

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

STANDING COMMITTEE

ON

VETERANS AFFAIRS

Thursday, May 27, 2004

Committee Room 1

Insurance Bureau of Canada

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VETERANS AFFAIRS COMMITTEE

Michel Samson (Chair)
William Langille
Cecil O'Donnell
John Chataway
Jerry Pye
Gordon Gosse
David Wilson (Sackville-Cobequid)
Harold Theriault
Stephen McNeil

[Cecil O'Donnell was replaced by Gary Hines.]
[Jerry Pye was replaced by Graham Steele.]

In Attendance:

Darlene Henry
Legislative Committee Clerk

WITNESSES

Don Forgeron
Atlantic Regional Office, Insurance Bureau of Canada

Dennis Furlong
ING Insurance

Stan Keeping
Commercial Lines Director for Atlantic Region, Lombard Canada



HALIFAX, THURSDAY, MAY 27, 2004

STANDING COMMITTEE ON VETERANS AFFAIRS

9:00 A.M.

CHAIR
Michel Samson

THE CHAIR: I want to welcome everyone to the Standing Committee on Veterans Affairs meeting here this morning. As per our usual protocol, I will ask members who are here to introduce themselves. We are expecting two or three more members to be joining us so they may be coming in and I am sure they will introduce themselves when it comes time to ask some questions but for the time being, I would ask if we would just have members around the table introduce themselves.

[The committee members introduced themselves.]

THE CHAIR: I would invite Mr. Forgeron to introduce himself, his organization and his colleagues who have joined him this morning.

DON FORGERON: Mr. Chairman, my name is Don Forgeron. I'm with the Insurance Bureau of Canada, the Atlantic Regional Office.

DENNIS FURLONG: I am Dennis Furlong and I am with ING Insurance based in Halifax.

STAN KEEPING: I am Stan Keeping with Lombard Canada, Atlantic Region, Commercial Lines Director.

THE CHAIR: Thank you and I want to welcome our guests here this morning and thank them. I know we had to reschedule and there were a few conflicts but I am pleased to see that we were able to put this meeting together.

As per my conversation with Mr. Forgeron and as per a letter dated April 14, 2004, following a presentation made by the Royal Canadian Legion, there were significant concerns raised about the liability insurance costs to Legions throughout the Province of Nova Scotia and the financial impact on these institutions. As a result of that, the committee decided that we would ask the Insurance Bureau and other representatives to come in and better inform committee members of exactly the reasons for the increase in liability insurance and other insurances facing Legions and to possibly see what solutions may be available to the Legions throughout this province that this committee might be able to advocate for on their behalf and work for them.

I notice my colleague, Mr. Stephen McNeil, the member for Annapolis, has joined us so while the whole question of insurance is a very wide one, the purpose today is for our committee to be able to get a better understanding of what is the phenomenon facing our Legions throughout this province. So I would ask members to keep focused on that so hopefully at the end of the day we will be able to have a better appreciation and possibly some possible solutions as to how to address this issue. So with that, Mr. Forgeron, I leave it to you and your colleagues to make the presentation and following that I am sure there will be some questions from individual committee members.

DON FORGERON: Mr. Chairman, we have a brief presentation to make. We will leave as much time as possible for questions. The presentation has been handed to you. The last time we were here, which some of us remember well, we did try some audiovisual which didn't necessarily work as well, so this time we went with the old-fashioned paper copy, and you have those in front of you. I would like to just quickly walk through the slides that we've given you, beginning with the slide that's titled National Overview.

In spite of the tremendous amount of good work and goodwill that Legions generate in our communities right across this country - and I think everybody would acknowledge that at the outset - when it comes to liability insurances, unfortunately they find themselves placed in a category with many other similar commercial risks. I say it is unfortunate because it is somewhat contradictory to the notion that most people have of Legions, in that they reflect back to the community the service of many men and women and the community service projects that they undertake right across this country. That being said, I think it's important for us to understand the context within which premiums for Legions are established and what are some of the factors that influence Legions and other commercial establishments.

