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## **Official Report of Debates (Hansard)**

**Monday 18 April 2011**

## **Journal des débats (Hansard)**

**Lundi 18 avril 2011**

**Standing Committee on  
Social Policy**

Occupational Health and Safety  
Statute Law  
Amendment Act, 2011

**Comité permanent de  
la politique sociale**

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

Chair: Shafiq Qadri  
Clerk: Trevor Day

Président : Shafiq Qadri  
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
SOCIAL POLICY**

**COMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE**

Monday 18 April 2011

Lundi 18 avril 2011

*The committee met at 1402 in committee room 1.*

**OCCUPATIONAL HEALTH AND SAFETY  
STATUTE LAW  
AMENDMENT ACT, 2011**

**LOI DE 2011 MODIFIANT DES LOIS  
EN CE QUI CONCERNE LA SANTÉ  
ET LA SÉCURITÉ AU TRAVAIL**

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

**The Chair (Mr. Shafiq Qaadri):** Ladies and gentlemen and colleagues, welcome to further committee hearings on Bill 160, An Act to amend the Occupational Health and Safety Act and the Workplace Safety and Insurance Act, 1997 with respect to occupational health and safety and other matters.

We have a number of presenters coming forward today. For all of those concerned, each presenter—group or individual—will have exactly 10 minutes in which to make their remarks. That is digitally timed and will be enforced with military precision. I say that so we might be able to head off any timing controversies which seem to arise for press purposes, shall we put it that way.

**D'ORAZIO INFRASTRUCTURE GROUP**

**The Chair (Mr. Shafiq Qaadri):** To begin with, I'd like to invite Mr. Andrew Stone, health and safety coordinator of the D'Orazio Infrastructure Group. Please have a seat, Mr. Stone. You've seen the protocol. Any time remaining, as I said earlier, will be divided amongst the parties evenly for questions. Your time officially and irrevocably begins now.

**Mr. Andrew Stone:** Thank you. I'll start off with the topic "New Prevention Council and CPO: The Key to Success Lies Within Itself." I would like to remind and make aware that we tend to forget that the MOL runs the WSIB and that we tend to separate the two differently as separate entities when, in fact, they're not. The MOL has

sole control of the WSIB, hence the handout here, the first sheet, the structure format. With that being said, it brings the question: What makes the MOL running prevention any better than the WSIB when the MOL already had control of the WSIB in the first place?

If we look more to the subject, more questions come to mind. If the MOL has no interest in prevention, then what makes the difference now? Since the MOL had a prevention branch at the WSIB, why the new costs and reorganization of something that already existed, never mind the simple fact that when you restructure, the time to implement—it has been said by MOL officials to be four to five years. How does this improve the well-being of lives when time is of the essence?

Our next section is "Duties of the Minister and Chief Prevention Officer in Council." This area, again, I have trouble understanding, similar to my last area of conversation. The proposed new amendment calls for the creation of an annual report, announcement, prevention strategies and advice-sharing between all three parties. Again, this is already done by the MOL and has been published on their website for years now. If you look in the next handout, the next page, you will see that, right from their website. It's kind of redundant, to a degree. In fact, the reports go back—I have recorded here—to 2006, and the current one, 2010-11.

My next topic will be mandatory training. I am pleased to finally see that training of the health and safety representative will be mandatory, and that the construction sector's section 21 committee had a large part in making this happen. I truly believe this is a good start to ensuring that equality between labour and management is maintained. However, I do have to bring up some concerns in the area of training in this amendment.

I know I can't speak for other companies, but I've spoken to colleagues in other companies, and the same concern has come up in several conversations. I understand quite well the nature of our industry's transient workforce. Employees forget or do not have records of training on their person, or are not given copies to keep when their company has paid for their training and their time spent. However, good due diligence practices already require the employer to maintain records of training, to be made available at the request of the inspector. I don't see the point of a data bank. The current government has shown that it does not have the ability to create or manage an effective system or, furthermore, control the cost of such a system.

Another concern is the fairness of access to training records. A good company invests in its employees and absorbs all or a large portion of training costs—more so if companies have created their own in-house training or safety departments. However, some employers do not invest. This includes all sizes of companies.

From my understanding, this new system would require workers to give consent or to make available an abstract of their training which the next employer could have. It would be a slap in the face to companies that are proactive—and this includes companies that are trying to improve their own internal responsibility system—to know that they have provided free training for others, and potentially their competitors.

This training data bank is not going to improve health and safety. This can only be done if the company is committed to the well-being of its employees. A training record is just a piece of paper. A company must ensure that the worker understands his or her training at all times. If the mentality of the piece of paper is considered due diligence, we do have a problem.

However, the key to success lies within itself. I've made some recommendations:

—Don't change the current structure; the MOL has a structure in place.

—Use the four safe work associations' board of directors as a base council, the chair from each to meet with the minister or MOL director who is solely responsible for their sector or department.

—Share the report information. This already exists and is similar to the nature of what is being proposed in the amendment. This forum can also recommend, design, train and communicate any and all recommendations that Bill 160 presents effectively at no extra cost.

—A new section 21 committee for small business and new workers is not practical as a committee, for the fact that it's a universal sector issue, and due to inherent differences in each sector, it would be impossible to reasonably create a universal solution. However, if the MOL were to mandate current section 21 committees/labour management committees to create a subcommittee or a requirement to address this subject, it would better be able to develop solutions based on a sector-specific level, and it would be easier to communicate information and participate, as some committees are already in place throughout Ontario, providing great stakeholder input.

The MOL can better utilize its safe work associations and their section 21 labour management committees. Each association has access to some of the best health and safety personnel in the world. Added to this already experienced system would be the use of a section 21 or labour management network. This network of committees holds access to organized labour, non-organized labour, management from both union- and non-union-affiliated employers from big to small, and also health and safety personnel from the private sector.

That being said, the structure I have presented already exists. It's fully functional, meets or exceeds the proposed amendment, and it's free. In fact, companies

are paying to be there. Companies are paying the wages for their representatives to attend and participate.

I think I've clearly demonstrated that the Ministry of Labour has never had the desire nor the commitment to understand prevention. However, if the government would allow the private sector to better share the burden of prevention, as that is where prevention starts and finishes, it would, as I have demonstrated, result in front-line success where it's needed, be fiscally more efficient, be able to quickly relay information and truly be more transparent in nature.

#### 1410

A quick summary of Bill 160:

—Lacks commitment: When words like “may” are put in the duties of people, it shows no commitment. If commitment is serious, the word that should be used is “shall.” Too many “mays” are in the proposed amendment.

—Redundant council: system already in place, already being done.

—Chief prevention officer not needed: No one person can make success. Better use of the internal structure of the MOL would be more effective and still meet Tony Dean's recommendations of MOL control.

—Better representation and participation with stakeholders from the industry will prove greater success. Again, that's where prevention starts and finishes.

—Safe work associations: Section 21 labour/management committees meet and exceed the proposed duties of the prevention council; again, a tool for success already in place, ready to go.

Training costs will escalate for companies. Small business will suffer and only promote under-the-radar activity. The MOL needs to address and commit to small businesses as a priority. Change is only as strong as its weakest link.

The minister has shown no action plan to make this happen, and it's made clear by his comments in the Legislative Assembly. Asking companies to approve Bill 160 without a plan is disrespectful. Making comments such as, “Our stakeholders will be consulted as we build on this framework and work to achieve the best implementation of the panel's recommendations,” on March 8, 2011, in the Legislative Assembly clearly proves there is no direction.

The word “consulting” is vague and can sound good intentioned. Clearly, when stakeholders hear the word “consult” from the government, it merely is a formality to say, “We spoke to them and addressed them, but we didn't want to hear from them.”

The minister and the MOL should think about using the IRS itself with the stakeholders, and lead by example. The problem is that the system is already there on the IRS except that the one part that's missing is the reporting. If you were to follow the IRS, we as stakeholders would be the workers giving recommendations, but yet we don't get back a response of yes or no.

Thank you. That is all I have to say.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Stone. We only have 40 seconds left. I'd like to thank

you, on behalf of the social policy committee, for coming forward with your deputation as well as your written submission.

ONTARIO SECONDARY SCHOOL  
TEACHERS' FEDERATION

**The Chair (Mr. Shafiq Qadri):** I'd now invite our next presenters, Mr. Brockwell and Mr. Coran of the Ontario Secondary School Teachers' Federation, to please come forward.

Before I let you gentlemen begin, committee members are no doubt aware of this, but for those who are coming to present, the Minister of Labour is now Mr. Charles Sousa. We're still receiving a lot of correspondence addressed to the Honourable Peter Fonseca who, I understand, is currently seeking opportunities elsewhere—just to announce to all those who are concerned with these matters.

