There may be a saving at the end of the day for you. Those people who are ground staff dealing with the turf, the track and looking after grass might be better being classified as gardeners than as people in horseracing.

Mr NOLAN — That is how they are classified. There is the obvious danger of horses for people working in that environment — a loose horse, for example. That does happen and it has happened.

Witness withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warnambool – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witness

Ms M. Whitehead, Company Secretary, Sou West Seafoods

The CHAIRMAN — Ms Whitehead, welcome and thank you for coming along today.

All evidence taken by this committee, including submissions, is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act.

We understand that you are going to talk to us regarding Workcover. Usually we would ask you to make a statement expressing your views on the issue and then we might ask you some questions.

Ms WHITEHEAD — This is a bit daunting, ladies and gentlemen. I am not over prepared for this because I have been on sick leave for the past two weeks. Basically I am a company secretary of Sou West Seafoods. We are a fairly small organisation. We have only 6 full-time staff but we do employ about 30 casual staff during the fishing season, which is throughout the year but is dependent on flat seas. It means people can have full-time work for two or three weeks and then they might have nothing for five weeks, so all of our factory staff are casual staff. I am only here to support the rest of the industry to say, ‘Yes, we had a big increase, which did not seem to be explained by the figures that the insurance companies were telling us’.

In 1998–99 we paid a premium \$16 518 and in 1999–2000, \$21 595. That went to \$43 821 in this current year. Admittedly some of that increase is due to some increase in wages, but the real increase is in the region of 65 per cent for us, and that is exclusive of GST, which is about \$4000 on that. I am told by the insurance companies that our industry rate rose to 5.9 per cent and that there was a 2 per cent general increase, then there was the 10 per cent GST and a 17 per cent increase for the government changes to take into account reinstating workers’ common-law rights. We still seem to have been hit. The industry rate jumped at least 1 per cent. I always thought we were on about 4.7.

Mr McQUILTEN — It went up 2 per cent, I think.

Ms WHITEHEAD — That is obviously where the bigger increase has come from. We are in the fish processing category.

Mrs COOTE — What do you do with fish?

Ms WHITEHEAD — We export abalone only.

Mrs COOTE — You put them into cans and send them off?

Ms WHITEHEAD — Yes, we do a little bit of frozen abalone, but 70 per cent is cans. Our classification is processed seafood manufacturing including vessels which process but do not catch seafood. I am not sure if that is the right category. I have written many letters, but I do not seem to get a lot of answers from insurance companies.

Mr McQUILTEN — You might get some personal attention today from some people behind you.

Ms WHITEHEAD — Right. The other issue about which I am not sure — I was running a bit late and I do not know if the gentleman before me touched on it — is that 50 per cent of our wages bill is salaries, sales staff. I am paying that high rate, even though I have been told that the administrative rate is 0.48 per cent. I have not yet found anyone who can tell me how I can structure my company. I am only an employee, but I need to structure things so that I could perhaps split the company up to take advantage of that. It would be a saving of \$16 000 a year if I paid 0.48 for the salary component and the industry rate for the casual workers. I am told it has happened, but to date I have not found anyone to help me do that. It may mean setting up another office somewhere else that is only sales and administration. I have to try to follow that up. I have written letters that are unanswered. Basically, that is where we are at. We purely export, so the GST does not worry us. We just claim it back. It is just a paperwork shuffle.

Another thing on Workcover is that we have had our first claim ever in the past few months, so none of our fees should be because we have had prior claims. We find that employers are hit all the time. The claim is what we would call a shonky claim, but there is nothing we can do about it. We just have to pay whatever way it happens, but it affects our next year’s premiums. I know that is perhaps not what the committee is looking at today, but that is the reality. Our first claim is — —

Mr McQUILTEN — Why do you think it is a shonky claim?

Ms WHITEHEAD — Because the guy only worked for us for two weeks before he put in an RSI claim to us. RSI generally is a longer term thing. There are people from one area that have all gone to the same doctor, and all have Workcover claims.

The CHAIRMAN — Have you finished making your statement?

Ms WHITEHEAD — Yes.

Mr CRAIGE — I would like to explore a couple of things with you. You process abalone and freeze it or can it and only export it.

Ms WHITEHEAD — A very small percentage, probably less than 1 per cent, would be sold in Australia

Mr CRAIGE — Do other states compete in the same marketplace as you?

Ms WHITEHEAD — Yes. Generally Victoria, South Australia and Tasmania are the main states, and then South Australia.

Mr CRAIGE — The committee has heard much about where Victoria is placed in Workcover, but you would be pleased to know that seafood processing in Victoria has the highest Workcover premium of any state. That then places you at a severe disadvantage. The information that has been provided to the committee on seafood processing, which is your category according to the material that has been provided, shows that in Victoria you have a higher rate.

Mr THEOPHANOUS — Is the material you are referring to Liberal Party material?

Mr CRAIGE — The material was provided to all committee members. Does the higher premium then place you at a disadvantage in that export market?

Ms WHITEHEAD — Our costs would therefore be higher. It is a fairly price-conscious market. It never used to be.

Mr CRAIGE — A very price-sensitive market?

Ms WHITEHEAD — It has become that now; it never used to be. The lowest price gets it. The only way we are ahead in Victoria is that we have a different size than Tasmania. We have a smaller size, and that gives us one advantage to offset the higher cost advantage.

Mrs COOTE — You said you have written letters and were having communication problems. Did you write just to insurance companies or to Workcover?

Ms WHITEHEAD — No, just insurance companies.

Mrs COOTE — You have not approached Workcover and it has not written to you explaining there would be premium increases and given you the information you might need?

Ms WHITEHEAD — No.

The CHAIRMAN — How would you sum up the effect on your business of the 65 per cent increase without GST?

Ms WHITEHEAD — It is just adding to all the costs, really. We cannot say that we will not employ anyone, because when the fish come in we have to do the work. It is certainly adding to our base costs, and we are trying to look at other avenues where we can employ people. We are not looking to get around Workcover, but we are even looking at a subcontracting type of employment where they pay all the costs and we just pay them a one-off figure. We still have to do the work, so it is really adding to our overall costs and making us less competitive in the market.

We have other pluses because our product is special. We have developed things that other abalone people have not, so we have an edge in the market there, but there is only so much of an edge that people will allow before they do

not buy your product.

We are concerned about the continual costs that we have to pay, and this Workcover bill was a really steep one for a small business. We are only what you would call a small business.

Ms DARVENIZA — You have obviously had a significant increase, and a large percentage of that is due to the fact that your industry rating has gone up two categories. Would you have any objection to the committee getting from Workcover the detailed breakdown of exactly why your premium has gone up and how it compares with other years?

Ms WHITEHEAD — No.

