

CORRECTED VERSION

RURAL AND REGIONAL SERVICES DEVELOPMENT COMMITTEE

Inquiry into the cause of fatality and injury on Victorian farms

Melbourne – 24 November 2003

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Witnesses

Y. Berger, Director National OHS Unit, Australian Workers Union (sworn); S. Beechey, Rural and Paotoral Co-ordinator (sworn).

The CHAIR – Thank you, Yossi and Sam. Under the powers conferred on this committee by the Constitution Act and the Parliamentary Committees Act, the committee is empowered to take all evidence at these hearings on oath or affirmation. I wish to advise all present at these hearings that all evidence taken by this committee, including submissions, is, under the provisions of the Constitution Act, granted immunity from judicial review. I also wish to advise witnesses that any comments made outside the committee's hearing precinct are not protected by parliamentary privilege.

The committee is an all-parliamentary committee and is hearing evidence today on the inquiry into the cause of fatality and injuries on Victorian farms. We welcome both Dr Yossi Berger and Mr Sam Beechey. Yossi, are you appearing in a private capacity or representing an organisation?

Dr BERGER – Representing an organisation; the Australian Workers Union.

The CHAIR – Yossi or Sam, whoever would like to go first, if you could make a 10-minute comment, and then following both of your presentations we will ask questions.

Dr BERGER – That is the format that I had in mind – a bit of a duet – that I present a statement that summarises a fair amount of experience I have had in the area in a number of ways, cutting across chemicals, plant, organisation and so on, and then when Sam speaks, to fill in some of the details.

The other thing I would like to start off with is to say that with the greatest respect to this committee and many others, there are many committees at present and many inquiries – including an overview of the Victorian Occupational Health and Safety Act by Chris Maxwell QC. I normally try to avoid presentations of written material, because I have now provided written material in the order of 15 to 18 years, and bugger-all has changed in the areas where it mattered most. So what I thought of doing is perhaps over time to provide some written material that will substantiate and justify some of the things that I say, and to present to the table a number of views – meaning one person's views – of inspections and committees and the like. I still conduct in the order of 50 to 60 inspections around Australia, a fair proportion of which are in rural areas. My position is national OHS officer for the Australian Workers Union, consequently around Australia. I used to conduct in the order of 200 inspections. So it is on the basis of that authority that I speak; in other words, my experience in many workplaces.

If you look at the notes and reports from various inquiries – either coronial or otherwise – going back 800 years – what you find across the lot – in other words, if you set up across the table here a whole range of inquiries, the BHP mining inquiry (to be verified), the Longford inquiry, and so on, and you put them all on the recommendation page and you said, given that these are different events – in other words, at Longford there was an explosion of hydrocarbon gases. At the BHP site there was a methane explosion, which people will remember entombed 11 workers. So the initial conditions, meaning what was it that blew up in which fashion varies. What you find surprising across all inquiries is that they say the same bullshit over and over and over. For example, “We need more training and education”.

Normally when that is presented people put their right hand over their heart, and they say, “We need more education and training”. When we do that, that will bring the relevant interest group, whatever it is – whether it is farmers or miners – to a particular level of knowledge and awareness such that things will change. We have been saying that for 15 years now, and our death statistics across the board – never mind injury statistics and disease-related statistics – have not significantly changed. The second thing you will find across all inquiries – by the way around the world, this is not specific to Australia – we need more awareness programs. If we get more television exposure, media exposure things will change. Or alternatively over the last five years we have had managers and various experts and academics singing about culture change. What we really need is culture change; and if you ask exactly what do you mean, will people be dancing in different costumes and have different rituals, whistling different songs? You find out the people who use

the terminology "culture change" haven't got a clue what they are saying. If you said, "What is it exactly in the workplace, in the shearing shed or on the tractor or on the ATV or the swimming pool?" – or the utility that you want changed, they will not be able to tell you. They will tell you that you need a culture change. When they ask what is that, they say it is something in the head to do with attitude and approach with a particular view about behaviour.

So the last six, seven years around Australia we have had along the notion of behaviour change, a whole range of climate changes, behaviour changes; two years after it became total behaviour change, and this year it is almost getting to total-total behaviour. In other words, the jargon we hear repeatedly is nothing more than that – it's jargon.