Mr. Coran and Mr. Brockwell, please begin.

**Mr. Ken Coran:** Thank you, sir. I'll start by introducing a little bit about our organization. I'm Ken Coran, president of the OSSTF, the Ontario Secondary School Teachers' Federation. Beside me is Craig Brockwell, who is a former construction worker turned educator and now working with us. He's our Queen's Park analyst.

It's the first time you've got a piece of paper from any educator that is only one double-sided sheet in length—we've tried to be very succinct—and I'll just explain to you the process by which this paper was developed, because I think that kind of brings it all in terms of where we're going.

Internally, in our organization, we have a provincial health and safety committee, and it was the task of that committee to review Bill 160, review some of the amendments to it, prepare a paper and then work with other colleagues in the Ontario Federation of Labour to come up with some points that were consistent so that they would be stressed throughout various presentations. Looking at the lineup today, it looks like you're going to have a series of presentations that will probably have the same spin to them.

So where we decided to go as an organization was this: The Dean report came out just prior to Christmas and had a lot of great recommendations—over 40 of them. The government has put together the paper, and the paper has gone very, very well, with some tremendous improvements there. What our task is now is to take something that's good and to try to turn it into something that's maybe a little bit better, that could do with some tweaking. The ultimate goal is to improve health and safety, and that is how we approached it.

So if you look at our paper, you can see that it's divided basically into five components. The first one is called "Politicization of the Prevention System." To sum up basically what it is saying there, we would like there to be more duties that are transferred to the chief prevention officer. Why we would like that to happen is relatively straightforward. First of all, the chief preven-

tion officer is an expert, and so if someone is deemed an expert in a field, they should be given more responsibilities and more duties.

Also, this allows that there will be tremendous times of transition. We just heard the chair mention that this whole press started with Minister Fonseca and now is in the hands of Minister Sousa, so there are transition periods. If some of the duties were transferred to the CPO, that CPO would be consistent; and if the government were to change, that CPO would be consistent. So in times of flux and times of transition, it would appear to make sense to have that one constant person having more responsibilities and more duties so that there would be consistency during different time periods.

Point number two on there talks about the autonomy of the Workers Health and Safety Centre and OHCOW. From our experience in the education sector, what we have seen is that when people have trust in the delivery system and trust who is presenting a message, it has resonance. If the goal, as I say, is to improve health and safety, these are two bodies that have earned the trust of every worker in the province. If there is a way to kind of enshrine their existence in legislation, that's one of the examples of the little tweaking that I think would carry tremendous dividends. If they're already respected, if they already have great programs, why not enshrine it so that it will continue and, in fact, be extended? Because the mechanism is already there.

The third point talks about the legal authority of the inspectors. From the analysis that our working group did, this was not part of the original Dean report, but we see that it could be problematic, because it really doesn't name the director. There could be many directors. There could be many directors in different parts of the province. There could be different lines of communication to those directors. So unless you tweak it a bit to name exactly who that director is or what director that would be, it seems like it could be confusing and could also lead to maybe conflicting decisions and time restraints not being met.

Point number four is lack of real worker reprisal protection. This one was also not part of the Dean report. This is one that is of great concern to us, because we believe very strongly in the expertise of the inspectors. If an inspector were to go to a workplace to do an inspection because of a problem that has arisen, many times they may actually witness a reprisal. It would be their testimony that should carry a lot of weight, pending on a decision from that concern. If these people aren't allowed to testify and to show what they have seen using the expertise that they have, we feel that perhaps the system is not as good as it should be. So we would hope that the government would review that situation to maybe give more power to the inspectors, should there be a reprisal.

The last point there is something that we feel also very strongly about, and this is the fact that in the Dean report, it said that workers should be able to submit recommendations to the employer. So the process would be this: There's a joint health and safety committee. Either

the workers or management could have a particular concern or a particular recommendation. If both groups in the joint health and safety committee don't reach consensus with regard to that recommendation going forward, it could very well be that whoever the authority is of whatever firm it happens to be—in our case, it would be a director of education—if there's not a consensus reached, even though there could be a very valid recommendation, it would not go up to the next level.

**1420**

If it doesn't go to the next level and it's not addressed, then conceivably we could have a grievance that would be filed and quite possibly even something that could go to the labour board, which would then incur costs from both sides. So if there is a mechanism by which a recommendation can go forward and not have it necessarily achieve the consensus, it seems that it could go a long way to ensuring that a recommendation that has value would be heard by the appropriate person and not stalemated at that particular level at the joint health and safety committee because it requires consensus.

That, Chair, in a nutshell—I know I've gone very, very quickly, and I know that people are reading the submission probably for the first time, but I think what it's tried to do is take something good, tweak it a bit and make it better, because I guess the true determination will be, does this bill achieve what it's supposed to achieve, which is improving the health and safety of workers?

Thank you, Chair.

**The Chair (Mr. Shafiq Qaadri):** We have 45 seconds—I repeat, 45 seconds—per side. Mr. Miller.

**Mr. Paul Miller:** It was a short but effective presentation.

I see that one of your concerns is enforcement of section 50 and the reprisal section. Would it be fair to say that you would agree that enforcement must be based on the principle that the cost of non-compliance is greater than the cost of compliance? Would that be a fair statement?

**Mr. Ken Coran:** I think so. What we would want to see is that every side has the right to present all of the information so that the appropriate decision could be made as to whether it was a reprisal or not. So, absolutely.

**Mr. Paul Miller:** Other people from your sector have made presentations. One of their concerns was obviously the lack of enforcement and the lack of inspectors. You would certainly like to see more inspectors, more enforcement and the ability to, on site—

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

**Mr. Lorenzo Berardinetti:** Just a quick question: In the last point, number 5, you mentioned some of the issues there. I'm just wondering, how would you recommend that this section or this part of the act be amended to remove the perceived onerous obligations on the joint health and safety committees?

**Mr. Ken Coran:** In other words, how can we make sure that those recommendations would go to the appropriate body so that they would be addressed?

**Mr. Lorenzo Berardinetti:** Yes.

**Mr. Ken Coran:** That's up to the lawyers probably. I think it would have to be amended such that you would not need a consensus for it to go forward. Whatever wording—I'm not a lawyer, but—

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

**Ms. Sylvia Jones:** In your fourth point, where you talk about the lack of real worker reprisal protection, you mention, "We have had clarification that the government intends to allow direct evidence from inspectors at a prosecution." Can you tell me where you got that information?

**Mr. Ken Coran:** Sure. I believe that what happened is, right after the Dean report was released, the next step was to set up the IPC, and from the IPC, some of the recommendations were forwarded. They analyzed it, and then it's gone back and forth a couple of times, or within an internal working group. So it would be from whatever members we have that are in consultation with that body that we would be led to believe that to be the case.

**Ms. Sylvia Jones:** Because you're the first person who has had some comfort that that would change.

**The Chair (Mr. Shafiq Qaadri):** I'll need to intervene here. Thank you, Ms. Jones, from the PC caucus, and thanks to you, gentlemen, Mr. Coran and Mr. Brockwell, on behalf of the OSSTF.

#### CANADIAN UNION OF PUBLIC EMPLOYEES ONTARIO

**The Chair (Mr. Shafiq Qaadri):** We appreciate our next presenters coming forward somewhat earlier than scheduled, President Hahn and Mr. Morin of CUPE Ontario. Welcome back, gentlemen. I know you're very well familiar with the protocol. I'd invite you to please begin now.

**Mr. Fred Hahn:** Good afternoon. My name is Fred Hahn. I'm the president of CUPE Ontario, and with me is Blain Morin. He is a CUPE national representative, specializing in occupational health and safety. We're pleased to make the presentations around Bill 160.

With more than 240,000 members in every community and in every riding across Ontario, CUPE is Ontario's largest union, and we're very concerned about the impact of this legislation on all workers and all workplaces in the province.

Before I begin my comments on Bill 160, I want to acknowledge the many CUPE members who have been here and talked to this committee: Tracey Newman, a CUPE member from the Halton Catholic school board; the chair of our CUPE Ontario's occupational health and safety committee, Don Postar, also a school board worker; Lisa Marion, who is a CUPE member from Queen's University in Kingston; and, of course, Harry Goslin, who's the president of Local 1750, representing workers at the WSIB across Ontario.

Following the horrible accident of December 24, 2009, where four workers met their death, Ontario made

a decision to appoint Tony Dean to an expert panel to make recommendations about Ontario's health and safety regime. CUPE expressed reservations right from the start about the Dean report with respect to the responsibility of prevention and the role of the WSIB, but overall, the expert panel's final report and recommendations were supported by Ontario's labour movement.