The CHAIRMAN — Ms Whitehead, thank you for coming today. The committee will send you a copy of the transcript. If you have any queries on that, please let us know.

Witness withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool — 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witness

Mr I. Robb, The Whaler's Inn, Warrnambool.

The CHAIRMAN — All evidence taken by the committee is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act.

Mr Robb, I understand you wish to talk to the committee about Workcover. If you make an opening statement then the committee may ask some questions.

Mr ROBB — I wonder if I am here under false pretences, because what everyone has said so far is essentially what I want to say. My problem is that I am in the hotel industry. We have been the whipping boys over the past two years with gambling and drinking. My premium has gone from \$12 200 to \$23 500. I have written to Workcover and I have written to my local member and various people, and I have not got a satisfactory answer as to why this is so. That is essentially my beef — that the premium has got too high. I have only had one claim in 30-odd years.

Mr THEOPHANOUS — Do you have an objection to the committee asking Workcover for that information now on your behalf?

Mr ROBB — Sure, please. The second thing is that it has all been a bit confused by the GST being brought in. That has clouded a lot of issues, because from my point of view we are having a great deal of buyer resistance at the marketplace end — for instance, a pot of beer currently is \$2.65 and there is a great deal of resistance. We have lost about 15 per cent of our market share, along with CUB, because of the price. It is partly GST, but it is partly Workcover and payroll, all those things with add-on components in them.

It is like insurance premiums, which is another issue again. You have stamp duty and then GST on top of all the rest of it. Small business is really suffering grossly from government overcharges. Mr Theophanous, nobody in our industry or any industry really objects to wanting to help people who are seriously injured. That is a facility we believe as a community we should go ahead with, but I think we also have a query about whether the community can in the long term afford the amount of payouts that have been paid. That may well result in the judiciary handing out excessive outcomes.

Maybe that is the end to control rather than the bottom end. That is another issue. Can we as a society keep affording to pay out those huge amounts of money? I had one case I claimed involving a guy who seven years ago had a serious leg injury. I absolutely agreed with the claim. Within two months he was paid \$63 000, and within two months he was white-water rafting. I have to argue the toss, as did the two ladies before me, that there are some problems in this area. That is essentially all I have to say.

Mrs COOTE — One of the hoteliers in my electorate has had a lot of trouble with Workcover. The hotel will no longer employ young casual people, which he feels sad about because it used to give young people an opportunity to get into the work force. Is this likely to affect you? He has said that is a direct result of Workcover increasing premiums. Will increasing Workcover premiums affect the number of young people you might employ at The Whaler's Inn?

Mr ROBB — We have a problem in that we employ 22 full timers and 45 casuals, a disproportionate number, but we are in the high hospitality area with a night club, and we employ a lot of university students. In our case no, because we have a dense, high-operative business and we need the employees. We just put up the price, and that at the end is meeting resistance right now. In town one hotel is buying beer from the Geelong brewery at \$55 a keg. From CUB it is \$129, so he is putting it out at \$2. University kids, being university kids, enjoy that; it is cheap beer. The difficulty lies in the market breakdown. To answer your question, no, because we are such a busy hotel it has not affected us in that regard. I cannot argue there have been unemployment problems related to the hotel. We are still running at full employment.

Mr BEST — What about your claims experience? You have said you have had only one?

Mr ROBB — One.

Mr BEST — How is your relationship with the your claims agent? Are you happy with him?

Mr ROBB — We have had good relations with him over a long time. There are issues about public liabilities, as you are aware, but many hotels, particularly in the country, are poorly served. Up in Casterton there are small hotels which do perhaps 10 to 15 kegs a weekend which cannot get insured for public liability. They are being knocked back. I have written guarantees from our particular company that they will stick by us in the event of claims, but I suspect that is only because we have a huge insurance policy, a huge group structure, with them.

Mr BEST — I wonder what explanation was given for the increase in premium from \$12 223?

Mr ROBB — I have not had a satisfactory answer, which is why I wrote to the local member.

Mr BEST — Was he able to get anything out of Workcover?

Mr ROBB — He wrote back and said he was having difficulty too!

Mr BEST — If I were you I would send a letter to Minister Campbell.

Mr ROBB — No, it will be right. But it is a shock, and I am not sure that that is indicative of the rest of the industry.

Mr BEST — My understanding is that the industry has increased by one category, from 2.23 to 2.70.

Mr ROBB — My payroll is about \$800 000 a year.

Mr BEST — What was it last year?

Mr ROBB — About the same.

Mr BEST — That is not the reason for your increase?

Mr ROBB — No.

Mr BEST — But you cannot get a satisfactory explanation about the increase?

Mr ROBB — No.

Mr THEOPHANOUS — Glancing over your record from Workcover, which I will send down to the other members, it appears to me that you have had an increase in your business, that the remuneration has increased by 24 per cent from the previous year to this year.

Mr ROBB — No, that is not right.

Mr THEOPHANOUS — I am happy to read it out to you. It states that your remuneration for 2000–01 is \$842 500 estimated —

Mr ROBB — That is excluding apprentices.

Mr THEOPHANOUS — This was \$92 500 higher than your 1999–2000 figure, and that accounts for 24 per cent of the increase in the premium. So I congratulate you for expanding your business.

Mr ROBB — It has not expanded; that is the whole point.

Mr THEOPHANOUS — The point is that you are paying more in remuneration. The second point I would make to you is that the increase has gone from \$13 966.51 to \$23 401, but \$2127 of that is refundable GST.

Mr ROBB — Right.

Mr THEOPHANOUS — So in fact your increase is \$7307. That is the actual increase in your premium?

Mr ROBB — Fifty per cent.

Mr THEOPHANOUS — It is a 50 per cent increase, but part of that 50 per cent is also taken into account by the fact that the remuneration has gone up. So it is not an even 50 per cent increase, it is less than that overall. I accept what you are saying — that the whole industry has gone up by one category and that has affected your premium.

Mr ROBB — Twenty per cent.

Mr THEOPHANOUS — Which I accept. Do you accept the explanation that where there have been fewer accidents some industries have come down and where there have been more accidents some industries have

gone up? Your own business may not have had an accident but there have been more accidents in your industry as a whole. Do you accept that explanation?

Mr ROBB — Yes, that is a common argument, but it still does not help me or our industry, which is under extreme pressure now.

Mr THEOPHANOUS — Isn't it up to the industry to have safer workplaces? We are happy to get Workcover to work with your industry to try to reduce the number of accidents, and that will mean a reduction in what your industry is paying relative to other industries. In the end it is about safety, is it not?

Mr ROBB — I agree, and we spent considerable time and effort on safety. But again, is society willing to pay for all this? In the end the consumers are going to pay for it, aren't they?

Mr THEOPHANOUS — Are you aware that Victoria has the lowest average premiums bar one state in Australia?