Aside from culture change then when you ask specifically in the workplace, "What are you representing?" The next generic term is, "We need more supervision". Remember what I am quoting. I am quoting tragedies that have been summarised in many, many reports and inquiries such as this; and each time there is an inquiry such as this you put all your eggs in one basket and you hope this is the one – this is the one that will produce the gold; this is the one that will cut across the crap and make an effective change, which will make a difference.

The next one you get is more accountability. You need to make inspectors more accountable. You need to make farmers more accountable. You need to make workers on tractors more accountable, and so on. Aside from that, you need more transparency. This is what has been changed with the WorkCover, Worksafe inquiry – more transparency. We need inspectors – the terminology is – to be more accountable and more transparent; in other words, if they ban something you ought to be able to say to them, "On which basis did you ban such and such?" which has its own difficulties. Then about four or five years ago we had, "You need better occupational health and safety management systems" – that was the terminology. "We need management systems". And you say, "What exactly is a management system?" Well essentially it is some sort of cookbook – "This is how you do it". Then you end up with more and more inspections, and if you are really, really aggressive and you are really, really angry – you've seen the same thing over and over and over, people getting their faces torn off by machines, little kids getting caught in power shafts and being walloped around and around. When you really get angry you say, "We need more prosecutions; we need to throw more people in gaol". People are desperate. When you discover it is in fact your land that has a little kid on the back of his own tractor and you would give an arm and a leg for the kid not to be hurt in any way, how are you going to turn around and say, "We are going to chuck the same bloke in gaol"? So the whole area is very complex in that way.

What I have done there very briefly is plead with you not to produce the same muck that you see produced for 800 years. I am dead serious. If you pick up coronial inquiries going back 800 years, they say much the same as this – sometimes successfully – but very little. So putting all that aside for a moment and saying, "Well, there is some truth in culture change; there is some truth in attitude change; there is some truth surely in behaviour change and so on". Let me just stop here for half a second, because Australia is awash at the moment with behaviour programs; in other words, what you say is we need to change the behaviour of workers. And if you are really in a tripartite mode and you are really consultative, you say managers, supervisors and workers – in other words, everyone. Their behaviour needs to change because there is apathy – you've heard all the terms – "It's apathy; it's behaviour change" and so on.

I will make this point that I have observed for a very long time: if it is possible in a workplace to take a shortcut, it will happen. No matter what you do, it will happen. It is a law of nature. One of the most powerful psychological laws at work is if you can take a shortcut, it will be done, and then to blame workers or managers or supervisors for that is utterly useless; in other words, I have never seen an engineer blaming water for running downhill, because it is a law of nature. It is a law of nature that people will do certain things, and therefore to say they are pathetic – or whatever is your favourite terminology of describing the complexity of what human beings are – it is just going to continue happening. So what's the punch line?

The punch line, in my view, is that you have 5 per cent of people roughly who will do things very well, and 5 per cent of people who will do things extremely poorly, they are delinquent. The rest will just sort of do it – not with malice, not with bad intent. If you then ask what systems are they using – well there was a bloke killed last week at an explosion up at Alexandra. Did you pick that up? Where was the hazard identification? Where was the risk analysis? Who planned the job? The tools we have in place at the moment – risk assessment, chemical training, culture change and all that – it is missing the point altogether. Fatalities and deaths and diseases – diseases are horrendously high in farming communities – are going to continue. So if someone said to me, "Cut the blabbering and get to the point. What could be done?" What is it that could be done?

The AWU has tried that, and we are in the midst of that now. We are trying to identify small canvass events, small canvass issues. If most factories have a cutout switch on all plant and machinery – when you walk into a shearing shed, which in some sense is a small factory, one of the first things you could say is, "Do they have a cut-out switch?" And 99 per cent of the time, if not more, they do not. So what we do is humble stuff, not massive enormous culture change stuff. How do we get safety switches into place? Wood presses. What if the mongrel catches your arms and is about to rip them off? How do you stop it? Is there a cut-out switch there? And if there isn't, is there something we can do to make that change on a small scale?

In other words, if you do want a culture change; if you think there is such a thing as occupational culture, a particular approach, an attitude to work, in my view the changes will happen not by fiat, not by the government saying, "This is what should happen, here is a book", but rather by making small changes in small workplaces in small communities, connecting with local community, finding the leaders in local communities and selling them effective ideas that can be shown very quickly to work, to go on to government repeatedly and to say, "Give us a quarter of a million dollars, give us \$1.1 million" – for massive events like culture change, is complete nonsense. So by way of pre-empting the question, what we have been doing for some time now with the support of Worksafe is to identify small things and to try to attend to make a difference to us for two reasons – and I will shut up. The first one, because it is cheaper; it is possible to put on a wool press a cut-out switch reasonably easily and reasonably cheaply.