The National Overview slide is to give you the sense - not that there is any solace in this - but that Atlantic Canada is not alone when it comes to some of the issues that are facing the commercial insurance sector, in fact, Canada is not alone. We have seen liability issues developed in many other parts of the world, but we show you how Atlantic Canada fits in with other parts of the country with respect to premium increases for commercial

property and commercial liability, which are the two predominant premiums that Legions pay and have caused concern. You can see that Atlantic Canada is very much in line with the increases over the last four years in many other jurisdictions in the country.

The next slide talks about a basic formula and we in the industry have done a masterful job at times at making it sound incredibly complicated, but in the end it really isn't all that complicated. It really comes down to the premiums that insurers take in, primarily interest income that they earn on those premiums while they hold them, before they pay claims. Subtracted from that, if you will, are the claims they pay and their expenses to do business, and what is left over, if anything, at the end is a profit. That essentially is how our industry functions and, I suspect, many other industries as well.

The next two slides probably sum up why insurance - be it commercial, auto, or any other line - has found itself in the spotlight over the last couple of years. I draw your attention to the area that is circled. This is claims growth - these are national figures for all lines of business - and you will see the area that is highlighted, through most of the 1990s claims growth was relatively modest; in fact, in the late 1990s we actually saw a couple of years where there was a decline in claims growth. You also see that, beginning in 2000, there were three consecutive years of fairly significant claims growth right across the country.

If you turn to the next slide you will see how the industry responded. Again, in the circled area you will see that those increases kept pace with claims, and I refer you back again to the basic formula that premiums and claims make up the largest part, by far, of our business, and premiums rise and fall effectively with the rise or fall in claims costs.

Starting in the year 2000, if you flip back and forth, you can see that the increases in 2000-01 that the industry put through in response to those increasing claims costs were lagging behind, and 2002, really, was the year where the increase in premiums finally put the industry back in a position where they were able to cover claims costs and return to profitability, and 2003 was the first year in the last three years where the industry returned to some reasonable level of profit.

The next overhead talks about why commercial premiums have increased. I don't want to spend too much time, but I will just touch on a couple of these that are significant. As I mentioned, rising claims costs - be it commercial insurance, auto insurance, or any other line - drive premium growth more than any other single issue. On the commercial side there has been a tremendous increase in the cost of reinsurance, which is the insurance that insurance companies buy to protect themselves from large losses, large catastrophes and so on. I had one regional manager say to us at one point that he had a commercial risk and he was charging x dollars for this commercial risk, and when they did an audit they realized that they were paying more in reinsurance than they were charging the client in

premium, clearly an unsustainable situation and a reflection of the fact that reinsurance costs really have risen quite dramatically over the last two or three years.

The third point talks about capital and capacity issues. Years of low earnings for our industry has meant that capital reserves have been severely depleted. An insurance company needs \$1 in capital for every \$2 in premium that it writes. The federal regulator requires that insurance companies have sufficient money on reserve in order to pay claims, so that if there is a large catastrophe, if there is a large loss the client, the consumer, is not going to be faced with the situation where the insurance company would be unable to pay the claim. So, by law, by regulation, insurance companies require a certain amount of capital in order to write business, and when premiums rise it requires more capital to write the same amount of business as you once did, because the premium volume is higher.

We have seen, over the last couple of years, some very serious issues develop with capital, and as a result of capacity - and capacity refers to the capacity of the insurance company to write business, and if an insurance company requires an injection of capital in order to continue writing business, or to write more business, because of poor earnings over the last several years - many companies have opted not to write business. We have seen this show up, especially on the commercial side of the industry - not so much on auto and other lines, but on the commercial side we have seen many cases where companies have simply withdrawn from the marketplace for a variety of reasons, some of which I've mentioned, a lack of desire to put more capital into a line of business that was losing money, and I don't think it's too difficult to understand why a company would not want to invest more when there was no real opportunity to make money on that investment. So that has resulted in fewer players in some market lines.

DENNIS FURLONG: I might add, also, Don, that the inability of the insurance company to properly price their product limits them in trying to attract shareholders or investments into that company when the return on equity is low or non-existent.