Mr ROBB — No, I was not aware of that.

Mr THEOPHANOUS — The average premium in Victoria is 2.22 per cent, which except for Queensland is the lowest in Australia. Some people mentioned New South Wales before; the average premium in New South Wales is 3.5. But it is a question of how you distribute that 2.22 per cent. I accept the arguments you have put, but do you support the notion that the industries that do not have accidents should not have to pay as much as those that do?

Mr ROBB — But if you have preconceived ideas like that, why are you calling us to talk to us about it?

Mr THEOPHANOUS — It was the opposition that did this.

Mr ROBB — I see, so it is a political issue. That is all I have to say.

Mr McQUILTEN — You said before that your business has dropped about 15 per cent on beer sales and that is because of the GST.

Mr ROBB — That is right. Look, I am not trying to argue Workcover. I think that is another issue on which our industry has to make a statement. Our industry is probably better off with GST because we are at the coalface and we really get it first. We have good programs in place and it flows straight through for us, but I would not like to be down the line where I have to keep issuing invoices or something like that. But it works very well for us.

Mrs COOTE — One person we spoke to today said they are very tired of the emphasis being put on to the employer rather than the employee so far as safety in the workplace is concerned. Would that be your feeling about it, that the employee rather than the employer should be encouraged to take better work safety practices?

Mr ROBB — Absolutely. We have spent a lot of time and money in our industry over the past five years doing exactly that. For instance, I spent three months last year writing a manual for our hotel — every detail in the whole place was written down, about what to do and what not to do. We have done that specifically for public liability more than anything else so we could say in the case of a recent court case that we had gone through all the activities we possibly could. Every employee I take on gets one of the manuals and is tested on it. That gets them through my insurance company so there is no excuse. We have paid a lot of attention to it. It is all very well to say we should do this and we should do that and safety is the issue, but a lot of industries have spent a lot of time and effort on this and we get kicked in the butt again by upward premiums.

Mr CRAIGE — Thank you for coming and being so forthright. Your frustration is evident in that you have done a lot of work to try to minimise your own personal claims and make your workplace a lot safer, but you do not see that happening. I guess the thing that frustrates you is seeing the work being done but not seeing any return on that work.

Mr ROBB — That is right.

Mr CRAIGE — So how do we get to a position where you can?

Mr ROBB — I am suggesting we need to ask where are we going to go. That is the point I was leading to philosophically in the first place. How much can society afford to pay? If you are willing to put up the price of the final retail product and hand it back to the consumer again to pay it, how can he? He is getting taxed too. It is a never-ending cycle.

Ms DARVENIZA — You are saying you would like this government to make changes to the Workcover system that the previous government put in place and that you have had difficulty with over a period of time?

Mr ROBB — I am not here for a political argument, frankly. I thought the limitation on common law was sensible. I do not want to get into an argument about that, either. It was sensible in the sense that it kept us all in proportion to what the growth factors were as we went along. But I am not disagreeing with Mr Theophanous's earlier argument that there may be different and better ways of doing it. Perhaps we should explore some options.

Mr THEOPHANOUS — I can assure you we will explore it.

The CHAIRMAN — Thank you for coming today. We will send you a copy the transcript. We appreciate your input.

Witness withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
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Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witnesses

Mr A. Egan, Finance Manager; and
Mr A. Westlake, Operations Manager, Midfield Meat Group.

The CHAIRMAN — All evidence taken by the committee is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act.

Mr Egan and Mr Westlake, the committee appreciates you again giving your time to assist it in its investigations. You are here today to talk about Workcover. I invite you to make an opening statement after which the committee may ask some questions.

Mr EGAN — Thank you for the opportunity to be here again. We have prepared a submission that I will attempt to go through in as quick a time as possible so as to allow the committee time to ask questions. The Midfield Meat Group is now one of the largest, if not the largest, meat processors in the state. It produces meat and associated products for the export and domestic markets. It is the largest private employer in the region.

Over the past five years the group has invested \$15 million in capital projects including building a new beef export plant in 1995, a small export plant in 1998 and upgrading the existing domestic plant in 1998 to full export status. Sales over that time have increased by 300 per cent to a projected annual turnover in this financial year of \$160 million. More than 70 per cent of those sales are bound for the export market.

Over the same period the number of employees has more than doubled to more than 500 and the group has experienced a massive increase in Workcover premiums from \$319 000 to an initial premium of \$1.3 million for this financial year. That represents a 61 per cent increase on the initial premium of \$793 000 for the last financial year. In that time the group's estimate of remuneration has increased by only 11.5 per cent. With the reintroduction of common-law access we believe the confirmed premium will mirror the initial premium increase.

The group now regards the workers compensation system in its present form as the no. 1 threat to its business. The additional funding required to meet vastly increased premiums affects our borrowing and cash-flow requirements. Accordingly, we have deferred decisions to undertake a couple of projects worth \$4 million, including the development of a further set of plate freezers and cold storage facilities at our plants. That would give us additional capacity and production, and therefore the capacity to create a further 200 jobs.

The problem that confronts us with Workcover is determining how the premium affects our business. The number of components of formulas used makes it very difficult for an employer to understand and comprehend it. We are not actuaries; we are in the business of producing and selling meat to the export market. We have had two different agents from two different companies endeavour to break down the components of the premiums and explain them to us, and even they are struggling to come to grips with it. If they are struggling we have a problem. We believe that needs to be addressed. It needs to be simplified in some form so we can clearly understand and gauge how that premium is affecting our business in terms of claims, injuries, et cetera.

The F-factor has increased markedly this year. It is in the range of 50 per cent to 70 per cent for our particular agent. We do not know why. The employer is not given information to determine how that is derived. We struggle to determine why agents' F-factors are more than three and even up to six when they have been told they are within 80 per cent of government actuaries. That should equate to an F-factor of around the 2½ to 1 mark.

In recent times, the meat industry has witnessed many plant closures with a consequent loss of employment. Some of the plants closed a number of years ago, but there are still claims arising from those plant closures. We believe they are not genuine and a number have been exaggerated with a view to liberating more funds from the system. As a current employer in the scheme we cannot assess or challenge the estimates being applied by agents to those claims as normally would be the case. While it is difficult for us to measure the effect on the meat industry rate, we are sure that as a current employer in the scheme we are bearing the cost. We certainly believe it has contributed to keeping the meat industry rate at the maximum it has been for the past four years.

We also note that by stealth the government has removed the 20 per cent cap on the industry rate increases and the F-factors and has not provided any information in support of that action. Obviously one of the major components and factors which affect our premiums is claims. This is another area where we believe the system works against the employer. We acknowledge that because of the nature of our industry and the product we handle there are some limiting factors placed on our ability to utilise engineering controls, et cetera, to reduce workplace hazards.