The second feature; people will talk; the farmer will talk and he will say, "Here is something that is working, here is something that has made a difference". And that talk meaning that small agency of change making the difference in a small area, we hope, would create sufficient ripples so that a community slowly will become steeled to the mayhem and tragedy that is happening at that particular workplace. First cut – that's enough of me talking.

The CHAIR – Sam?

Mr BEECHEY – Thank you, and I will try not to be as descriptive as Yossi – and I certainly won't be as long. It is my belief that the main cause of fatality and injury on Victorian farms is a combination of various factors: complacency, haste, unsafe machinery, or the use of, including workplaces. I guess that almost summarises what I am about to say. But in Victoria, in the shearing industry, we have something like 9,000 shearing sheds across the state, and very few could be assessed as ideal workplaces, with some sheds having been built in the very early 1900s and others have been built out of bluestone and they are classified by the National Trust, which makes renovation tasks very difficult. Yossi and some of the others before me today have touched on the fact that the Victorian WorkCover Authority and Worksafe Victoria produced a guidance document in 2001 into the shearing industry.

This document was put together by industry, and to a large part I have been the main distributor of that document, and it has been widely accepted. After the creation of that document there was an approach to Worksafe, as Yossi alluded to, that I currently now manage four projects on behalf of Worksafe Victoria. One of those projects was to subsidise farmers to encourage them and supervise them in bringing sheds up to an acceptable standard whereby they could become model

sheds with a minimum amount of hazards so that other farmers might take the lead and start to renovate their sheds.

The modifications are generally centred around the catching pens and the let-go chutes, and that is where most injuries to shearers occur – normally when they are catching the sheep or dragging it, that is when the most stress is on the body of a shearer, and when he is letting the sheep go, of course, and eliminating corners in catching pens would make the task ever so much easier. Other assistance offered to woolgrowers has been the emergency switches – which Yossi touched on – and the isolation switches for wool presses. These earlier model hydraulic wool presses are not fitted with a safety bar, so therefore we have only got one off switch and if your arms become entrapped there is no way you can actually reach the control buttons to turn the thing off. We have also had developed a back harness support system, one that is fitted permanently into the shearing sheds. This device has been received with a great deal of support by the woolgrower and the shearers, because what we were getting across Victoria – and I think it is about in 2000, 2001 we had three electrocutions as a result of unsafe anchorage points for these back harness support systems, so there was a real need to develop something.

We believe that this unit that we have developed now – it operates on a Teflon roller, it does not conduct electricity, it does not come in contact with steel, and once they are fitted permanently into the shed they become very much part of the shed – so we haven't got shearers clambering around on 4-gallon drums trying to put a bit of wire over a rafter in the half-dark in the early morning with an electric wire running across the top of that rafter. So those things also have been subsidised very heavily by Worksafe Victoria, so it has been very good. But while the document has been widely accepted, it still has to be remembered that probably only over about 15 per cent of the sheds in Victoria could be classed as satisfactory. There are still many farmers who believe that it is not worth putting a toilet in a shearing shed, and there are many farmers who believe that shearers don't need a decent bed to sleep in. There are many farmers who believe that making alterations to their shed won't make a difference. There are many farmers who resent any authority coming onto their property suggesting change; and many farmers will not accept that their farm is indeed a workplace. It is my belief that there needs to be a code of practice for the shearing industry.

Figures suggest the shearing industry has the highest incidence of suicide of any industry in Australia. I am told the suicide figures for workers in Australia runs at about one for every 100,000 workers. If it were possible to apply the same types of figures or ratio for shearers, that figure would change to about seven in every 100,000 workers. Although the following figures I give you today are nationwide, with the exception of Queensland, the Australian Primary Superannuation Fund covering most rural workers in Australia in 2002 to June 2003 paid out \$2.9 million in death benefits, to the families obviously of 220 workers. To access the highest amount of money, that worker would need to be 39 years of age or younger, and that payout would be \$37,500. Just how many of those deaths are as a result of suicide, we don't know, but it is fair to assume that a high percentage of them would be as a result of their own hand. The average age of those workers was 43 years. In the same period \$2.19 million was paid out for a total of 113 workers who had been deemed to have total and permanent injury claims. So it is well documented that the exposure to organo-phosphates attacks the nervous system and many bring about suicidal tendencies. It should also be accepted that shearers are exposed to chemicals on a regular basis. I currently know of three shearers who are in gaol for murder. I believe I have a right to ask if there is any correlation between chemical exposure and their crimes; and I have been touched many times personally by suicide in the shearing industry.