DON FORGERON: This has led to several years of poor results. There were, and still remain, companies on the federal Office of the Superintendent of Financial Institutions, OSFI, which is the federal regulator in Ottawa that is responsible for solvency. They have a variety of tests that they employ to determine how healthy an insurance company is, and over the last several years, their so-called watch list had grown quite significantly because of very poor earnings in the industry - again a reflection of the fact that there were problems with capital.

The last bullet talks about a focus on underwriting fundamentals. There is no question that insurers have focused more on pricing their product properly because of the difficult times that they have experienced over the last several years. So there's no question that the standards that they have imposed on some customers, some consumers, for risk

management and so on has increased and I believe that has been felt as well by some Legions.

[9:15 a.m.]

Finally, the last slide talks about Legion-related issues specifically. As I mentioned at the outset, in spite of the work that the Legions do in their communities for veterans and so on, when it comes to liability exposure, because alcohol is being served from these premises, they are classified and pose very much the same types of risks that a bar or a similar type of establishment would pose. They, I understand in some cases, because there are some differences and some distinctions obviously between the Legion and say a bar in downtown Halifax, do enjoy still lower premiums than a traditional bar would realize, but no question that they still are significant.

We have met with the Legion Command here in Halifax on at least one occasion directly to canvass with them what some of the potential solutions might be and I know that they have met with others in the industry as well. We know of one local broker, one large provincial broker, who is attempting to secure for the Legions a group plan and this is one potential solution for them, that if they were able to pool all of their resources, all of the Legions under one group plan, there might be some efficiencies there and there might be some opportunity to lower those premiums.

I know that work is continuing on that. This broker had recently travelled to Western Canada to talk to some specialty insurers which primarily, or at least in a large majority of these cases, traditional insurers do not insure Legions. Because of this capacity issue over the last several years, many have withdrawn from that marketplace and many of the Legion accounts are now with what's called specialty markets in other parts of the country and most of them not housed here in Nova Scotia.

There are some things I guess all stakeholders involved on this file can do to assist. The industry is trying, as I say, through meetings with Legions, through the development of group plans, through offering advice on risk management, and making available to Legions the expertise that we have on how to minimize risk, there are things that all stakeholders can do to try to improve the situation. As I say, from the industry side, we have been making some attempts from a risk management side.

During the course of the 1990s when premiums were flat and in some cases falling, risk management on behalf of consumers and commercial establishments really was not at the forefront because there was no pressure on them to make sure that they were practising proper risk management techniques because their insurance rates were falling, they were relatively low to begin with, but now that we've entered an era where those rates have risen; there is a need, I think, on behalf of those people purchasing the coverage to make sure that

they do employ the best risk management techniques possible. That in and of itself will not solve this problem, but it will certainly help to mitigate some aspects of it.

Government also, I believe, can play a role in some of this. It's unclear from our perspective at this point and we don't have any specific recommendations, but there are legal issues that arise related to Legions and we all saw a media story over the last couple of weeks about a host-liability case coming out of - was it Quebec? - Quebec or Ontario, where the homeowner was found to be not liable for the actions of a guest that they had in their own home who brought his own alcohol and was involved in a motor vehicle accident. The distinction the judge made was that the individual had brought his own alcohol to the party. Had it been served by the host, the decision could have been, and likely would have been, substantially different.

We have, and I believe it has been handed out - and this really goes to the heart of the problem - when you are talking about what is the risk that is posed by Legions and other similar establishments, it really does all trigger on alcohol liability. We have tabled with you, a paper that talks about the Canadian experience with alcohol liability. Many of these court cases date back to the early 1980s. That is really at the root of the problem here. I know Dennis has a couple of stories in particular that he wants to share with you that really pinpoint this problem right here in Nova Scotia. If a Legion is found to be even 1 per cent liable for an accident, and you have a patron who comes to a Legion and consumes alcohol and is involved in a motor vehicle accident following that, if the Legion is found to be even 1 per cent liable, they could, depending on the circumstances, be forced to pay 100 per cent of the claim, because of the way legal liability laws are constituted here in Canada.