We are unable to use absorption material to reduce noise because it will harbour bacteria, and water temperature in sterilisers must be kept at a temperature of 82 Celsius, which can lead to increased risk of burns. Our employees must work in an environment where temperatures have to be kept low so there is an increased risk of muscle strain due to them not being able to warm up properly.

Nevertheless, the meat industry and Midfield have invested large sums of money in looking into causes and solutions to those problems. Midfield has invested heavily in technology such as cut-resistant gloves, disposable gloves, powered hand tools to reduce the risk of RSI-type injuries, height adjustable work platforms, powered conveyors and mechanical wrappers. We also contract a physiotherapist to come on to our site to treat employees with muscle soreness and strains hoping that by early intervention we prevent those types of injuries from becoming serious in the long term.

Unfortunately, injuries still occur despite our best management practices. The management of such injuries to ensure that the employee is treated and assisted to recover is vital, as we all acknowledge. It is also important to encourage and support employees back to their pre-injury duties as soon as possible. Being injured at work is traumatic for the employee and returning to pre-injury duties allows them to resume their normal life.

Medical practitioners — GPs — are the first step in the chain to assist the employee to return to work. To do that they must work hand in hand with the employer's return-to-work coordinator. However, GPs are either reluctant or too busy to work with our return-to-work coordinators. We have worked hard to find real and meaningful tasks that injured employees can perform while recovering. They need to discuss those tasks with GPs, as well as how they fit in with alternate and modified duties and the longer term strategies for rehabilitation. GPs need to be trained to adequately address those issues and be aware of how important they are from the employer's perspective, let alone that it is crucial to their patient's wellbeing. Those GPs who are not prepared to be part of the solution and those who have a history of not actively working with employers to assist rehabilitation should be disallowed from treating Workcover-related injuries.

GPs are also somewhat lax in the issuance of Workcover certificates. Where there is no visible injury, they tend to treat the injury on the basis of the employee's symptom description and without a thorough investigation. Certificates are then issued for time off work without further consideration. We believe legislation should stipulate that GPs be required to discuss options with the employer prior to certificates being issued. GPs issue ongoing certificates while the employee is waiting for an appointment with a specialist physician. The ability for the employee to undertake alternative duties is not considered or investigated. In many cases employees are capable of undertaking modified duties while waiting for this referral. The employer wears the additional costs of the employee not being available to tend to modified duties.

The system is open to and does incur fraudulent claims. I refer to a recent example from our files. An employee claimed a significant injury, convinced the GP that he was unfit for any duties and was given four months off. The employee was placed under surveillance and it was discovered he was undertaking tasks while off work that were clearly inconsistent with the injury for which he had lodged a claim. The GP was requested to view the surveillance video and then revisit his assessment. He virtually acknowledged that he had been duped.

The CHAIRMAN — Mr Egan, we are running out of time. Perhaps you could move on to your next points. A copy of your submission will be given to each member of the committee and the committee will treat it as a formal submission. Everything that is in the document will be included in our deliberations. However, so that there will be time to ask questions, I ask you to move quickly on to paragraph 3.3 and then go quickly through to the finish.

Mr EGAN — Yes. I will finish on that point. The employee's Workcover claim was denied but it has had a sizeable effect on our premium.

I also note that employees with non-workplace injuries, such as sport injuries and injuries that occur in the home, make claims on the Workcover system and that is then a cost to the employer.

Solicitors have a vested interest in ensuring that claims, whether they be sport, home-related or otherwise, make it into the Workcover system. That is where they get their money. They advertise and that is only promoting the claims injury growth on their behalf.

We are dealing with a no-fault system where the employer is at fault regardless of whether the employee deliberately disregards the policies implemented by the employer and injures himself or another person. Despite the employer's implementation of occupational health and safety policies and alcohol and drug policies, and the introduction of rules and regulations for the use of equipment, et cetera, the employer is at fault.

Obviously, the economic impact of the premium — I referred to our deferral of a \$4 million project — affects the community. If we cannot employ more people that will have an effect in Warrnambool. We have seen the Warrnambool woollen mill shut down and Nestlé downsize. We have the capability to take up what is lost but

we certainly will not be doing it until we get to the confirmed premium stage this year and have a look at what is coming at us. Our past experience is it will be vastly more than the initial premium, particularly with the reintroduction of common law.

We believe there should be a workers compensation scheme that adequately protects injured workers. That goes without saying. That ensures employers are making health and safety improvements and reduces injury rates but at exorbitant costs to us because it prevents us from achieving what we have to do to promote our business and sell our product overseas. We are competing, particularly in our industry, against people who are subsidised. The only way we can compete with them is to minimise our costs to the fullest extent possible.

You will see some suggestions when you go through the submission. At the moment we are incurring a cost that would reside normally across the broader community. If the system is not changed to reflect that, we believe the community should bear some cost as well. In the past there was talk of combining Workcover and TAC and utilising the surplus in TAC, and that is a possible method to pursue. Another alternative could be a levy across the greater community — I know that is politically unpalatable — such as a tax of \$100 per head to meet unfunded liabilities, and so on. However, if that impost is taken from employers such as us we will invest in growing our business and that will create more employment so the economic benefits would outweigh by far such an impost.

The workers compensation premium has had a significant effect on our business. As an employer and a corporate community we want to create a situation where we can employ people and give back to the community. Workcover is strangling our ability to do that. Without a doubt our greatest concern from this point forward is that we cannot see when our premiums will stop increasing. We cannot see when we will get a break to allow us to accomplish what we are trying to do.

Mr BEST — Thanks, Alex for an extensive submission, once again full of detail.

To address one component of the problem, a great deal of emphasis has been placed on the role of the employer in establishing occupational health and safety committees to work on safety issues, so there is a responsibility for the employer to create a safe work place and safe work practices. What about issues relating to employees and their conduct within the place of work?

Mr WESTLAKE — To give an example of that, we have invested in technology such as cut-proof gloves, which have been very effective. They probably reduce our workplace accidents by 80 per cent. It is very effective technology, the latest thing, which allows people to still do fine hand movements but not be restricted by the old chain mesh glove. We have identified the positions where those gloves should be worn, and the people have been made aware of that and made to understand that in a meat environment there needs to be an overglove to protect for bacteria, and so forth. But the employee on one day for whatever reason chooses not to put that glove on. He puts his overglove on so at a glance it looks as if he is wearing the protective glove, so if he takes a knife and cuts himself there is no recourse because it is a no-fault system. Automatically that employee goes straight into the system and might have a week off or whatever. Razor sharp knives are a part of the job and a cut can be very dangerous.

Mr BEST — You are getting to the point I want you to address. You have a substantial work force and I know the culture of the people in that work force. Do they always come to work in the best condition? Are they always at a level to perform at their optimum ability in pursuing their workplace activity?