The Occupational Health and Safety Act does not offer the workers the protection they deserve. The act has not filled the void of the state awards that were abolished in 1993. There is something like 250,000 kilometres of roads in Victoria; there is something like 30,000 farming enterprises. There are only 18 or 19 Worksafe field officers in regional Victoria, and not all of these officers are dedicated to agriculture. Worksafe Victoria has agriculture and manufacture working as one unit. They should be separate units, because farming makes up almost 50 per cent of small

business in Victoria. There are still hundreds of tractors out there without rollover protection systems.

Perhaps the reason for the under resourcing is the fact that owner-operator farms, although registered, do not contribute to WorkCover premiums, and this needs to be addressed by government. These farmers do employ workers periodically for short terms. If all farming enterprises contributed to premiums, it would enable the government to lower overall premiums across the board. The Australian Workers Union has put forward submissions and suggestions about employing roving representatives. These people could go out on a part-time basis to assist farmers and employees achieve safer workplaces. These people may even be injured workers from their own specific industries. Injured workers have a lot to offer the community, and they should not be ignored. We know that they are offered career changes; we acknowledge training and rehabilitation is part of the service provided by Worksafe or WorkCover insurers, but what we don't acknowledge is that a lot of these injured workers have very little schooling and most rural employment is of a non-skilled nature. Usually these workers have left school after completing or before completing three years of secondary education. So to expect someone with that level of education to walk away from a rural industry and sit at a computer is just unrealistic. Unfortunately, this is what a lot of WorkCover insurers are trying to get these people to do.

In conclusion, I believe that there must be codes of practice introduced for farming enterprises. There must be training. And Yossi and I probably differ here – but I believe training must be accessible, and certainly training must be affordable, because it has got out of hand; the prices that TAFE institutes and the like, private providers, charge now for rural employees who are probably the lowest paid of all workers in Australia. Thank you.

Mr McQUILTEN – I have two questions of Yossi. Your attitude to the ATVs; do you have any views on ATVs and accidents? The other question relates to farm dams and drownings of children under 15; they appear to be 20 per cent of fatalities, and there appears to be a major problem there, which I think has been unreported really until we started to talk about it in this inquiry.

Dr BERGER – There are a number of comments. Firstly, the Coroner's Court has done a lot of work on those drownings, and a range of recommendations and a report have been issued, both identifying fundamental causal causes, what links to what and in which way, and a range of suggestions. I hate to say that in those circumstances a number of community groups became naysayers, with these complex situations – and these are complex situations with children – where you need to go beyond the usual envelope we found that too many people could see reasons against rather than reasons for. There is a very good report available from the Coroner's Court dealing with all those aspects.

The second one is on ATVs my personal view is that the producers of ATVs are an arrogant mob who lack attention to design internationally, and their knowledge of Australia is that it is only as a very, very small country and they will take little note of various reports and research which have already been done identifying a range of design problems. Essentially they are saying that the rider needs training, and if they ride it properly, more like a motorcycle rather than the way it is being ridden and controlling the number of ways the machine works, well that is avoiding the fact that people by and large will be people. The final thing to say about ATVs is that you cannot predict the number of deaths there will be each year; they are the modern tractor.

If this committee were interested to do something fundamental about ATVs, firstly my personal view would be total and absolute unlimited support for the Coroner's Court effort, which from the bits and pieces I have picked up, is being hampered by big business, not unlike the Adsil (to be verified), not unlike a range of other issues. The second one is to simply state the bloody thing has design problems, let's fix it, or prove to us that it has not got design problems.

The CHAIR – Thank you. Did you want to comment on John's other question about deaths?

Dr BERGER – I have mentioned drownings.

Mr INGRAM – Sam, your comment on the owner-operator farms should be under the WorkCover system. I would say that would be a fairly controversial comment publicly in a whole lot of areas. I just want you to expand on your reasons, and put that forward and put your reasons.