As I say, we have not come forward, and we will not come forward with detailed recommendations, but those are the realities that insurers are faced with when they are trying to assess risks and trying to develop premiums that are commensurate with that risk. Dennis, if you want to share with the committee a couple of those stories, just to highlight what the problem is and why you see premiums in the range that they have been.

DENNIS FURLONG: Don pointed out the document you have on alcohol liability, some of the cases dating back to the 1980s. Some of you may think, well, that's 20 years ago and no longer is prevalent. Well it is still prevalent. Last week in our operations we had a notice that was sent out to us on any loss that exceeds \$100,000. This is a loss that deals with host-liquor liability. It's a senior citizens' club. They rented out their locale to a union for a Christmas party. The union organized and managed the event, the insured staff did serve the meal and the alcohol.

There was also available that evening, an organization called Operation Red Nose. For those who aren't familiar with that, it's a volunteer-based organization that during the

Christmas period will volunteer rides for people who had been to Christmas events, and who feel they have taken too much alcohol and don't feel comfortable taking to the road. This service was offered and arranged for anyone who felt they had too much to drink. The evidence so far indicates that the individual refused that service and was on his way to another bar when the accident occurred. This was a single-vehicle accident, and the vehicle rolled several times, the claimant sustained multiple injuries. This is a loss that happened in December 2001. We were advised of the circumstances in January of this year, so basically, 25 months later. The client we had for one year. The policy did not renew with us, and, at that time, the premium that we were charging for this policy is \$750. So far, the money that we've set aside to settle this is \$175,000. These types of occurrences happen today.

Another incident involved a golf club where the friends of the individual actually wrestled his car keys away so that he wouldn't take his car. Yet, he had car keys hidden in his car with those magnetic type compartments that you can hide under a fender, and he drove away in his car. The golf club was named in the suit, and we had to defend the golf club. These are the types of incidents that we're facing, and they are continuing to happen today.

DON FORGERON: Just a final comment to maybe finish on a slightly more upbeat note. We have noticed that in terms of market conditions there has been, with respect to commercial, some stability coming back to the marketplace. The industry in 2003 did rebound, it is coming out of some very difficult years and we have seen premium increases stabilize to far more moderate levels; in fact we have already begun to see in some classes of commercial insurance renewals coming back with premium decreases from the previous year.

Our business, especially on the commercial side, tends to operate in cycles. Many believe that we are now coming out of this very difficult period of this cycle and we should continue to see some price moderation, and if history is any guide we have always seen price decreases following what is termed in the industry, a hard market. So we're optimistic and hopeful that we have turned the corner somewhat and that we'll begin to see, and consumers will begin to see, some price reductions over the next 12 to 24 months.

STAN KEEPING: All I would add to what Don was saying earlier, and about the information that's in the handout, the type of claims, the type of settlements that come in these liquor liability cases as well, some of the data may appear old, but these incidents are generally serious injuries. They go into long court cases, they become multi-million dollar settlements. It takes a long time for some of this data to flow through to this type of report, but I'm sure lots of it is available as well in case from the lawyer sectors. These are large, expensive claims, they are serious incidents, and it is a difficult class.

THE CHAIR: Thank you very much for your presentation. Mr. Langille.

WILLIAM LANGILLE: I guess being on the Veterans Affairs Committee, I'm more sympathetic to the Legions than the insurance companies.

There's a bit of confusion here - if you go to Page 2, your National Overview, I see that the increase in premiums for liability looks approximately 58 per cent for Atlantic Canada. What I would like to know is - this is the highest in Canada by the look of it, and I don't see anything on British Columbia - why would that be the highest, what liabilities have you paid out last year for the Legions in Nova Scotia?

DON FORGERON: To the first part of the question, the B.C. data simply wasn't available. I'm not sure why, but if it's of interest we can endeavour to find it for you. Again, in terms of liability rates across the country, I might ask my colleagues if they have a sense for where the levels in Nova Scotia are now relative to some of the other provinces. This reflects an increase. I don't know if liability rates in Nova Scotia, if there's a substantive difference between liability rates for Legions here relative to . . .

STAN KEEPING: I wouldn't think so, but again I'm speaking from one company perspective only. Our general level of price increase in the liability pot of premium was about the same in Atlantic Canada as the rest of Canada, from my perspective - and I think that liability chart is all classes.