Mr WESTLAKE — I guess we have a cross-section of the community. With a work force in excess of 500 we have a large cross-section of people and certainly a few of the people in that cross-section are perhaps not quite fit for the task. We are obviously introducing other policies to combat that, such as our position on drugs and alcohol, with a supporting mechanism so that if we have people who have that happen in their lives we can offer support through community groups to try to resolve it. Absenteeism is part of that. So we are addressing those peripheral issues in addition to the obvious things about people cutting themselves.

Mr EGAN — It does affect performance and injuries result. There is no doubt about that.

Mr BEST — I do not want in any way to be flippant about this but there seems to be a level of frustration in the community about the fact that the onus for maintaining good, safe workplaces and compliance is on the employer, with no level of responsibility being put on to the worker.

Mr WESTLAKE — Under the current system you can get the employee to the point of being a

contributor to negligence but not until you start to talk about negotiating an appropriate amount of compensation. You can discipline your employee but there is no action you can take.

Mr McQUILTEN — I beg to differ.

The CHAIRMAN — Hold it! We are not here to debate.

Mr WESTLAKE — That is our understanding of the situation.

Mr McQUILTEN — I have a number of questions. Could we look at your claims and history and the make-up up of your bill at the moment? Have you any problems with that?

Mr EGAN — No problems at all.

Mr THEOPHANOUS — Do you mind if we get it from Workcover?

The CHAIRMAN — I have had a look at that over the break and do not believe that is in order. If you want to have a chat about that in committee later on I am happy to do that, but the resolution we have passed does not in my view allow us to do that.

Mr THEOPHANOUS — I would like to move dissent from your ruling, Mr Chairman. I believe that the person before us at the moment has already said he is happy for the committee to look at the Workcover information. Workcover is here and has that information so I see no reason why it should not be made available to the committee to help this person with his claim. I would move dissent from your ruling.

Mr McQUILTEN — I do have another question.

The CHAIRMAN — Hold it! We have to deal with the resolution first.

Mr THEOPHANOUS — If you want to clear the hall to do it, I am happy with that too.

The CHAIRMAN — From my reading of the minute dealing with the seeking of information from Workcover, I believe it means that the executive officer would seek that information. It goes on to say that it would be commercial in confidence unless we passed a resolution indicating that that not be the case. So the point and question is: who seeks the information from Workcover once the witness has agreed to have that information? Is it okay for that information to be made available to the committee? My view would be that the committee should not act through individual members — that it should act through the executive officer in seeking the information. That is the basis of my view on the issue.

Mr THEOPHANOUS — I would like to speak to my motion of dissent and I am happy to do it here.

The CHAIRMAN — If we are to debate it we should do that in camera, which I hesitate to do, given that we have many people here and that we are already behind in our time schedule. You want to debate it?

Mr THEOPHANOUS — Yes.

The CHAIRMAN — I have to reluctantly ask everybody to leave. I hope this will not take too long at all.

Hearing suspended.

The CHAIRMAN — Mr Egan, I apologise for that break in proceedings. We have resolved our situation and we still have a few minutes to go. Can I invite any other members of the committee to ask any questions?

Mrs COOTE — First of all, I would like to thank you for the submission. I thought it was comprehensive and you clarified many questions I have asked of others, so thank you. I want to elaborate on your remark that the cash flow issue was a no. 1 threat to your business. You said you deferred capital development that would have given an additional 200 jobs, and then you talked about the state of the government and a number of other issues. You were concerned about where this premium increase may end. If there were a 61 per cent increase in your premium rate next year, as there has been this year, aside from deferring capital development, would you put people off?

Mr EGAN — It is not something we would like to contemplate but we would have to. I cannot sit here now and say we would, but if that occurred, if we had to pay an increase of that magnitude next year, we would

need to look at every area of our business and fine tune it absolutely, and that comes down to employees as well and labour costs. I cannot say we would, but it would have to be a consideration. Sorry, there is another option there. We might have to look very hard at further automation and perhaps lose some of the quality control we have because of it.

Mr THEOPHANOUS — I am afraid that the committee will not be able to look at the information that Workcover, sitting just behind you, has because of a ruling of the committee today, so we are not able to assist you at the moment. But I do want to ask you some questions. In your submission you asked rhetorically, ‘When will our premiums stop increasing?’ May I suggest that the answer to that question might be when you or the industry stops having accidents? Would you agree with that, given the structure of the way Workcover works?

Mr EGAN — Not entirely. It might stop when the industry stops having — look, we have accidents and we have said there should be a scheme to cover for that happening.

Mr THEOPHANOUS — In fact you have many accidents, don’t you?

Mr EGAN — I disagree with that. We have possibly one company that has a number of claims more than any other, but I do not believe we have a lot of accidents.

Mr THEOPHANOUS — So how do you explain the increase in your premium, if you do not?

Mr EGAN — Read the submission. It mentions medical practitioners and the legal fraternity taking injuries that have not occurred in our workplace, bringing them on to the Workcover books surreptitiously - -

Mr THEOPHANOUS — There are doctors working for every employer in Victoria. Yours is not the only company whose employees go to doctors for Workcover claims. How come all the faulty claims are happening in your business and nobody else’s? Is that what you are saying?

Mr EGAN — I am not saying that at all.

Mr BEST — That is not the evidence we have heard today.

Mr EGAN — It is not just happening in our business, it is happening in others.

Mr THEOPHANOUS — It is happening in others, but a number of other businesses are not having accidents. Are you suggesting the businesses that are not having accidents and whose premiums are coming down should be levied to pay for your accidents?

Mr EGAN — I am not suggesting that at all. If you read our submission you will see we suggest we need to look at the way injuries are defined and how they are finding their way into the Workcover system. Injuries are finding their way into the system because of doctors, and because of solicitors using the right doctors in order to extract more money from the system.

Mr THEOPHANOUS — Are you suggesting we should bring back the \$100 tax brought in by the Kennett government in order to reduce your premiums? You have suggested that your premiums should be reduced though you have had accidents. Victoria has the second-lowest premiums on average, which is 2.22 per cent. Your industry pays more because it has more accidents. The only way we can reduce your premiums is to make those who have fewer accidents pay. Do you think that is fair?

Mr EGAN — We are endeavouring to make our workplace as safe as possible. Despite doing that we seem to incur more claims, we seem to incur claims that are not genuine, and we seem to incur claims for costs that are out of all proportion to the injuries. We are doing everything in our power to keep our injury rate down.

Mr CRAIGE — I note that you have five separate businesses registered as Workcover identities within your company. Does meat wholesaling incur the highest cost factor? Expenses associated with long-distance meat agencies and animal skins would be only a handful of the costs associated with the business.

Mr EGAN — Meat manufacturing is where our major cost lies.