The Dean report gave rise to big expectations for the legislation that would follow, but when we saw Bill 160 as representatives of CUPE—and, I would say, from the rest of labour—we were unanimous in saying that Bill 160 does not reflect the heart of the recommendations that unions signed off on in the Dean report. It will not make workplaces safer in the province of Ontario. It won't prevent accidents like the one that happened on December 24, 2009, and from our perspective, it therefore needs to be changed.

In supporting the Dean report, it was never anyone's intention, nor was it the intention, we would think, of the expert panel itself, to have legislation passed that would force the WSIB to cancel all of its prevention programs—Workwell, for example—that actually work for employers to help prevent workplace accidents, injuries and illnesses. Tony Dean never said that we have to find a way to stop the WSIB from doing prevention work, yet that is exactly and precisely what Bill 160 will do, because it amends the Workplace Safety and Insurance Act to remove the word “prevention” entirely from the mandate of the WSIB. Simply put, this will not make Ontario workplaces safer; in fact, it's likely to make them less safe, because the mandate of prevention is an important mandate of the WSIB.

CUPE, along with the rest of labour, identified a number of areas in Bill 160 that we believe must be changed; you heard a little bit about them from Ken Coran and the OSSTF. We are, as they are, concerned about the over-politicalization of the new health and safety regime, minimizing the role of the proposed chief prevention officer and the new prevention council. We're concerned about the viability and the autonomous nature of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers. We're concerned about the devolution of power to Ministry of Labour directors to make binding interpretations of occupational health and safety law region by region. We think this will lead to variable and conflicting interpretations and enforcements of the law. We're concerned about the protection of workers from reprisals by declaring that Ministry of Labour inspectors would not be deemed competent or compellable to testify at hearings on their behalf. And we're concerned about new conditions that restrict the ability of workplace joint health and safety committee co-chairs and their ability to make clear recommendations to the employer.

While we share all of these concerns—and we address each of them in our written submission in detail—I want to spend the remainder today focussing on three areas that we think deserve special attention, so that the committee can truly understand how these points in Bill

160 should be amended in order to best protect workers in the province of Ontario.

First, the viability and autonomy of the Workers Health and Safety Centre and the Occupational Health Clinics for Ontario Workers: It's absolutely critical that these key organizations be respected, and that mechanisms be put in place to protect their governance and their ability to set their priorities, approaches and philosophies to develop content and services and information that meet the needs of workers. The Workers Health and Safety Centre serves as the province's legally designated health and safety training centre, and the only occupational health and safety organization in Ontario endorsed by labour. OHCOW clinics provide needed services, as well as valuable resources, utilized by workers and employers throughout Ontario. By failing to recognize and support the necessity and autonomous roles of both of these organizations, Bill 160 threatens the autonomy of the agencies and their ability to meet their expressed outcomes in terms of training and the needs of workers and employers. So we believe that amendments must be made, as outlined in our written submission, to ensure that those organizations are autonomous.

In terms of the devolution of power to Ministry of Labour inspectors, Bill 160 would amend the Occupational Health and Safety Act to allow for directors to write interpretations of policy that would carry the force of law. The bill allows for any of the 14 Ministry of Labour directors to write interpretations and send them out to the inspectorate, such that this could create—and, we believe, would create—a patchwork of enforcement standards that benefited neither employers nor workers. Not only is it wrong to let directors decide what the law is, but it's bizarre to imagine that 14 directors could make 14 different interpretations of one law, and then order Ministry of Labour inspectors to enforce them.

#### 1430

A recommendation for the devolution of power could not be found in any of Mr. Dean's 46 recommendations, so we recommend that section 3 of Bill 160 be deleted.

Amendments to the Workplace Safety and Insurance Act: With respect to this part of Bill 160, there is an amendment to the Workplace Safety and Insurance Act, and there's one basic point to be made. To remove prevention from the mandate of the Workplace Safety and Insurance Board, as this bill does, will not make Ontario workplaces safer. We believe it will lead to the agency being rendered less able to make sure that workplaces are safe, and it will eliminate their ability to put pressure to bear on employers.

There are many programs that happen at the Workplace Safety and Insurance Board that work well; for example, the Workwell audits. This program involves WSIB staff going into workplaces over a period of time and working with the employers to identify steps and changes that need to be made in that workplace to make it safer and which, when done properly, can actually lead to lower premiums. This program has pre-existed any changes to the WSIB, and it has existed since the early

1990s. CUPE canvassed our colleagues in the labour movement, and to a one, we can find no union, union leader or union health and safety activist who does not support Workwell as a highly effective program that leads to safer workplaces and which should absolutely be maintained. But as it's written, Bill 160 will likely cause an end to this vital program.

Of course, there's Return to Work, another example of a widely supported program run by the WSIB that includes a prevention function.

Insurance and prevention are inherently linked. The arguments that may be made that there is no inherent link between an insurance function of a board and prevention functions is simply not supportable. Even a private insurance company tells a homeowner that they need to make improvements to fireplaces; otherwise, their premiums will rise to reflect the increased likelihood that their house could burn down. Can anyone separate the prevention component of that argument from the insurance component?

If you can't find a good reason to force the WSIB to stop talking to employers about how they can better prevent workplace accidents and injuries, then you must amend Bill 160 to keep prevention as part of the mandate of the WSIB.

The issues addressed in Bill 160 are far more complex, we believe, than any of us fully appreciated up until now. There's an old saying that the road to hell is paved with good intentions, and we think that Bill 160 is an excellent demonstration of how true that is.

We're asking the committee to slow down the process to reassess how Bill 160 measures up against the intent of the Dean report and the intent of all of those who supported the expert panel.

The details of our suggested changes are in our written brief. Please take the time and make the necessary changes to this bill so that it actually helps to make Ontario workers more safe, which is what we all want to do. Thank you.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Thirty seconds per side. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Thank you for your presentation today. If an inspector were permitted to attend an OLRB hearing in cases where they had direct evidence of a section 50 reprisal, would this alleviate one of your concerns?

**Mr. Fred Hahn:** Yes.

**Mr. Lorenzo Berardinetti:** Okay, thank you.

**The Chair (Mr. Shafiq Qaadri):** Mr. Arnott.

**Mr. Ted Arnott:** Thank you very much for your presentation, Mr. Hahn. It's good to see you again, Blain. My question to you is quite simple and straightforward: Do you think the government should withdraw this bill and start again, or do you think that with amendments the bill can be fixed to your satisfaction?

**Mr. Fred Hahn:** There is a series of amendments that we've suggested. One of the issues that is also happening is there is the WSIB funding review. So from our perspective, it would also be useful to have a compre-

hensive view of this. But we think that some of the positive elements—

**The Chair (Mr. Shafiq Qaadri):** Thank you. Mr. Miller.

**Mr. Paul Miller:** Thanks, Fred. Basically, the chief prevention officer, his role in the set-up that they've got in Bill 160, with his close relationship with the ministry, do you think that he may be following a political agenda that may interfere with the independent health and safety organizations in our province?

**Mr. Fred Hahn:** The way the bill is written, absolutely. The chief prevention officer and occupational health and safety must be removed from the political process. It is not about politics; it is about keeping workers safe.

**Mr. Paul Miller:** Thank you.

**The Chair (Mr. Shafiq Qaadri):** Thanks to you, President Hahn and Mr. Morin, for your deputation on behalf of CUPE Ontario.

#### ONTARIO FEDERATION OF LABOUR

**The Chair (Mr. Shafiq Qaadri):** I now invite our next presenters to please come forward, Mr. Sid Ryan of the OFL, Ontario Federation of Labour, and colleague. Please begin.

**Mr. Sid Ryan:** Okay. Thank you. My colleague is Laurie Hardwick from the OFL. You'll hear a lot of repetition here, I guess, in terms of labour's position. It's pretty consistent across the board. I want to thank you for the opportunity to present here today.

Last week, a 26-year-old died a gruesome death when he was pulled into an industrial machine. Last year alone, there were 490 fatality claims and over 240,000 reported injuries in Ontario. I'm calling your attention to these grim facts so that we all understand what is really under discussion here today.

At its heart, this legislation is about the extent to which we value human life. In a full and frank meeting with Labour Minister Sousa two weeks ago, I outlined six major concerns that were out of step with the expert panel recommendations, both in spirit and intent. The bill is the first attempt in 20 years to make significant improvements to the Occupational Health and Safety Act. I cannot emphasize enough, therefore, how important it is to get it right.