DON FORGERON: It is, yes.

WILLIAM LANGILLE: This shows in for four years about a 58 per cent increase. How many claims have you processed? Has the insurance company processed liability claims in Nova Scotia last year?

DON FORGERON: We didn't provide that information specifically. We can provide you details on the number of liability claims that were filed, that were settled in 2003. I think those statistics are going to be available virtually any day now as well as the total amounts.

WILLIAM LANGILLE: I'm referring to Legions only, of course.

DON FORGERON: I don't know if we have that - I know we don't have that level of detail.

WILLIAM LANGILLE: Okay. Also, your commercial property, I see about a 40 per cent increase from 1998 to 2002. Why would commercial property increase that much?

DON FORGERON: Again, if you refer to the charts that came a little bit further,

you'll see that premium increases have followed, very much in line, with an increase in claims costs. We have done some very preliminary analyses of the 2003 results and, in fact, on March 29th of this year, all MLAs in this room received a letter from us that talked about the release of the 2003 profit figures. In there, we talked about some very rough estimates, and I have to caution you that they are very rough estimates, of profitability by line. The commercial property line in Nova Scotia in 2003 is projected to have lost about \$43 million. So claims in 2003 for commercial property far outstripped premiums that were collected.

[9:30 a.m.]

WILLIAM LANGILLE: Commercial property, you're talking about all property in Nova Scotia.

DON FORGERON: All commercial property risks, yes.

WILLIAM LANGILLE: Exactly. Now, I think you've skirted part of the issue here, and that is the downturn in the stock market where insurance companies in Canada lost money, although they probably won't say they lost money, they had a lower yield for their investors, which is understandable. But last year, as we know, they had record profits, the insurance companies in Canada. I think that's part of the reason, because of the return around 12 per cent that was being derived from your investments, why the rates were kept down, and probably nobody expected that spike to go up last year and for insurance companies to make that much money. Would you agree with that, or disagree?

DENNIS FURLONG: Don mentioned, earlier in this presentation, the Office of the Superintendent of Financial Institutions, which is a regulatory body which examines the solvency of P&C companies in Canada. They actually put out a study in September of last year. One of the elements that they did examine was the investment of property and casualty companies, what impact that had on the rates. Because the P&C industry is highly regulated, it is also highly regulated on the investments that they can make. So it dictates what percentage of their investments they can put in common stock, for example.

What came out of that study was essentially that close to 90 per cent of the investments has to be in preferred shares, government bonds, certificates. Of the remaining 10 per cent, I believe 7.5 per cent is common stock and 3.5 per cent is commercial real estate. The conclusion of the study was that the stock market had no impact on the rates being charged. In fact the P&C market, because of those regulations into what types of investments the P&C industry could do, actually fared better than a number of mutual funds.

WILLIAM LANGILLE: I'm a regular member of the Legion, Branch 64 in Tatamagouche. I know that insurance for them has gone up dramatically. I think it's around \$12,000. As you know, the Legions give back to the community. I don't know for how long

they can sustain these types of hits in their premiums. It's a concern all over, not just for the Legions; fairs that are going on and functions have exorbitant rates. I guess we have to work together to come to a conclusion and a common goal on how to get these rates down.

STAN KEEPING: Mr. Langille, I would like to comment on your point there and I think it's a good one because I think the Legions themselves, many aspects of what they do in the community and what they do as an organization, and they are somewhat of a subset in the liquor business. I mean that's probably not the right description, but liquor is part of the issues there, and I'm not sure, sitting in this chair, what the Legion organization has done for themselves in terms of using their own buying power as a provincial or a national group as an insurance customer.

Again, I'm not sure what has been done, I would recommend that some things do be done, if that's the right phrase, because they are a fairly homogeneous group. A Legion in Cheticamp is quite similar to a Legion in Cole Harbour, or whatever, and I would think that they could interest brokers and insurers as a group in describing their operation, how it differs from regular bar operations, and perhaps if there's a middle ground now or going forward, I think there's some marketing and buying group power that has to be exercised there and, again, I'm saying that not knowing what has been done to this point, I'm not sure.