Mr CRAIGE — Were you aware that Victoria’s Workcover premiums are higher than those in New South Wales and South Australia in meat processing?

Mr EGAN — I was not, no.

Mr CRAIGE — It is, and we hear so often in meat processing in particular that Victoria has one of the lowest premiums, but in fact it is higher than the two states that adjoin Victoria — New South Wales and South Australia — which compete in the same marketplace, don't they?

Mr EGAN — Yes, exactly.

Mr McQUILTEN — I refer to a point we talked about before about changes in your work environment, fixing up the gloves and all the new machinery. I recently had a meeting with another major meat manufacturer in Victoria. One area of that company's production had a large number of claims and problems as opposed to the other areas of the business. I suggested that it change to a management system that is often used by other companies but not by abattoirs. I have since organised a meeting with the Department of State and Regional Development and the company and it is proceeding with the changed management of the particular area. Half is funded by the state government and half by the company — it could even be three-quarters: I would have to check. The bloke's name is Rob Jones in Ballarat, from the Department of State and Regional Development, and if you talked to him I believe you could get some major assistance in trying to effect change on the work floor in the way the employees view the job, safety and the needs of your company.

Mr WESTLAKE — I have just two things to add. So that the committee understands our submission in whole, I point out that I sit on the editorial team for the national rewrite of the occupational health and safety guidelines for the red meat industry in Australia. It is tripartite documentation and we work closely together. There are hundreds of examples. This morning I was in the plant and a guy off the floor came to me and said, 'Andrew, this mat is worn out; can we get a new mat?'. He got his new mat. The consultation process is strong between us and our employees, and it will continue.

I take your point and hear what you are saying. I am comfortable that we are active in that area. From the technology area, our involvement in the rewrite of national guidelines has given us access to world best practice. I want the committee to understand that the problem we have with some of our most significant claims is managing that injury to its completion — that is, taking the employee to his or her pre-injury status. The barrier for us is the GPs that are selected through the solicitors who actively have a business and interest in this because it is their business. They send the employee to a particular doctor knowing full well they will get support, and I have examples of doctors taking people off treatment medication so that they do not get well. That is an example. Also, there have been two or three things that have happened in the court system in Warrnambool. Briefly, the employee has an ability to work and yet the court system allows him or her to drive his or her claim ultimately up.

Mr McQUILTEN — That is the reason I am suggesting you consider a change in management. It is about getting the employees to change their attitudes about things such as a return to work, and to look after the company's interests and also their own interests.

The CHAIRMAN — Mr Egan and Mr Westlake, thank you for coming today. The committee will send you a copy of the transcript so you can check what you have said. Thank you for your time.

Witnesses withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witness

Mr G. Daniels, General Manager, McDonalds.

The CHAIRMAN — Mr Daniels, thank you for your time. I am sorry to have kept you waiting longer than expected.

All evidence taken by this committee is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act. You wish to speak about Workcover. I will ask you to make an opening statement and then we will ask some questions.

Mr DANIELS — Thank you. Basically I wanted to let the committee know of the circumstances that the restaurants work under the current award. I am general manager of both McDonalds restaurants in Warrnambool and we come under that award. We have had a 27 per cent increase in our rates compared to last year, 10 per cent being GST. The biggest problem we are faced with at the moment is the lack of succession between employers rather than the actual business itself.

I will give you a scenario here, if I may. For example, say you own a restaurant, whether it be McDonalds or something else — and I have one. You buy mine and I buy yours. You have been a good employer for the past 10 years and I have been a bad employer. I have seen Workcover premiums going up, putting in claims, all that type of thing, but you have not — you have put the safety programs in place in your workplace, followed the letter of the law all the way along. I buy your business and I take over your rate. You buy my business and you take over my rate. You are then disadvantaged for the good work you have done in your workplace with your employers and employees, making sure that safety levels are covered all the way along. I have benefited to the point where I can come in, take over a lower premium, pay less money for that and then down the track if I wish I can sell it and buy my old workplace and that premium back again. That is to my disadvantage of course, but if I am a shonky operator prior to day one that will happen, because if I was not it would not have stemmed down all along.

Our industry rate is currently 2.27 per cent. Again, that comes down year by year if there are no claims made in the previous year. Currently with the two operations, bearing in mind that one of the restaurants in Warrnambool has been here 11 years and the other 4 years, we have nearly a 4 per cent difference in the two premium rates. Both have exactly the same operator or owner, the same general manager — myself — between the two restaurants, exactly the same procedures put into place, the same equipment used throughout both restaurants, yet there is a variation of 0.4 per cent in the rate, purely because one has been open for six or seven years longer than the other.

Again, if we get to a situation where the operators of those stores decide to sell the east store and keep the central store, the central store rate will apply to that licensee, even though he has had that workplace history for 11 years. His four years history in the central store is taken into account and not the 11 years.

Mr BEST — Neither outlet has had a claim?

Mr DANIELS — No, not at all.

Mr BEST — It is purely based on history?

Mr DANIELS — History of the length of business, not of the employer. No account is taken of the employer's service, whether it be good service or bad service. Likewise, if I have a bad history in 11 years at the old store, I can open the new store and be on the industry rate. The old store may have got up to 3 per cent but you can open up a totally new business and it starts at the industry rate of 2.27 per cent.

Mr McQUILTEN — Why don't you close down that old store and open it up two weeks later?

Mr DANIELS — You can actually do that, believe it or not. You can close the business and reopen a business on the same site or a different site, but you cannot add to your existing business. If I wanted to close the one down the road and open it at another location, I could then carry on my existing rate, but I cannot open a new business. What you are saying is exactly right.

I understand from discussions I have had with the Workcover authority in Melbourne that the New South Wales system is similar to the old Victorian system, where the succession rule applies to the employer rather than to the business. If you leave your business and you have a good history rate, you can take your history with you to the new business, keeping in mind that it is in the same industry, rather than that history staying with the business.

Basically, I wanted to let the committee know that the current situation is that the business has the industry rate, not the employer, where it is the employer that puts the practices into place and maintains the practices, not the

business. With other people in a similar situation, where they have more than one business in any one town or metropolitan area, they are all in exactly the same situation.

Another matter that came to my attention late last week involves exactly the same situation that happened at McDonalds, and the new licensee is up for an \$80 000 Workcover bill.

The CHAIRMAN — Because of the succession rate?

Mr DANIELS — Because he has bought a business that has a bad history. Maybe he should have looked into it in the first place, but he has been a licensee for 15 years and his service is not taken into account, nothing is taken into account, because the last operator did not look after his business the way he should have. The new guy is disadvantaged because of that, even though he has been in the business for 15 years.