In that regard, sections 4 and 5 and subsection 8(2) are extremely troubling to us, in that they will lead to the politicization of the health and safety system. The expert panel recommendations were clear: They called for the new organization to be headed by a chief prevention executive. Instead, Bill 160 invests the minister of the day with those powers and leaves day-to-day life-and-death decisions captive to the rise and fall of political fortunes and popularity polls.

Likewise, investing civil servants with the power to make law and sidestep the authority of the Legislature and the cabinet also presents a very real danger to the overall integrity of the system. The government has said

that it is trying to address inconsistencies in the application and enforcement of the health and safety legislation. We also have concerns about this issue, but this is not the way to fix the problem. I'm prepared to bring our affiliates to the table and sit down with the ministry to work out a solution to this issue.

We also call your attention to extremely troubling attempts to tie the hands of health and safety inspectors. They are one of the most critical bulwarks against death and injury in the workplace, and imposing restrictions and limitations on them will impede protection for workers. The bill also makes inspectors not competent to be a witness at a hearing on a reprisal complaint. This undermines the intent of the expert panel on the issue of improving reprisal protection for workers.

The expert panel rightfully viewed the issue of reprisals as an extremely serious impediment. I spoke about the young man, Justin, who was killed last week in an industrial machine. CBC interviewed Venn Bootan, a former worker of the company, who says that he'd been let go only a month before for raising concerns about numerous health and safety violations. Reprisals by employers happen so frequently and create such a culture of fear that experts point to them as a major barrier to the prevention of workplace deaths. More roadblocks have also been thrown in the way of what should be a straightforward communication from the joint health and safety committee. If you continue to allow the administrative barrier to moving the co-chair recommendations forward, you'll silence the very people whose information can prevent deaths and injuries from occurring.

Finally, we are recommending that Bill 160 include specific provisions to designate and fund both the Occupational Health Clinics for Ontario Workers and the Workers Health and Safety Centre. It is absolutely critical to us that both of these organizations remain unimpeded for the work that they do.

We have detailed these six top-priority items in our submission. Each one of them represents a serious departure from the expert panel recommendations. Taken together, they fundamentally alter the stated intentions of the government to create legislation to protect workers, unionized or not, from injury and death.

Politicians too often become inured to stats and numbers, but we are asking you to try to connect with even one of these deaths and imagine that that person is a real human being, alive, well, going to work and dying as a result of this—am I interrupting your conversation over there?

*Interjection.*

**Mr. Sid Ryan:** Okay.

We don't want you to accept the 490 deaths last year as the status quo. There is nothing normal about even one of them, and I'm urging you to view these numbers as the catastrophe that they are.

It was utterly devastating when four construction workers fell to their deaths on Christmas Eve in 2009 because Metron Construction and its owner, Joel Swartz, viewed them not as people but simply as a means to an

end. This is the reality of too many workplaces. Their deaths, in part, prompted the ensuing expert panel review. You can appreciate how much is at stake.

If these changes are not made to our satisfaction, the labour movement will not be able to support Bill 160.

I'll be happy to take any of your questions.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Ryan. We'll begin with the PC caucus. About a minute and a half per side. And just to inform committee members and presenters that committee members are allowed to converse. Thank you.

Mr. Arnott.

**Mr. Ted Arnott:** Thank you, Mr. Ryan, for your presentation. We appreciate it very much. It was very clear, very well laid out, and the written presentation helps us continue the deliberations after, as the discussions continue. So thank you again for your presentation.

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**Mr. Sid Ryan:** Thank you.

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

**Mr. Paul Miller:** Brother Ryan, how are you today?

**Mr. Sid Ryan:** I'm excellent.

**Mr. Paul Miller:** I just wanted to know: One of the major problems over the years, Sid, has been the lack of enforcement and the lack of inspectors' ability to fine on the spot—sizable, meaningful fines. Do you feel that Bill 160 has addressed section 50 to your satisfaction in any way, shape or form?

**Mr. Sid Ryan:** Well, not as it's currently written, it has not. But what we need to see—this is the enabling legislation. What we actually need to see is what will come forward in terms of what will be accepted in terms of the recommendations that were made by the expert panel. If the expert panel recommendations are implemented, it's a huge step forward in terms of a deterrence against reprisals against workers in the workplace.

But as I say, the devil's in the details. Let's see what actually makes it into the legislation, flowing from the expert panel's review.

**Mr. Paul Miller:** Thank you.

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

**Mr. Lorenzo Berardinetti:** Thank you, Mr. Ryan, for coming out today and bringing some very valid concerns forward.

I wanted to ask you one question in particular: If all training-related responsibilities under this bill were transferred from the minister to the chief prevention officer and certain powers regarding oversight and monitoring of designated entities were transferred as well to the chief prevention officer, would this address one of your concerns at least?

**Mr. Sid Ryan:** Yes, it certainly would. There's a huge concern that we've got in the labour movement that if you leave the powers vested in the minister themselves—we've all seen, as an example, when the Tories were in office that we had a workplace health and safety agency that was doing a tremendous job on behalf of workers in

Ontario. The ideology of that particular party—it didn't see the health and safety of workers in Ontario as a priority. They killed that agency and stuffed the whole question of prevention into the workers' compensation system, which nobody believes, in this province, has worked effectively ever since.

We're afraid that if we vest the powers, as we just talked about a few moments ago, in the minister, then down the road—God forbid there would ever be a Tory government in this province, but if there was, if that unfortunate situation ever happens, we could find ourselves once again where the minister of the day starts playing politics with the lives of workers in Ontario. We'd find ourselves in that situation.

So in order to prevent that, the suggested changes will help us protect ourselves against the Conservatives.

**Mr. Lorenzo Berardinetti:** One of the politicizations that could—

**Mr. Sid Ryan:** Well, exactly. Health and safety is far too important to be a partisan issue. It really is not a left, it's not a right, it's not an NDP, it's not a Liberal or a Conservative issue. It's a workers' issue, and everybody should be concerned that when somebody leaves home in the morning, they go home, back again, safe to their families at night time. That's what the issue is, and it's not about the politics, like it was when the Tories got in and played politics with the lives of working—

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Berardinetti, and thanks to you, Mr. Ryan, for your deputation—not only today, but your many contributions. I should also say that it's nice to see the government members sharing, at least on occasion, some of the sentiments that you've expressed today.

#### ONTARIO PUBLIC SERVICE EMPLOYEES UNION

**The Chair (Mr. Shafiq Qaadri):** I'd now like to invite our next presenter to please come forward: Mr. Warren Thomas of the Ontario Public Service Employees Union, OPSEU, and colleague. Welcome.

I should just mention: If there are—how would one say—some silent contributors, please feel free to introduce them, at least, so they can be part of the permanent record and it would be then part of the record of Parliament.

Thank you. Please begin.

**Mr. Smokey Thomas:** I have with me today Lisa McCaskell. She's a health and safety expert with the union. And if I talk fast, do we get more time for questions? Yes? Perfect.

I have two areas of concern; one is reprisals. The bill does not address the critical issue of reprisals against workers, one of the topics that the expert panel repeatedly heard compelling evidence about. Bill 160 does offer some assistance in this regard by allowing an inspector, in certain circumstances, to refer a reprisal complaint to the OLRB, but then renders that assistance almost useless by making inspectors neither competent nor compellable

witnesses in a proceeding relating to a reprisal complaint. While OPSEU understands that, legally, there may be good reasons for a ministry inspector to be a non-compellable witness, we are deeply concerned about this new impediment of competency, which will prevent inspectors from providing evidence that they have gathered when investigating a worker's complaint.

**Power of directors:** Bill 160 gives directors of the Ministry of Labour the power to interpret law and to publish policies that have the force of law. It requires Ministry of Labour inspectors to abide by these policies as a requirement of the act. We have heard from the Ministry of Labour that it needs this new provision in the act to ensure consistency in the enforcement activities of its inspectors. OPSEU is aware that the expert panel heard complaints from employers and from labour representatives about inconsistent enforcement activities by inspectors within and between regions. Although OPSEU recognizes that there may at times be inconsistent approaches by inspectors, more frequently what appears as an inconsistency can be explained by different fact situations on the shop floor. We would welcome the opportunity to provide examples of such situations.

What is more critical, in our view, is the inconsistent direction given by different levels of management within the ministry. OPSEU inspectors are able to provide examples of receiving substantially different directives from managers in different regions on important issues such as the provision and use of lockout devices and gathering information and reports during fatality investigations. Additionally, OPSEU staff have witnessed very different approaches by inspectors who are following management directives when investigating workplace refusals, complaints concerning workplace violence and definitions of critical injuries.