Mr BEECHEY – The rural industry is subsidised very heavily, and especially in the shearing industry, by other industries. I am not too sure of the amount, but I think \$8,500 worth of wages can be earned on a farm before a WorkCover premium is paid. Even though that farm is registered, it does not necessarily pay that contribution. Peter would probably know more about that, or the exact figure than I do. But there are many, many farms out there that do not pay a WorkCover premium although they are registered, in the same way as there are many shearing contractors out there who do not pay a premium but they are registered. And they only contract perhaps one or two sheds per year, but they are for all intents and purposes registered as employers. But they don't contribute to the system. I just don't think that that is fair.

Mr INGRAM – I suppose there are a lot of small owner-operator businesses outside the agricultural industry whereby if they are not employing people it will not be under the WorkCover system.

Mr BEECHEY – If they are not under the WorkCover system, they are obviously not registered and they are not employers per se. But you have many farmers around that might only shear 2,000 sheep – which is still considered to be a reasonable amount of sheep – that don't pay a WorkCover premium because their wages aren't going to total more than that \$8,500.

Dr NAPHTHINE – Sam, can I ask you: tragically, in recent years in western Victoria where I live and represent, we have seen a number of shearers that have died in road crashes travelling either to work early in the morning or home from work when they are tired after a heavy day. And I take my hat off to shearers; it is the toughest work I have ever done in my life, and I didn't do it for very long, of course. Often shearers travel long distances, and often a couple of times a day, on poor country roads. Do you have any figures about deaths of shearers travelling to and from work in recent years versus deaths actually at work?

Mr BEECHEY – No, I haven't. I guess the RTA would be best people to comment, but I appreciate the question and teasing that out, because a major factor for shearers is fatigue. In the early mornings, it is hard to put an absolute quantifiable answer to that, except to say that perhaps it is just that. There was an accident down at Mortlake where a shearer went into a dam, I think. There are numerous accidents that shearers are involved in.

One of the big problems or reasons behind all that is that unfortunately a lot of the sheds no longer offer accommodation at the workplace, which has necessitated shearing teams travelling large distances. It is not uncommon now, certainly in western Victoria, for contractors to travel their shearers up to 100km or 120km each way, which is not conducive to safe work practices. It certainly contributes to the road toll. There is no doubt about that.

Dr NAPHTHINE – The reason I asked that and wanted to get the numbers is when we are weighing up the relative risks in an industry, I would suggest that in the shearing – let's set aside the back injuries and all that, which are very important – but in terms of straight fatalities, I would suggest that road accidents travelling to and from work are probably more important than some of the others. Whether we should be looking do we have different start times if we have to travel longer distances? Shearing has become a very traditional industry in terms of the 7.30 start, and things like this. Perhaps we should be looking at shorter days, different start times, different ways we do that, given the distances travelled. Whether there are other things we can look at in terms of the total industry rather than as part of the package as well.

Mr BEECHEY – At the risk of sounding political, that has been the 38 hours a week has been tabled on numerous occasions over the last three or four years. The shearing industry is one of the few industries left that has a 40-hour week. It has been put to the National Farmers Federation on a number of occasions about the introduction of a 38-hour week. Mind you, in defence of the National Farmers Federation, we would find from our side of it – from a union side of it – a great difficulty. Yossi talked about culture change in encouraging shearers to knock off. Because of the piece rate system they work under, it is a very difficult area; but it has been suggested that, yes, shearers should go back – not so much go back – but there should be an introduction of a seven-hour, 36-hour week.

Dr BERGER – If I can just come in on that as well, **Dr Napthine**, in response to your question. There is sense in looking at the beginnings and ends of days in terms of fatigue: the fatigue that you bring into the workplace and the fatigue that you take out of the workplace. But in fact the very best statistics that we have in Australia at the moment – the National Occupational Health and Safety Commission (NOHSC) – the figure is that we have about 3,000 deaths per year, occupational deaths in Australia. Of those, only about 800 are traumatic – meaning car deaths, tractors, ATVs and so on – which means at least 2,200 deaths are non-traumatic. These are disease-related deaths. So the car component, whilst every death is highly significant, the travelling component is very small in the total picture. Of those 2,200 that are disease-related, we are told by independent research that about 1,800 are chemically related cancers. The biggest group in Australia using chemicals is farmers. In fact, if we ever go accurately into the disease-related fatalities as a result of chemicals and various other things, it will probably – based on Finish statistics and projections – about five times worse than what it is now. In other words, our traumatics, whilst dramatic and they get a very high profile in the media, are the smallest part of this nasty picture. The disease fatalities are the worst ones and the most difficult ones to trace. What do you put them down to? Sam was talking about the OP, or organo-phosphate link, and whether that is related to suicide and aggression and the dopamine link. They are very complex issues. What we do know, both here and internationally, is that chemically related deaths on farms are devastating families, both in disease and disease-related fatalities. No-one is looking at that.