Mr THEOPHANOUS — I understand that you would like the committee to examine the succession rule. The succession rule has been in place and had been operating under the previous government. I do not know what employers want. You can have either: you can take the history of the employer, or the history stays with the business, one or the other, but you cannot do both. You are suggesting that it should go with the employer rather than with the business. I do not see why that should not be examined, along with other issues that are being examined by the government at the moment.

Mr DANIELS — It puts the onus back on to the owner of the business rather than the business itself, because if they have good practices in place and they have the incentive to know that the premium rate will go with them wherever they go, it will be an incentive to instil that safety process into their employees throughout the system rather than saying that they can work their heads off to get their Workcover and their safety issues under control, but at the end of the day, once they leave, it stays there for the next guy who comes along.

Mr THEOPHANOUS — You are a part of a national company. Have you talked to your interstate people about premiums? Are they higher in other states on average?

Mr DANIELS — Certainly ours are higher than those in New South Wales. I could not give you an answer on the other states.

Mr THEOPHANOUS — That must be why we have more McDonalds here.

Mr DANIELS — Believe it or not, there are more in New South Wales.

Mr THEOPHANOUS — Despite the higher premiums?

Mr DANIELS — Despite.

Mrs COOTE — You employ a lot of young people. If again next year there is a 27 per cent increase in your premiums, would that affect the number of young people you put on?

Mr DANIELS — It would not necessarily affect the number we put on but it would certainly affect the number of hours they would get. Again, because it is worked on a payroll basis, we need a certain number of people to produce our product, serve our customers, that type of thing. Maybe the same number of people will be put on next year as this year, but the hours would be spread among those people. Ultimately, yes, people are being disadvantaged because of the extra 27 per cent we have had this year, and if there is an increase of 27 per cent next year it will have some bearing on wages.

The CHAIRMAN — Mr Daniels, thank you for coming along today. The committee will send you a copy of the transcript.

Witness withdrew.

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ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

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Witness

Mr W. McKinniss, Financial Planner and Counsellor, Community Connections.

The CHAIRMAN — All evidence taken by the committee is subject to parliamentary privilege and is granted immunity from judicial review under the Constitution Act and the Parliamentary Committees Act. Mr McKinniss, do you wish to make an opening statement? I understand you wish to speak to the committee on both Workcover and the GST. If you make an opening statement on Workcover, the committee will ask some questions and then move on to the GST.

Mr McKINNISS — Firstly, Community Connections is a welfare agency providing services in the areas of foster care, problem gambling, financial counselling, legal aid and disability services, so it covers a fairly broad spectrum. Our turnover is in excess of \$3 million. On Workcover, it looks to me as if we have had about a 38 per cent increase in premiums. That equates to about \$12 900 this year, which is not funded separately by any of our funding grants. We have to maintain that level of cost. We have a very low claims history but we still had a increase of about 0.5 per cent overall.

The CHAIRMAN — Did that 0.5 per cent equate to \$12 900 or is that the total premium?

Mr McKINNISS — No, the \$12 900 is the increase.

The CHAIRMAN — Given that you are a community welfare service organisation, did you apply to the government for additional funding for the purpose of meeting your Workcover costs?

Mr McKINNISS — Not that I am aware. I am the personnel and payroll officer. I am here today because our executive officer was not available.

The CHAIRMAN — You are not aware of any application?

Mr McKINNISS — I am not aware, no.

Mrs COOTE — You said you have not had any claims.

Mr McKINNISS — Very minimal. In the past two years there have been no claims. We have had incidents that have been under the \$400 limit that we have paid but there has not been any payout by the health insurance company.

Mrs COOTE — You say you are involved in looking after problem gambling and foster care. Where do the Workcover claims come into that?

Mr McKINNISS — We also have respite care for disabled people, and the injuries occur where a client has got a bit aggressive and got into the staff member.

Mrs COOTE — Do you have breakups of industry rates for those different areas? Obviously, your disability areas would be higher than those in problem gambling.

Mr McKINNISS — Yes. Last year we opened an office in Geelong with just administrative staff, and the premium rate in that office was higher than all of our Workcover rates.

Mrs COOTE — How many staff are there involved altogether?

Mr McKINNISS — There are about 85 on the payroll.

Mr BEST — Where do you source your funding from for different programs? Do you have to compete for funding?

Mr McKINNISS — A lot of it is through tendering. A lot of it is historical. Foster care has been running within the agency for 20 years. We have just won a tender from the commonwealth government for a call centre service for the aged; I think it is called Carelink. That was a commonwealth-funded program. Most of the others are state funded through the Department of Human Services.

Mr BEST — Is the funding for the programs that you provide competitively tendered for against other agencies around town, or within the district?

Mr McKINNISS — Some are tendered statewide because we might have agencies in Geelong that tender against us for services. It is just on the open tender system.

Mr BEST — So it is particularly difficult for you to continually account financially for the increases in Workcover?

Mr McKINNISS — It is, because there might be an increase within that period and you cannot adjust your contract.

Mr BEST — Someone asked you previously if you had approached government seeking some respite from those increased costs.

Mr McKINNISS — I know our executive officer is working with the Victorian body for welfare agencies, and they have been working through, particularly in the next area I will get into, the GST area, in increased costs and getting some recompense for those increases.

Mr BEST — What is the general length of your contract — 12 months?

Mr McKINNISS — They vary.

Mr BEST — Can you give me some examples so I have some understanding of it?

Mr McKINNISS — I would say the majority of them have been for three years, but it is really not a question I can answer.

Mr CRAIGE — The committee has heard that you have not been able to find the money to cover those increased costs. Does that mean that you have to look at reducing services?

Mr McKINNISS — At this stage we have not had to, but we will have to be very active and proactive in the way we provide those services. It is not an option at this stage, but if costs increase I can see that that is a possibility.

Witness withdrew.

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Workcover premiums for 2000–01

Warrnambool – 6 March 2001

Members

Mr R. A. Best
Mrs A. Coote
Mr G. R. Craige
Ms K. Darveniza

Mr N. B. Lucas
Mr J. M. McQuilten
Mr T. C. Theophanous

Chairman: Mr N. B. Lucas
Deputy Chairman: Mr T. C. Theophanous

Staff

Executive Officer: Mr R. Willis

Witness

Mr B. Delaney, Owner, Swinton's Carpet.

The CHAIRMAN — All evidence taken by this subcommittee is subject to parliamentary privilege and is granted immunity from judicial review pursuant to the Constitution Act and the Parliamentary Committees Act. I understand you are talking with us about Workcover. If you would like, please make an opening statement, and we will then ask some questions.