If the ministry wants to address problems of inconsistency, it, like every other employer, has the ability to do so. It can improve its communication processes and it can improve its training. If employees do not follow existing policies and procedures after they have been communicated, it can discipline them; managers can manage.

OPSEU strenuously opposes the inclusion of these amendments to the act, which essentially give powers to unnamed directors to interpret law and make policies which will have the force of law. If this amendment becomes part of the act, inspectors who violate a ministry policy will have violated the act. This is unacceptable. This section must be removed from the bill in its entirety.

Do you want to talk about section 3?

**Ms. Lisa McCaskell:** No, let's take questions.

**Mr. Smokey Thomas:** Okay, we'll take questions.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Two minutes or so per side: Mr. Miller.

**Mr. Paul Miller:** Thank you for your presentation. One of the biggest concerns, and it seems to be a recurring theme here, is the lack of the ability of the inspector to go into the place of employment and set fines as well as to take part—this bill actually weakens

their position even further—in investigations and in giving expert information, especially when they are familiar with the field. Most inspectors are assigned to the area of expertise that they might have worked in, in previous employment, or trained well in. Do you feel that this bill weakens their position?

**Ms. Lisa McCaskell:** I don't think that it weakens their position, but it doesn't strengthen their position. The inspectors have not been able to actively investigate complaints of reprisals. There have been virtually no prosecutions on reprisal complaints for years. We were pleased to see that the expert panel took it on. When we saw what the bill did, which was make our inspectors unable to even give evidence at a reprisal hearing—it weakens their position there, yes.

**Mr. Paul Miller:** So you agree that it does weaken their position. This bill does nothing concrete to improve section 50, which is enforcement, and also the action of reprisals. I found it amazing that section 50 was dealt with so lightly. That's been the biggest problem over the years, in all the years I've worked too: the lack of ability of the inspector to actually do something. The fines are minimal at best, and sometimes they don't even levy a fine. They get a slap on the hand. How do you feel about that?

**Ms. Lisa McCaskell:** I would agree with you.

**Mr. Paul Miller:** Thank you.

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

**Mr. Lorenzo Berardinetti:** Again, on behalf of the government, thank you for your presentation today. I just wanted to focus on one area: section 3 of the bill. I know you've touched on this issue briefly, the issue of consistency. If section 3 of the bill was removed, do you think that would address the issue of consistency?

**Ms. Lisa McCaskell:** I don't think it would address the issue of consistency, but as it is, it doesn't address the issue of consistency either.

OPSEU agrees that there are problems with inconsistency. As President Thomas pointed out, there are various reasons for that. Some of it is that there are different fact situations on the shop floor. Some of it may be that there are extremely complex and technical workplaces there, where inspectors aren't actually getting the direction, the training and the expertise they need.

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We're all in favour of consistency and would like to see it be put into place. We're willing to sit down at a table and talk about what kind of measures we might be able to put in place that would ensure that. We want to see Ministry of Labour policies and procedures that are transparent, that are available, that are posted on the website so people know what the inspectors are actually supposed to do out there. We'd like to see a table set up where the workplace parties and the prevention council can come together when they're grappling with new health and safety issues, trying to create new policies and procedures, to bring the parties together to work those things out, come up with something and then post it on

the website so everybody knows what it is. But to have a director, one single person in a room whom we don't have any access to, creating new policies and putting them out there with no actual consultation with people down at the shop-floor level who know what's going on, is simply not acceptable.

**Mr. Lorenzo Berardinetti:** Thank you very much for that.

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

**Ms. Sylvia Jones:** Yes. In an effort to de-politicize the work of our committee, I agree with you that Bill 160 would not have prevented the Christmas Eve tragedy.

My question to you is: Out of the Dean report, are there things in that report that you would have liked to have seen incorporated into Bill 160?

**Ms. Lisa McCaskell:** We see Bill 160 as the enabling legislation; we don't see it as the cure-all for everything. We understand that they need to put in place the building blocks to get the chief prevention officer up and running, to get the prevention council up and running. I think it's the job of the new CPO and the prevention council, in consultation with workplace parties—with labour and with employers—to then figure out how best to put in place the other aspects of the Dean report.

I think it would have been too early to try to do it all at once. This bill does get at the training, which is one of the critical issues. We're pleased to see what's there about training. If we can shift the responsibility from the minister over to the chief prevention officer, as we've suggested, to actually deal with those training issues, that makes sense to us.

**Ms. Sylvia Jones:** Are you comfortable with much of this detail ending up in regulation, which can be changed very quickly without public consultation?

**Ms. Lisa McCaskell:** I think it would have to be in regulation, yes. It can be tricky.

**The Chair (Mr. Shafiq Qadri):** Thank you, Ms. Jones, and thanks to you, Mr. Thomas and Ms. McCaskell, for your deputation on behalf of OPSEU.

MR. JOHN MILLHOLLAND

**The Chair (Mr. Shafiq Qadri):** I'd now invite our next presenter, Mr. John Millholland, who's a member of the Communications, Energy and Paperworkers Union, who comes to us via conference call in Sarnia. Mr. Millholland, are you there?

**Mr. John Millholland:** Yes, I am, thank you.

**The Chair (Mr. Shafiq Qadri):** Thank you. If we could just adjust the volume on there. This is Dr. Qadri, Chair of social policy. You have exactly 10 minutes in which to make your presentation.

Could you just do a quick sound check?

**Mr. John Millholland:** Okay. Can you hear me?

**The Chair (Mr. Shafiq Qadri):** Yeah, that's great. Please proceed. Time is now.

**Mr. John Millholland:** All right. I thank you for the opportunity to address the social policy committee on Bill 160. I addressed the Tony Dean panel when I went

through London and I really liked what I saw in the recommendations that came out from the panel. Unfortunately, this bill doesn't address things that came out from the panel as well as I would have liked to have seen. I will say, as the sister said earlier, that I really do appreciate the fact that we've started looking at training and having some specific requirements in the act with regard to training. So in some ways, Bill 160 is definitely a move in the right direction.

However, as has been echoed before by the labour folks, Bill 160 gives way too much power to the Minister of Labour. A lot of this, I think, could be shifted down towards the chief prevention officer and the prevention council. With regard to that council, as the act has it right now, a joint health and safety committee has equal or greater membership by labour folks. I think that the labour folks within this provincial council definitely have to equal or outnumber management.

The threat to the autonomy of the Workers Health and Safety Centre and the OHCOW clinics is also a big concern of mine. I'm an instructor with the Workers Health and Safety Centre and I see the value in their programs. I also sit on the local advisory committee for the Occupational Health Clinic for Ontario Workers. As Mr. Ryan addressed earlier, the concern is: When certain political parties get in, what's going to happen to these groups? We don't want to see what happened with the Harris government happen again to good organizations that represent workers, like OHCOW and the Workers Health and Safety Centre.

I also have concerns around the accumulation of power by senior Ministry of Labour bureaucrats, such as directors, to write law. This is a flawed and unnecessary approach. This section has nothing to do with the objective of preventing needless tragedies or the recommendations of the panel.

I'm also concerned about the failure to protect workers from reprisals. It is definitely not dealt with. It's actually, in my opinion, a step backwards. Vulnerable workers who are victims of reprisals for their attempts to ensure their health and safety are not effectively protected by this bill. Ontario workers have the right to participate, know and refuse, and these rights must be powerfully and swiftly enforced.

I am particularly concerned that Bill 160 places limitations on the ability of inspectors to appear before the Ontario Labour Relations Board and provide testimony and evidence. I also feel that these are the people that are out there on the floor, looking at workplaces, trying to make things safe. These folks need more power. They need to be able to lay charges. They need to be able to represent themselves in court as to what they've seen. I compare it to the police. I would say that the Ministry of Labour inspectors, in my opinion, are the policemen out in the workplaces that are enforcing the conditions. When they see somebody break the law, they should be able to enforce the law. This bill does not allow for that and leaves me drastically concerned.

I'm also concerned about the removal of obstacles to the joint health and safety co-chair's recommendations. It

could be addressed in a much better fashion. You could have just simply said that recommendations will be accepted from the committee or the co-chair. I don't see a need to have to justify it; it doesn't make a whole lot of sense to me. I sit on a joint health and safety committee, and I also chair that committee. I, personally, thought I already had this right, and now that I'm reading it I'm seeing that I don't really have this right. I need to be able to make recommendations when the employer is stonewalling so that I can get things done. If nothing else, a lot of times it helps to put the fear in the employer that I am going to call the inspectors in to make them move on recommendations that we've made. We don't make recommendations frivolously and we should be able to have this power.

Any questions?

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Millholland. We have about two minutes or so per side, beginning with Mr. Berardinetti of the government.