WILLIAM LANGILLE: One more, Mr. Chairman. I believe we have to do something in that regard and I know Mr. Barnes there, the President of the Provincial Command, would like probably to work with whatever solutions he can in this regard. To have all the Legions insured under one umbrella would make common sense to me, to have a lower premium. I'm sure in the past there, I've seen lower premiums by a group of people rather than individuals and I'm sure the insurance companies will look favourably on that. Would you agree with that?

STAN KEEPING: Well, it's a distinct possibility. Again, I know that part of that organization, or my perception of the organization is there's a lot of volunteerism in terms of running the organization. I'm part of volunteer groups myself and I know that only so much can be done at a time and during a given season. I think, you know, some effort should be put into investigating that, I would recommend it and what comes out of that, I'm not entirely sure.

DON FORGERON: And that was the primary purpose of the meeting we had with the Command, was to look at some of the solutions, and the one that seems to strike everybody that has the best potential is a group plan. We have encouraged the Command. I don't think they had retained anybody at that point to provide them with any advice and not necessarily a broker, but an insurance consultant of sort who could provide them with the best possible advice, both from a risk management point of view, to make the risk as attractive as possible, and also to investigate fully this notion of a group plan. I don't know

if anything has been done in that regard, but I do know of this one large provincial broker who has been spending quite a few hours of his own time trying to put together a group plan that might provide some much-needed relief for them.

THE CHAIR: Thank you, Mr. Langille. I have Mr. Wilson next, followed by Mr. Hines and Mr. Chataway. Mr. Wilson.

DAVID WILSON: Thank you, Mr. Chairman, and thank you for your presentation, just a couple of questions and maybe some comments. I'm also a member of the Legion out in Sackville and since getting elected and learning about the liability insurance premium increases throughout the province, and not only just with Legions, insurance is a hot topic with a lot of people, especially in our province, whether it's auto, or home or anything, but with the Legions it seems that over the last little while there has been such a dramatic increase in their premiums and a bit of the cynicism that the public has, or holds against the insurance industry, is that with the increases we're seeing, we're also seeing increases in profits.

I know that's something that you're in for your shareholders, is to make a profit, but the public seems to look around profits and increases as, you know, the increases are related to the profit. So the thing with the insurance that our Legions are seeing throughout the province, when they see such a dramatic increase, a lot of them haven't had a claim and that's the big issue with a lot of these Legions, yet they are similar with the delivery of service they give to the communities. There is a big difference in a lot of the Legions, with size, the revenue they have coming in, and some of the smaller Legions can't absorb an increase. Some Legions, it's great, they have enough revenue to absorb that, but it will affect some of the services they give - such as Four Harbours branch, which is a smaller Legion, and Shubenacadie has had some problems.

One of my questions would be, to your knowledge - and I know that you have shown some cases of liability to different hotels, their social guests and that - have the Legions here in the province, or for that matter across Canada, are you aware of any liability claims towards Legions in a court case, in past history?

DON FORGERON: The second document that we have provided you on Canadian alcohol liability on Page 3, the left-hand column, about halfway down there is a case from 1980 involving a Legion, I believe, in Ontario - I'm not entirely sure. We talked when we met with the Legions if they were aware of any specific cases and quite frankly I can't recall what the answer was. I'm not familiar with any, certainly in recent memory, but the important issue there is that the exposure, the risk is still there, whether it's a Legion, whether it's a bar and, with the way the courts are ruling, whether it's in somebody's home. That liability still exists that if you serve alcohol and there is an unfortunate turn of events, you're going to be held liable. So whether or not there are cases last week, last year, or last

month, the courts have determined that this is something that an establishment can be held liable for, and as an insurer they have to take that into account when they establish their premiums.

DAVID WILSON: As an insurance bureau, do you look at changes in legislation to try to aid in taking that liability off someone serving and putting it more towards the patrons themselves? Is that something you see that needs to change in the province or in the country?

DON FORGERON: We have not discussed it; I think it's something that should be discussed. I think you would have to carefully discuss it, it's a fairly complex area, and I don't think that one should lightly transfer liability from one group or one individual to another without careful consideration. That is why we said at the outset that we would not come forward with those recommendations at this stage, but I think it is something that ought to be considered at some point.