Mr CRUTCHFIELD – Yossi, you talked about the ripple effect. **I think you** used the example of cut-out switches and that you have small wins, small changes, and local communities champion that attitude and it expands out. Government has some role in that. But could you expand on what role government and perhaps other organisations for argument sake – but particularly government – can have, in your view? Obviously you are a champion yourself for that model. How does government fit into that structure? Be as candid as you normally are with respect to some of the areas you don't think government is wisely directing its limited resources, because we are not winning.

Dr BERGER – You have an advantage on me. You were at our conference in Colac, and at that conference in Colac the AWU linked up with local council, the Colac-Otway Shire Council. The CEO of that council, a bloke called Rob Small, courageously decided to run with us. And I asked him to speak to the notion that local government should not have any role to play in OHS. He spoke against that. He said in fact said, "I think we should have a role to play in occupational health and safety," and he spoke well.

The reason the AWU is doing that – because we have tries for many years, including trying to work with the VFF a long time ago on the code of practice that Michael Lawrance who was here put together for us. Because of our experience over a long period of time, we came to the conclusion that if we managed to link up in a locality with certain people, we are likely to get more success. So at the moment we are linking up with local government and we are funding a very small project – again, with some Worksafe money of \$10,000 – to find out what is being done locally both by government and other organisations in the Colac-Otway region, and what can local government do by way of not only finding out a shopping list of what are you doing exactly and where are the benefits? We are asking the questions fairly brutally. We are not really

interested in risk assessment and numerical probability tables; we want to know on which farm and in which way or in which locality this has made the difference. This is the first of its kind. It is local government we feel will be the closest. They will know which agricultural show this is most useful at.

We are hoping that if we connect directly with the people there, the vast cynicism that exists – in western Victoria whenever you turn up they will tell you, "These are the wise men from the east coming back to tell us how to do things," and we want to get away from that and actually say, "It has nothing to do with the wise men from the east" – and it is mostly men coming down – "but rather what do you want to do? In which way and what do you need to make a difference?" Government at large, meaning federal and state governments, have not had a deep enough and accurate enough effect in localities. We are hoping that with local government, starting with Colac-Otway, and with the support of the CEO – I am not sure whether that will be rampant – we hope to achieve a number of changes that will make a difference. This will be evaluated. In other words, it will not be just, "Let's do it," but it will be evaluated to see whether we can make some change.

With the VFF or NFF also, we have had some discussions in relation to a number of things that are happening. At this stage while we haven't fallen in love yet, we are now talking about what can be delivered. We are heading that way at the moment. If we manage to get them – because the story is serious and it needs a lot of help – when we go into certain areas around Colac and we say, "You need an access platform on your tractor so that when you get off your tractor, your next step will put you out of the perimeter of the tractor so the back wheel doesn't bite you," and the woman with shining eyes at the back of the room says, "This is a great idea," you think "Hello, I have a class support." She says, "I will be able to cart my kids on it now." You know you have problems. Or someone else in the room pipes up, their heart is in their hand with excitement, and they say, "This will revitalise my father." You say, "Which one?" And they reply, "The old man is 88 and he will be able to get on the tractor now." It is a complex situation. That's why if we can get help from this committee and the VFF, it will be greatly appreciated.

Mr WALSH – Sam, you spoke about codes of practice. Who would develop those? How would you go about, dare I say, enforcing them, and what sort of punitive measures would you have if people didn't do the right thing? Will you wait until there is an accident and then go and say, "Hang on, you were not abiding by your code," or would you have some form of scrutiny before that happened?