**Mr. Lorenzo Berardinetti:** Thank you, Mr. Millholland, for your presentation. I'm Lorenzo Berardinetti, on behalf of government.

A common theme seems to be evolving this afternoon, and that is the concern that the minister be too powerful and the fact that there's a desire to depoliticize. I know you've raised that in your presentation today. Do you think the CPO should then have more powers, that the powers should be vested in the chief prevention officer?

**Mr. John Millholland:** At the very least, it needs the role backed up, the CPO. I'm hoping the people that select the chief prevention officer know what it's all about in this province. The minister himself, as was mentioned earlier, is an elected position who really doesn't come from a safety expertise point of view. To me, it would be much more prudent to have that person taking care of health and safety in Ontario rather than an elected official. We've gone through a lot of different ministers lately and I really don't feel that they have the expertise that somebody like a chief prevention officer would have.

**Mr. Lorenzo Berardinetti:** That's an excellent point. Thank you very much.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Berardinetti. Mr. Millholland, you are now with the PC caucus, Mr. Arnott.

**Mr. Ted Arnott:** Yes, Mr. Millholland, thank you very much for making your presentation. We listened to it very carefully and we appreciate your advice.

I just want to follow up on Mr. Berardinetti's question, because you indicated that you believe that Bill 160, as it's presently constituted, gives too much power to the Minister of Labour. Much government legislation empowers the government to undertake certain responsibilities and gives government power through the minister of the day, but you'd obviously like to see amendments to this legislation to clarify that issue?

**Mr. John Millholland:** Definitely. Mostly, you're politicians that I'm talking about, and I don't mean to offend you, but when you're given a different portfolio, sometimes I guess it's a move up for you. Politicians

aren't necessarily experts, in my opinion, on things like health and safety, in particular. We've seen several different ministers through that position and I would suggest that we need to elect somebody that knows all about health and safety through the prevention council. I hope that answers your question.

**Mr. Ted Arnott:** Yes, thank you.

You mentioned and a number of the presenters this afternoon have mentioned that there is insufficient protection for workers against reprisals. What specific suggestions do you have in that regard?

**Mr. John Millholland:** In my opinion, the Ministry of Labour inspectors should be able not just to refer these things to the Ontario Labour Relations Board; the Ministry of Labour inspectors should be able to lay charges, they should be able to go and represent, as a policeman would when he lays charges in the court system. They are [inaudible] witness.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Arnott. Now to the NDP caucus. Mr. Miller.

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**Mr. Paul Miller:** Hi, John. You've served on a joint health and safety committee in the past; you mentioned that. I have, too. I don't see anything on internal enforcement in this bill. Do you believe that employers should be obliged to implement recommendations made by the joint health and safety committees and health and safety representatives?

**Mr. John Millholland:** Definitely. For the most part, when a joint health and safety committee puts a recommendation in, it's not frivolous, and the company should act on it. In my own experience with the 21-day recommendations, I've actually put them in before as a worker rep, thinking that I actually had the right to have it responded to just as a single rep, and got some very substantial changes made in the workplace that have definitely saved exposures. Exposures, obviously, can lead to worse things, so—

**Mr. Paul Miller:** Would you like to see certified worker members provided with unilateral power to issue stop-work directions?

**Mr. John Millholland:** I definitely would like to see that.

**Mr. Paul Miller:** I didn't see any of that in the bill. Thank you.

**The Chair (Mr. Shafiq Qadri):** Thanks to you, Mr. Millholland, for your deputation on behalf of the paperworkers' union via conference call in Sarnia.

MINISTRY OF LABOUR  
EMPLOYEE RELATIONS COMMITTEE

**The Chair (Mr. Shafiq Qadri):** Thank you for taking your positions, Mr. Elliott and Mr. McIlwrath of the Ministry of Labour Employee Relations Committee. Gentlemen, please officially begin now.

**Mr. Len Elliott:** Good afternoon, committee members, and thank you for the opportunity to speak to you today.

I'm Len Elliott, Ministry of Labour Employee Relations Committee OPSEU chair, and this is Gib McIlwrath, Ministry of Labour Employee Relations Committee OPSEU vice-chair. As well, we are occupational health and safety inspectors for the Ministry of Labour. More importantly, we are proud workers in the province of Ontario, and we believe we will be directly affected by the amendments to the act.

The five key points that we would like to see changed within the bill are attached below, and we would like to take this opportunity to speak to you about the two points that we feel, as inspectors, we bring a certain specific point of view to: lack of real reprisal changes, and directors writing policy into the act and having the force of law.

We believe that the number one issue that all groups should be telling you about is the lack of real strength in the reprisal section of the Occupational Health and Safety Act and as well in the new proposed Bill 160 legislation.

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

Workers continue to die at a rate of more than one per day in the province of Ontario. This cannot continue, and as you go forward with proposals from interest groups on Bill 160 and you negotiate amendments to try to reach consensus amongst yourselves to decide what the employer groups can live with and what labour groups can live with, I am here to tell you our safety and our lives are not up for negotiation.

You must give real strength to inspectors under section 50 reprisals. You must allow us to properly investigate and question the parties involved so factual reports may be prepared as a basis for the law to follow its proper course, whether before the courts or the Ontario Labour Relations Board. This would ensure that all parties would be held accountable.

Presently, when we go to a workplace on a reprisal complaint, the policy and training from the Ministry of Labour says that we are not allowed to do anything. We only investigate the alleged complaints that brought rise to the reprisal. You have the multi-language yellow document that we give out—and that's the only thing we're allowed to do—that tells the person to go to the OLRB. It is then up to the worker to hire a lawyer and travel to Toronto to have their case heard when they are not working in a reprisal scenario.

In the proposed Bill 160, you have said that MOL inspectors are not competent or compellable and therefore cannot present at the OLRB when it comes to reprisals against workers who are standing up for their rights and their lives. This piece must be changed to allow inspectors to not only investigate, but to provide

their report or present evidence at the OLRB for a reprisal against workers.

Employment standards officers in the Ministry of Labour have the power to reinstate and award remuneration for the workers in employment standards reprisal situations, so it is not that far of a stretch to empower MOL safety officers to do this as well. We believe that this should be the main focus, so that we can all help prevent a similar tragic event where five vulnerable workers fell from a scaffold, critically injuring one and killing four others on Dec 24, 2009.

It is appalling to think that in Ontario in 2011, if I speak up about safety concerns that may kill me, I may be fired or reprisal against and unable to provide for myself or my family. However, if I say nothing, I get to eat and provide for my family but at the risk of death or injury to myself or my coworkers if I remain silent.

On April 28 every year, fallen workers are recognized at the Day of Mourning ceremonies across the world, where at 11 a.m. we observe a minute of silence for those fallen workers. This day is recognized internationally because workers are being killed everywhere around the world. However, I cannot be silent when it comes to reprisal investigations by health and safety inspectors. You must give real strength to the reprisal section, section 50, for the protection of workers in the province. Without the ability to do this, the expert panel was a waste of time and those four workers who died on December 24, 2009, died for nothing.

Powers of directors: the accumulation of powers by senior MOL bureaucrats to write law. We are deeply concerned about the section of the bill that gives directors of the ministry the authority, without any oversight and without any warning, to publish policies that have the force of law. We cannot accept any legislation that gives the government of the day these secret powers.

The section regarding directors having the ability to write policy and that an inspector is to follow the policy will be written into the act. No other employer gets to do this. Why does the Ministry of Labour? The ministry says it is to do with consistency of inspectors across the province. Well, as the union chair of the labour relations committee, I can tell you that this is labour-relations-related. Management wants to control inspectors in the field or have the law on their side to help them manage, rather than managing. This has the potential to make inspectors vulnerable workers by being in a position where they have to follow policy even if it contradicts the law. If a private sector employer's senior management came to the government and asked for a law that helped management to do their job, that employer would be asked—or kicked—out of the Legislature.

When the farming sector came under the jurisdiction of the Occupational Health and Safety Act in 2006, the 16 inspectors first chosen for this were bringing forward objections to how the ministry expected us to carry out inspections in this sector. This was due to pressure from the stakeholders and the farming employer groups, not workers on farms. Near the end of the three-week train-

ing that the inspectors received, the director of health and safety said to the entire group that if we cannot follow management direction as it pertains to enforcing safety within the farming sector, then maybe we should leave the program. Instead of doing the right thing and letting us enforce the act, they simply asked us to leave the farming program. This is an example of trying to control inspectors' actions that were clearly in the interest of the farming sector workers of Ontario.