DAVID WILSON: I think with things that have happened over the last few years with increases, I think that is somewhere - you guys are the ones who are holding the insurance policies - that you should be a big advocate, I think, in trying to suggest some changes to either the courts or the laws. Definitely, coming from the profession that I came from, I think it's important that the right persons are held liable when it comes to cases like this. As you were saying, in one of the examples used, about someone wrestling the keys away from someone and they found a spare set, I mean that to me is obviously the responsibility of that person who chose to get in there. I'm sure that's a long debate and I agree with you, but hopefully maybe down the road we will have conversations about that.

STAN KEEPING: I would like to comment on that just a bit. Suffice it to say that the standard of care that's expected for establishments that handle liquor is very high. What has been shown in the past, and I think you can predict to go forward in the future, is that the courts hold that standard very carefully and the awards have been severe.

One of the principles of insurance - going back to the issue of some of the smaller Legions that haven't had incidents and still their premiums have gone up - is that the premiums of the many pay for the losses of the few. This particular class with liquor liability issues, the incidences of the few tend to be severe, so the angle on liquor liability is that the rest of the players are chipping in to pay for those severe settlements and court issues. It's just a reality going forward. I believe it will continue. I've every reason to believe it will continue, that once these incidents get to a court level, the potential for severe payout for settlements is there. It's just a product of society right now.

DAVID WILSON: You said, though, that the Legions fall under the same category as a bar in downtown Halifax. I must advocate on the Legion's behalf, I think they really

show an example of risk management in how they operate the business and how they serve liquor. Just go into any Legion - working as a paramedic for years, going to pick up people outside or inside for fights or altercations, I don't remember really going to a Legion. I think they do a tremendous job on the risk management with the staff that they have serving the liquor and the staff they have watching the patrons. Do you take into consideration, when you're setting your premiums, the hours of operation? There are Legions in the province that are only open on the weekends or for special events, do you take that into account when setting the premiums? Or are they just kind of blanketed with the same Legions that are open seven days a week?

[9:45 a.m.]

DON FORGERON: I'll let my colleagues talk about the pricing. I just wanted to clarify one thing though, Dave. I mentioned at the outset that they are viewed in a similar class to many bars. I certainly don't want to leave the impression, even from a pricing point of view, that they're viewed exactly the same because they're not. There are some distinctions there, but maybe Stan or Dennis could talk about pricing.

STAN KEEPING: On the pricing side, I think the drivers, if you will, of the pricing on the liability side tend to be perhaps fairly simplistic, but from the revenues for a Legion - how much of the revenue is driven by their liquor sales, how much is from other functions or whatever, food, and that will tend to drive the price. Definitely, I think revenue is typically the measurement used in the split of the revenue - liquor versus food versus other.

Again, my perception of the situation on the pricing, liquor liability, specific to Legions, they are at a level somewhat under the typical bar, straight-ahead bar situation, downtown bar in Halifax.

DAVID WILSON: I know there are talks going on with the Legions here in Nova Scotia to see if there's some kind of group or blanket coverage. Do you have other organizations that you do that for, that you're aware of, that give a blanket coverage even though they're separate kind of identities? Are there any similar groups that you're aware of that they could look at?

DENNIS FURLONG: Sure, on the commercial side, for example, you can make the parallel with branch Legions and franchises of fast food outlets, or a group plan for retail hardware stores, so those types of group plans do exist.

DAVID WILSON: Is that when you charge the premium for that - I think this might be a concern of the Legions, they are separate, they do have a Nova Scotia/Nunavut Command, but they are separate, they pay their own bills. On a blanket coverage, do you see the Legions having to work out who pays what? Is it one cost or would you guys be able to try to determine which areas or which Legions . . .