Mr BEECHEY – I think this is right. This is exactly what is happening now. We wait until we get to the Coroner's Court in relation to training and they say, "What level of training did you offer that employee before he hopped on that front-end loader and tipped the bail back?" It is not until we get to the Coroner's Court that those questions are asked. So a code of practice, while it might seem like it is a big stick, it needs to be backed up with resources. Part of what I didn't read in here today was that in 1997 we went to the Shepparton and Goulburn Valley area and ran an intense campaign up there with about 15 organisers for five days, and we visited a lot of farms. The working conditions that those people were working under were absolutely atrocious. They were actually being charged for their accommodation as well. I am sure most farmers would not have tied their dog in them overnight. I went to the fruit growers association up there – the Northern Fruit Growers I think they might be called – and suggested that it was high time there was a code of practice introduced into that industry. I was just laughed out of the room and just told to toddle off back to Melbourne, because, "You are not going to come in here telling us what to do". Bearing in mind a lot of those workers on those fruit blocks are indeed itinerant; they are indeed of migrant descent. A lot of them have very little grasp of the Australian language, or the English language. Yet they are put into situations that are dangerous. These places are largely unregulated because they are covered by the act, but the act is so broad. As I say, the act doesn't come into play until someone is killed.

Mr WALSH – But who develops the code?

Mr BEECHEY – Industry develops the code in the same way as the *Health and Safety in Shearing* document was put together; it was put together by people with sound knowledge of the industry, and it was put together by farmers; it was put together by shearing contractors, by wool classers and by shearers and by the Victorian Farmers Federation. There should not be any barriers that are in place that would prevent codes of practices from being introduced.

Mr WALSH – My understanding of law is that a code of practice has a certain stature at law.

Mr BEECHEY – It is a quasi-legal document, yes.

Mr WALSH – So industry – whoever industry is – puts together a code of practice for different sorts of farms – a dairy farm, a grain property. So then how do you make sure those codes of practice actually achieve what they set out to do?

Mr BEECHEY – It is a long and educative process, I guess. Then from the other side of it, I appreciate it is no good having a code if you don't have resources – and resources come at a very expensive cost, we all know that. Ideally I think if I went and asked any Worksafe field officer out there how many people he would like out in the field, he or she would probably say, "Give me 100 and we might be able to make some impact." But at the moment, how long has the ROPS campaign been in? Some seven or eight years. Yet there are still many hundreds of tractors out there on farms that don't have rollover protection devices. There have been subsidies offered. There has been enforcement of those sorts of things, but it is a big state, Victoria, and it is very hard to cover.

Mr WALSH – Why I would like some sort of definitive answers is that Yossi made some very disparaging remarks about reports and things that never get done. But if we cannot get people to give us submissions or give us evidence that give us some clear possible answers on the way forward, it is going to be left up to us to think of some ways. That is not necessarily the best way. It would be great if the likes of the AWU could clearly articulate how you think it should be done.

Dr BERGER – Perhaps I can just address the code of practice because that is fairly central. Some eight years back in the wake of the asbestos tragedies, we had a great deal of fear around Australia with the synthetic mineral fibres. These are Rockwell fibreglass and ceramic fibres often in ceilings, et cetera. It is a great fear. People thought this was the new asbestos. At any one time, going back eight or 10 years, we had 23 strikes around Australia related to that. People will not touch it. We even had the remand centres stopped, and no-one makes a profit out of the remand centre. So people were genuinely fearful. I then got together with some people, and in a very short period of time, we wrote a six-page code of practice. In other words, if you are going to use fibreglass – there was no debate or discussion about the science or technology. Rather you get the bags, you put them in – it was a recipe book – very short and very powerful in as much as the cleanliness that we put in place, meaning exposure standards, how much in the air, were the most powerful in the world and frightened industry, although they were generally much cleaner than that in their own factories. As a result of that little code of practice and the strikes around the country, the National Occupational Health and Safety Commission got a group together – industry, unions and others – and within two months produced both a technical report and a code of practice which, since it was federal, needed to be picked up then by each of the states separately. That happened.

The reason I tell you that story is that, firstly, there were strikes where the product disappeared. We no longer had the rampant number of strikes over synthetic mineral fibres. Secondly, the thing that gave ground to it was industrial action. And industrial action comes in many ways, but essentially it means this is too dangerous, it will not be working. Thirdly, there now was a code of practice that specified very accurately to the relevant interest groups – unions, builders, construction firms, et cetera – how it was to be done and what will not be acceptable. And the

unions backed it up. So if you are asking: how do you make a reasonable code of practice? It is not difficult to put a reasonable code of practice together, but how do you actually make it work? Unless it has some teeth, you are wasting your time. To have teeth in the farming community is difficult.