Early on, when farms had just come under our jurisdiction, I was in a farm conducting an inspection and ended up writing more orders in one workplace than the rest of the province had written at that point. When management got my report, I was questioned and challenged as to why I wrote that many orders: not by the employer but by management at the Ministry of Labour. I write orders for the protection of workers in this province, as do all of my colleagues.

So when I challenged the assistant deputy minister on March 3, 2011, the day Bill 160 was released, about the directors' policy piece and that MOL inspectors would be breaking the law if they did not follow the policy, they could not answer the questions or concerns that we had. And again last week, when I confronted the same ADM on this, he would only say that he disagrees with me and that that is not the case.

Well, that answer is not good enough, and in that, senior management is now hiding behind the contempt of the Legislature excuse not to give any answers or explanations as to why this piece is in Bill 160 when it was not in the expert panel report. We fail to understand how the directors' piece would enhance the enforcement of the Occupational Health and Safety Act.

We ask that you support the five changes that labour is putting forward. I look forward to answering any questions and thank you again for your time today.

**The Chair (Mr. Shafiq Qadri):** Thank you. About 45 seconds a side, beginning with the PC caucus: Ms. Jones.

**Ms. Sylvia Jones:** You've raised the same issues that other presenters have brought forward, so I don't have any other questions.

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**Mr. Len Elliott:** Thank you.

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

**Mr. Paul Miller:** First of all, I'd like to compliment you two gentlemen for stepping forward. This is long overdue. You are a compliment to your organization and the people you represent. Congratulations. It's music to my ears. It's about time the inspectors had their hands uncuffed—it's about time. For you to stand up to the ministry is extremely brave; I'm very proud of you. Keep up the good work. Hopefully, we can get some changes to this bill. This certainly isn't suitable.

**Mr. Len Elliott:** Thank you.

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

**Mr. Lorenzo Berardinetti:** On behalf of all the government members, I want to thank you for your presentation today. This is an excellent document; I'm just

looking at it right now. The Italian, which I could read, is perfect. I wish my father had this when he was working because they had no protection back then. Excellent presentation. You brought up some very good points, and we are listening.

**Mr. Len Elliott:** But to your point, that's all we're allowed to do. You just got what I would give to any worker reprisal against in the province, and I need it to be clear that we need strength in the reprisal section, because that is not good enough to protect me on the job.

**Mr. Lorenzo Berardinetti:** Yeah, but that did not exist 30 years ago.

**Mr. Gibson McIlwrath:** There's no mention of complaining to the Ministry of Labour. It's all to the OLRB.

**Mr. Lorenzo Berardinetti:** Okay, thank you.

**The Chair (Mr. Shafiq Qadri):** Thanks to you, Mr. Elliott and Mr. McIlwrath, for your deputation on behalf of the MOL Employee Relations Committee of OPSEU.

#### CANADIAN MANUFACTURERS AND EXPORTERS, ONTARIO DIVISION

**The Chair (Mr. Shafiq Qadri):** I now invite our next presenters to please come forward: Mr. Howcroft and Ms. Marchese of the Canadian Manufacturers and Exporters, Ontario division. Please begin.

**Mr. Ian Howcroft:** Good afternoon, Chair, and hello, everyone. My name is Ian Howcroft. I'm vice-president of Canadian Manufacturers and Exporters, Ontario. Unfortunately, Maria Marchese, our director of workers' compensation policy, could not join me, but we do appreciate the opportunity to provide the standing committee with our comments on Bill 160.

Just a little bit of background: CME is Canada's leading trade and industry association and the voice of manufacturing and global business in Canada. Our association represents more than 10,000 leading companies nationwide. I'd like to note that 85% of our members are small- and medium-sized enterprises. Our membership network accounts for about 82% of Canada's manufacturing output and 90% of our manufacturing exports.

It's also important to note that every dollar invested in manufacturing generates about \$3.25 in total economic activity, the largest economic multiplier of any sector.

CME's focus and involvement on workers' compensation and occupational health and safety is long-standing. As the Canadian Manufacturers' Association, we provided input to Justice Meredith when he was creating Ontario's workers' compensation system almost 100 years ago.

Occupational health and safety is also a long-standing priority issue for our members. We have taken a leadership role to promote health and safety, and we have worked with partners to provide demonstrable benefits and successes over the years.

In June 2010, CME made representations to Mr. Tony Dean during his consultation on the review of Ontario's health and safety system. Consequently, we feel well

positioned to provide feedback on the changes being proposed in Bill 160.

One of the most important issues identified by our members was the inconsistency of inspectors with respect to their advice, orders issued and application of legislative obligations. To this end, section 3, requiring the establishment of written policies respecting the interpretation, administration and enforcement of the act, and the new requirement for inspectors to follow any policies established by the director, are vital and must be maintained. Employers want to see improved consistency of inspectors meeting their responsibilities.

This point was also made by CME as part of our work on the Open for Business initiative. One of the top five priorities of our manufacturing sector project focused on the Ministry of Labour to better address this issue. As part of Open for Business, we've established two standing working committees with the ministry, one to address customer and client service issues and the other to deal with policy and regulatory issues.

Also of significance was the need for a clearer distinction between the roles and responsibilities of the various health and safety system partners involved in the administration of the system. Clearly, the need to reduce the duplication of effort and confusion regarding the roles of the various agencies and branches dedicated to health and safety is critical. To this end, we recommended, and therefore we support, the movement of the prevention function out of the WSIB to the Ministry of Labour.

Bill 160 creates a new prevention role under the ministry, with a new prevention council and a chief prevention officer. These are important steps towards the better alignment and integration of all prevention partners' activities.

It's also critical that this new prevention entity not fall within the enforcement branch of the ministry: That would be counterproductive to the goal of assisting employers with their prevention activities. Employers must have confidence that the health and safety associations are truly partners in working and promoting health and safety in their workplaces.

The establishment of a chief prevention officer is an important piece of this new prevention arrangement. This role must have a deputy-ministerial level of authority.

Given that approximately \$220 million is spent annually on prevention as part of the system, it is vital that the legislation include a provision regarding the transparency of all monies spent by the ministry in carrying out its prevention mandate, including the inspectorate. The grants provided for in paragraph 4 of subsection 4.1(2) must be subject to clearly articulated business plans with demonstrable health and safety improvements. Furthermore, grants must be transparent in both the amounts provided for and the outcomes that are to be achieved. It must be emphasized that these funds are paid for employers and do not come from the consolidated revenue fund.

Mr. Dean's recommendations impose training requirements for employers. It's vital that the implementation of

the new training requirements considers all means of training available, such as online, and not be limited to just classroom training. Training requirements must also factor in training equivalency for courses already taken so as not to duplicate what has already been learned.

In closing, the CME believes that Bill 160 is an important first step in addressing the need for a clearer distinction between the roles and responsibilities of the various health and safety partners. Clearly, the need to reduce the duplication of effort and confusion regarding the roles of the various agencies and branches dedicated to health and safety is critical.

We support the main thrust of the bill, particularly the movement of prevention to the Ministry of Labour and the creation of a new chief prevention officer and a prevention council.

We support the retention of section 3, as stated earlier. It is vital that the director be able to have the orders and policies enforced.

We recommended, and therefore again we support, the movement of the prevention function out of the WSIB to the Ministry of Labour. Bill 160, in its new provision allowing for the creation of a new prevention role under the Ministry of Labour, with a new prevention council, is an important step to better align and integrate the prevention partners' activities.

We also think that the chief prevention officer must have the status of a deputy minister, and we believe it critical that the new prevention entity not fall under the MOL enforcement branch.

We also believe that it's vital that the legislation include provisions regarding the transparency of all monies spent by the ministry in carrying out its responsibilities and mandate.

We thank and applaud the efforts of the interim prevention council and the stakeholder engagement process. It's our position that the government can only benefit from such stakeholder engagement, and we look forward to continuing to provide input as the system takes its further and future shape.

Thank you very much.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Howcroft. About a minute or so per side, beginning with Mr. Miller.

**Mr. Paul Miller:** No questions.

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

**Mr. Lorenzo Berardinetti:** On behalf of the government members, thank you for coming out today and making your presentation.

**Mr. Ian Howcroft:** Thank you.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Berardinetti. To the PC caucus: Ms. Jones.

**Ms. Sylvia Jones:** I don't have any questions. Thank you for your presentation. I appreciate it.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Jones, and thanks to you, Mr. Howcroft, for your depu-

tation on behalf of Canadian Manufacturers and Exporters, Ontario division.

Our next presenter is scheduled for 3:30. It is my obligation to allow the time to at least reach 3:30 before we can adjourn for the day. That will be the last presenter. So we're recessed till then.