Mr DELANEY — My main concern with Workcover is subcontractors. I have employees, plus I employ subcontractors. The thing with Workcover at the moment is that I have to cover subcontractors yet they are registered as a business by themselves. They work for everyone around plus they do private jobs themselves, yet I still have to cover them for Workcover. The subcontractors are probably earning a bit more off a job than even the shop. For instance, if they go out to do a floor preparation and lay vinyl they could be making \$300 or \$400 off a job and the shop might be making \$100 or something like that, yet the shop might be taking full responsibility for the job. It is not just the floor covering game, it is the builders, too. They have to cover subcontractors yet they are a private enterprise themselves.

The CHAIRMAN — Let us make that clear. Does the shop employ the people who are laying the carpet?

Mr DELANEY — No, they are not employees, they are subcontractors working for themselves.

The CHAIRMAN — So if you sell carpet to person X, do you then provide person X with the name of the contractor who will lay the carpet?

Mr DELANEY — No, but we can. If we sell them a room lay of carpet, for instance, we can supply it and we can just give them the names of the carpet layers, or if they want us to measure and give them a price on the whole job, we do that for them.

The CHAIRMAN — So if you give them a quote for the whole job, does one of the subcontractors that you have listed do the job?

Mr DELANEY — Yes.

The CHAIRMAN — But you are saying to us that those subcontractors are paid separately in some cases and in other cases the all-in price is paid by you?

Mr DELANEY — Yes, that is right.

The CHAIRMAN — And in all cases are you paying the Workcover premium, or only in those cases?

Mr DELANEY — No, only on the ones that actually go through our books.

The CHAIRMAN — So let us work this out. At the end of the year when you have finalised your remuneration for the year, your Workcover premium would be paying for those contractors?

Mr DELANEY — Who go through our books.

The CHAIRMAN — Who have gone through your books?

Mr DELANEY — Yes.

The CHAIRMAN — Right, but in a separate situation they are doing work off their own bat and charging people for it and paying their Workcover premiums?

Mr DELANEY — If they are only working for themselves and have no employees working with them they do not have to pay any because they are by themselves. If they are with a shop, we have to pay. If you wanted a room of carpet laid and said, 'I just want to pay one cheque', then somebody would send you an account for it by itself. Yet probably the best way for us is just for you to buy your carpet and you can organise your own layer.

The CHAIRMAN — And if I pay two cheques, the total of those two might be less because the contractor does not have to put that on Workcover?

Mr DELANEY — No, all the contractors charge by the metre. It does not matter whether they finish a job

early or if it takes them two or three days to do it, they still charge the same. Now whether it is through the shop or by themselves it makes no difference.

Mr THEOPHANOUS — I am trying to understand what is going on. The Victorian Workcover Authority is here. It might be of use to you to have a chat to them afterwards. Do you have any problem with them showing us your records so we can have a look at this issue?

Mr DELANEY — Yes, that is all right. I even brought some subcontractor dockets to show where they charge by the metre, and so forth.

Mr THEOPHANOUS — When you write out a cheque, are you talking about the cheque that you write out to Workcover or to the agent — the Victorian Workcover Authority or whichever insurer — or are you talking about the cheque that you write to somebody who does a job for you which includes some Workcover component?

Mr DELANEY — No. At the moment the subcontractors do not charge us Workcover premiums. It is just what we pay them for the year. We total that up and we pay Workcover ourselves, to Workcover.

Mr THEOPHANOUS — You pay it to Workcover?

Mr DELANEY — Yes.

Mr THEOPHANOUS — On their behalf?

Mr DELANEY — No, at the moment we are supposed to pay it because they are classed as employees even though they are subcontractors.

Mr THEOPHANOUS — Do they do the substantial part of their work for you?

Mr DELANEY — Most of them do.

Mr THEOPHANOUS — So in effect could I suggest to you that the reason they are being classified in that way is based on a formula whereby they have to be doing the majority of or the biggest proportion of their work has to be for that one company, in this case your own?

Mr DELANEY — Yes.

Mr THEOPHANOUS — That is the reason they are being classified as employees, is that correct?

Mr DELANEY — Yes, it is at the moment. I still do not think that is right. I could go around town and get all different subcontractors to do all the different jobs but the thing is with my business I believe I have to get the best subcontractors, therefore if I have a good subcontractor I will tend to push the work his way, so he will probably end up doing more than 80 per cent of the work.

Mr THEOPHANOUS — I do not understand your point, because at the end of the day the Workcover premium would have to be paid. If it was paid by the subcontractor and not by you he would have to charge you in what he charged you for the job. Somehow it would finish up being paid for one way or another.

Mr DELANEY — But if they were only working for themselves they would not have to pay the Workcover.

Mr THEOPHANOUS — I do not know about that.

Mr DELANEY — No-one would know.

Mr THEOPHANOUS — I think the problem here is that many people could be having many accidents but no coverage, and that is not what we want.

Mr DELANEY — Two years ago, for instance, one of the subcontractors who was working for the opposition came and worked for me probably a couple of days before Christmas and never hurt himself at all, and about three months later he gave me a Workcover claim. I said to him, 'Well, you never hurt yourself with me', and he said, 'That's right. I have had a progressive injury over years and years, and because you are the last person I worked for I am supposed to put the claim through you'. Yet he only probably did a couple of days work for us.

Mr BEST — When it did this happen, last year?

Mr DELANEY — No, this was probably a couple of years ago now.

Mr BEST — I am like Mr Theophanous. I think it is either where the premium actually originates, or if it is not a premium it is where the subcontractor takes out insurance on his own behalf. I wonder whether you are raising your invoices in a way that differentiates between the cost and supply of carpet and the cost of laying carpet. I do not know. If I were you I would be talking to an accountant because I see the complexities of the problems that you have and the costs you are incurring, which may or may not be fair. In particular, the last instance that you stated is grossly unfair. It is an issue that I would encourage you to talk over with the Workcover authority and your accountant.

Mr DELANEY — See, I have been told that Harvey Norman is at the moment giving customers separate invoices for the materials and the layers are charging the customers themselves. That is probably an option we may have to look at yet. Many customers will not like it and say they want to write one cheque. We do get those.

Mr BEST — That invoice may have to be raised with additional costs associated with that invoice that cover either the insurance on behalf of the carpet layer or the Workcover costs, but I think you do need some professional advice.

Mr DELANEY — Our jobs are all quoted so I have been doing that and have ended up losing jobs because I added in the WorkCover and others don't.

Mr BEST — I am not an accountant by trade. I think you need to seek professional help.

Mrs COOTE — It is complex either way. Has Workcover been helpful and given you assistance with this? Have you had direct communication with Workcover?

Mr DELANEY — Yes.

Mrs COOTE — And they have not been helpful?

Mr DELANEY — Not helpful because there are too many grey areas.

Mrs COOTE — So they have not been helpful at all?

Mr DELANEY — No.

The CHAIRMAN — Mr Delaney, thank you for coming along today. We appreciate the time you have given us. We will send you a copy of the transcript for you to look at.

Committee adjourned.