Behind me there are a number of stars. There are a number of people who have worked for a very long time, including people like Michael Lawrance, who know the area very well. Unless we have a group like this with stars – and Victoria to begin with – most of you are old enough to know what I mean when I say, “Remember the Untouchables?” Do you remember how this group was put together in Chicago for a whole range? Unless we put a group together like this along the lines that Sam was suggesting when we divide agriculture up within Worksafe and they go out helping people in the first instance; in other words, if you are a farmer, you don’t have that clock over that because that will fall on his noggin and harm him because he is a sensitive politician, et cetera. Unless you do that and have teeth on it, it will not happen. A group of stars, people with sufficient wisdom to know at what point you offer advice and guidance and at what point you say, “You will end up in jail if something happens”. Unless that happens, not much will change, code of practice or otherwise. But it can be done.

Mr MITCHELL – I read here that the AWU and Worksafe has provided CWA presidents and officials with do-it-yourself safety kits.

Dr BERGER – Yes.

Mr MITCHELL – How are they being received by the public? Are these sorts of kits going to be developed for other primary industries like the timber or fishing industries?

Dr BERGER – The latter part of your question, the answer is yes; but we need support from Worksafe, who often behave and walk like an elephant with six legs and three in plaster. It is a very slow process. But with the CWA, what we try to do is to find an agency that would have respect. They will not be told what to do. They will be regarded as sufficiently independent. They will pick up some of these issues and increase the ripples that we are after. So we said to them, with Worksafe's help, "We will give you a starter kit. What do you need for a starter kit?" We produced a little booklet with a number of documents and we gave it to all their presidents. There are about 60 of them, and we gave it to them. If you ever work with the CWA, you tell them nothing. They will tell you, and they said, "You give us these folders, and we will see what we can do in certain areas." The AWU also – based on that, and the fact that it will have to develop its own life – also offered the CWA three scholarships. We said, "We will pay for three of your people to go to university to study health and safety". And they then asked us very cautiously, “What do you want in return?” And when we said nothing other than they will be agents of change; there will be three students out there talking and doing something about health and safety. They picked that up, three of them at Ballarat University doing that. And that fits in with the model I have been describing, which is get agents of change who are interested. There is great interest shown at Colac. One of those students spoke about a whole range of issues. She is at school or at university now, and speaks lavishly of those documents. We would like to repeat that, but because it is not mainstream stuff, Worksafe works on mainstream stuff. That is, “Give us the stats; where are the fatalities: which are the sexy subjects? What will impress politicians? What may look like making a difference?” They will run with that.

If you say, "But there are other things which ought to make a difference," it is very difficult to sell. And we only sell it because we speak very politely to them and they love us.

Mr INGRAM – A final question from me. We have a bit of a problem, I suppose, because farms come in a whole variety of different shapes and sizes and profitability, and also we have the debate that has come forward about a whole range of hobby farms that has come into it as well. How do we get access to the information about all the different range of industries and businesses? How do we provide the training to those, considering some of them are not a full

professional business type operation? How do we make the improvements run across those? Do you think there is a difference in the profitability and reforms across those different sectors and business type structures?

Mr BEECHEY – I think the smaller farms are operating – I will not say all of them – but a lot of the smaller are easier to manage and convince that they should go through a change and change their habits. The way to get out to those people is through Farmsafe Victoria, Farmsafe Alliance – and then there is something in the order of about 30 farm safety action groups. These action groups have the ability to actually go out and touch and relate to the community in small communities in small numbers. So, to that end, we can get the message out that there does need to be change and that training can be delivered in small areas. Some of those initiatives that the safe tractor access platforms and the isolation switches and the emergency stops for wool presses can all be done through these farm safety action groups; they are a vital cog in a very big wheel.

Dr NAPTHINE – Yossi, does the AWU support industrial manslaughter legislation?

Dr BERGER – Yes.

Dr NAPTHINE – What action are you taking to persuade the government to reintroduce that legislation?

Dr BERGER – We are weeping a lot in corners of politicians' rooms, but I am not sure it is going to make much of a difference. I am not sure it was in the Labor platform to run with industrial manslaughter, but both in New South Wales and here, we are trying to revitalise it. But if we are not going to get anywhere with that – to do things, if I could put it that way – with the Occupational Health and Safety Act which is under review now, which will make it as close as we can get it to industrial manslaughter regulation. As you would know only too well, the political process is a wonderful and complex one, and I think it appears at the moment this is not going to get up very quickly.

The CHAIR – Thank you very much, Yossi and Sam, for your expertise and your valuable time.

Witnesses withdrew