*The committee recessed from 1518 to 1522.*

#### MR. STEPHEN SINKA

**The Chair (Mr. Shafiq Qaadri):** Committee members, our next presenter, Mr. Sinka, is here. I'll give you a moment to collect yourself, Mr. Sinka. I just remind you that you have exactly 10 minutes to make your presentation. The time remaining will be distributed evenly among the parties. I would respectfully invite you to please begin officially now.

**Mr. Stephen Sinka:** Thank you. Health and safety is job one, we can all agree, or so it's said. The reality of health and safety, however, is a completely different thing, and I believe that is why you need to hear and heed the opinion of workers—in this case one who, after 31 years with Loblaws and seven years as an instructor, has seen quite a bit. I've had the privilege of instructing over 400 days of safety courses over the past six years, which represents nearly 3,300 hours of classroom time. From Toronto film studios to the Toronto West Detention Centre, the Ontario Nurses' Association, construction sites, heavy manufacturing plants and retail outlets, I've seen quite a bit.

So I ask, on behalf of the workers I have encountered, why are you stealing from us? You see, we're a major stakeholder but with only a minor voice. We're the ones who will get hurt at work using the power lift truck without anything more than a quick flip through some slides on the Internet in the boss's office. We're the ones who are going to be using the chemicals without proper training—my employer has a bottom line, and we're a liability, so they make me sign a sheet, after watching a video on WHMIS, saying that I've been trained. I don't really know what all those terms mean, but if I don't sign, I'm the one who will not get hours or have to revert to night crew—I hate that, as it destroys my family life—in order to earn my \$388 clear for my 40 hours of work.

Welcome to my universe, my reality, my health and safety. We used to have a trainer come in from the Workers Health and Safety Centre to spend time with us and explain all the terms, but the boss said it took too long.

You've heard all the talk. Now I beg you to hear the voice of truth, the voice of the working world, the muffled voices of the countless workers in their broken English who have not been given a chance to speak out or to learn properly about health and safety because it takes too long.

Please don't disarm the one group that is our advocate, the one group that takes the time to explain, that allows us to ask questions and answer other questions as we participate in worksheets and role plays. You see, the

Workers Health and Safety Centre gives us working people a fighting chance, so that we can actually say for ourselves that we get it, we understand. They listen to our concerns and give us the opportunity for real health and safety learning.

How will another layer of bureaucracy, another hand at the wheel, another voice drowning out the struggling workers, help? You see, we all want the same thing—or do we?

I want to go home with all my limbs and muscles intact, my eyes and ears and lungs and kidneys working well, the same way as when I came to work. This organization has had how many years of practical training, how many thousands of participants and graduates, and how many worker instructors—all with an ear to the workers, since they know that it's the worker who faces the hazards every day. And with the employer caught up in running the business and making a go of it, somebody, thank God, is looking after the workers. Don't sell us out. We are different. The proof is in the pudding. Just ask a worker; they'll tell you. Don't settle for less, or you might just get less than you settled for.

My concerns: In health and safety, we teach that the farther you place a control from the source, the less effective it can be. You see, there's more room for error. Yet, this bill is creating another layer of control far removed from the workers.

Politicization of the training, with more power to the Minister of Labour, potentially removing the autonomy of the Workers Health and Safety Centre and handicapping the centre's unique ability in meeting the needs of the workers? Our achievements on behalf of workers would not have been possible if, over the years, governments of all stripes hadn't respected the autonomy of the Workers Health and Safety Centre, our ability to set our own priorities, to develop our own training and information content, and inquire into the questions and concerns raised by Ontario workers. As proposed, there is even no accountability to worker representatives on the prevention council.

Once again, it seems that Bill 160 is not about the problems of workers—the hazards, the threats of injury, the illnesses, the deaths—but about the problems of how senior government staff can obtain more power for themselves. Please protect the worker governance of the Workers Health and Safety Centre, giving them the needed authority over priorities, content, philosophy and approaches.

As the pendulum has swung and continues to move away from the workers, you run the risk of throwing the baby out with the bathwater. To a hardened group of devout legislators committed to creating change, the Workers Health and Safety Centre may seem as the bathwater—cloudy and murky, out of government's control—but we, the workers, are that baby that needs an ally, a training provider that hears our cry and responds accordingly.

Work can and must be made safer, but not by disarming the one training provider that represents and responds

to the needs of us, the workers. That is our Workers Health and Safety Centre. Worker participation is critical for effective workplace health and safety programs. To truly participate, though, workers do need ready access to credible training and information.

From its inception, evidence before the original Ham commission demonstrated that employers and governments could not be trusted to provide this. Rather, worker self-education was the answer. This view was later supported by Professor Paul Weiler's review of the Ontario workmen's compensation system in the 1980s, when he called for a worker's voice within the system. By 1985, the then-Workers' Compensation Board determined that an Ontario Federation of Labour training project, first funded by Bill Davis's government, would become this voice. Later known as the Workers Health and Safety Centre, our funding, provided by the Workmen's Compensation Board, now the WSIB or the Workplace Safety and Insurance Board, grew with our success. Our interactive, action-oriented, worker-training-workers method is unique but, most importantly, has been proven to work.

In closing, please consider the one voice before you that speaks on behalf of the countless thousands who can't, simply a worker asking you to respect an old adage that says, "If it ain't broke, don't fix it"—and believe you me, the Workers Health and Safety Centre ain't broke. Please amend this bill to restrict the government's power over the Workers Health and Safety Centre to what it should be. Thank you.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Sinka. There's about a minute or so per side. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** First of all, I want to say that we've heard from a number of other individuals today and previously on this issue. I'd like to say that we value the great work that the health and safety centres do for workers and employers. I appreciate the unique role these associations play in occupational health and safety.

Tony Dean talked about an integrated approach in tackling this issue. Do you have any comment on that?

**Mr. Stephen Sinka:** But integrated at what risk? Because, again, there are unique applications, unique concerns.

My concern is that he who pays the piper calls the tune, and if we have ultimate control removed to the extent where it now dictates the content and the method and how we're going to—"You're not going to train on WHMIS; you're not going to spend six hours on it"; it disarms our ability to address the issues that we face as workers. I've seen the results of that. When the push is for "You've got to get it done in 45 minutes"—how in the world do you do WHMIS training in 45 minutes? It does an injustice. I think, in fairness, this integration—

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Berardinetti. To the PC caucus. Mr. Arnott.

**Mr. Ted Arnott:** Thank you very much for your presentation. I gather you work at the Workers Health and Safety Centre.

**Mr. Stephen Sinka:** Actually, I work for Loblaws. I'm an instructor-trainer, and I've had the privilege of going out and doing Workers Health and Safety Centre courses through my local United Food and Commercial Workers, as well as in other places across Ontario.

**Mr. Ted Arnott:** So you have a great deal of expertise in this area, obviously, and a great, sincere passion for these issues.

**Mr. Stephen Sinka:** Yes.

**Mr. Ted Arnott:** Thank you very much for your presentation. It's well appreciated.

**Mr. Stephen Sinka:** Thank you.

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

**Mr. Paul Miller:** I'm going to ask you some real questions, okay?

**Mr. Stephen Sinka:** Sure.

**Mr. Paul Miller:** Number 1: Do you feel it would be good to provide all members of the joint health and safety committees and all health and safety representatives with the right to standardize certification training with annual reviews from a training organization of their choice?

**Mr. Stephen Sinka:** So each committee individually decides who they would—

**Mr. Paul Miller:** They choose. Whether it's the workers centre or anywhere else, they choose. Do you believe that's a good thing? I don't see it in Bill 160.

**Mr. Stephen Sinka:** No, I don't see it either. On first glance, I don't see the shortcomings of that.

**Mr. Paul Miller:** Okay. Do you believe that they should provide all new employees, supervisors and managers with mandatory, relevant, meaningful health and safety training necessary for them to fulfill the duties of their positions safely and competently?

**Mr. Stephen Sinka:** Absolutely. In fact, it's not within my realm to recommend, but those 40 hours of community work in high school—replace them with health and safety training. It would do us a world of good. It would pay off millions more. That's the ultimate community service, where we serve our community by working in a healthy and safe atmosphere, knowing our rights and our responsibilities, and not just pushing it off to somebody else.

**Mr. Paul Miller:** Thank you.

**The Chair (Mr. Shafiq Qaadri):** Thanks to you, Mr. Sinka, for your deputation.

I'd just remind committee members of the relevant dates that are here: Friday, April 29, 3 p.m. is the deadline for filing amendments, and clause-by-clause consideration will be on Tuesday, May 3.

If there's no further business before the committee, the committee is adjourned.

*The committee adjourned at 1532.*



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