DENNIS FURLONG: Well, each company has their own way of evaluating and underwriting a risk. What I've seen in the past, for example, the construction of different Legion branches will be different. The rates will reflect that different construction type. Whether it has a fire hydrant within 1,000 feet, past experience. Those rates can be established at the offset. The same type of underwriting approach can be used on the liability side in terms of - as Stan mentioned - the driver is the sales, revenue generated by sales of liquor. Other activities - you may have some Legions that have, over the weekends, because they have a ballfield, like in Bedford, have activities all over the weekend. Well, there's an added exposure there. That may be rated differently than another Legion branch that doesn't have regular activities over the weekends.

STAN KEEPING: If I could add a little bit there. I think what you're getting to, David, is whether the command would have to pay the bill for the program or whether it would be the individual branch out there. At my particular company, we do program business where you focus on a given segment of the commercial marketplace. I've seen it from us or from other insurers go either way, depending on what was functional for the client, either head office, if you will, or Command takes care of it, or it goes back to the actual individual operation paying their own bill. So, one thing about the business, there's lots of variety out there and there are different ways to do things. I think there are a number of opportunities there and alternatives.

DENNIS FURLONG: Having one point of contact for the plan would also help establish risk management to determine a standard for all Legions and Legions that already have standards, but taking that a step further of what else can be done in terms of prevention.

THE CHAIR: Mr. Hines.

GARY HINES: Mr. Chairman, I would like to go to the area of risk management. You've also talked about a group insurance policy and risk management. What would be the measure or how would you measure success in Legions dealing with risk management so that it could divert back to actual costs? Risk management is a wonderful thing and, as my colleague across the way stated, the Legions tend to be more responsible and know their clientele better which allows them to be more responsible in terms of dealing with individuals, but what would be the measurement plan with risk management that could reflect and go back to the Legions in a negotiation process? What are some of the things you look at and would it be a form that they would fill out that addresses this so that you can consider it in pricing?

STAN KEEPING: I could comment on what I've typically seen in liquor liability risk management situations. A lot of it goes back to staff training and dealing with serving guidelines. There are those issues. These days a lot of risk management issues from an

insurer's selfish perspective is documentation of procedures and documentation of incidents when they occur because later on in a court situation, if that's what it gets to, it's important to know what happened and why but, again, trying to establish procedures, whether they be drive-home campaigns, serving guidelines, staff training, et cetera, you're trying to establish that as an organization you have done everything that's reasonable and reasonable care to protect your clientele and there are quite well documented risk management angles on liquor liability issues and lots to recommend.

GARY HINES: So would that allow you to establish, shall we say, a special caveat to realize the Legions because they are special entities and I don't think that's being recognized to the point that it should be in consideration of pricing, is that they are a special organization. I know in my community, in particular, which Don can attest to, we've had a 20-year drought on Facility. So we really rely on our Legion to be more than just a watering hole for veterans and the guy on his way home. It becomes a major piece of our community and we also have to recognize the value of our veterans. So would there be an opportunity to develop a special caveat that your superiors at the higher level would recognize?

STAN KEEPING: What I would say to you there is there's the potential for the Legion organization to convince the industry that they are a subset that's better. I would say that would be my recommendation to bring that story forward.

DON FORGERON: And as Stan said earlier, Gary, it already is recognized to some extent that they are different and better because their rates, while still concerning liquor liability, are still in that category. They are still better than liquor liability rates, for example, that will be charged to a downtown bar or tavern. So it already has been recognized. If we want to make it even more so, then, yes, as Stan says, the challenge then is for the Legions and the industry to work together to develop what would they need to do, what standard would they have to meet in order to see a further improvement in rates.

GARY HINES: One of the other things that I would like to know is, in comparison to other jurisdictions outside of Canada, have rates gone sky-high with Legion facilities or equivalents of the Legion facilities in other jurisdictions outside of Canada because there seems to be consistency across Canada, but is there that same . . .

STAN KEEPING: I operate in Canada, I'm not sure . . .

DON FORGERON: Yes, we haven't looked at the international experience, but I know the international experience on liability is very similar. Insurance costs have gone up worldwide, not just in Canada. Capital and capacity issues are issues in other jurisdictions as well and so just by extension I would expect that all commercial risks in many other countries probably would have seen the same results as we have in Canada. I can't tell you for certain, but because all those other factors are in place, I think it's a reasonable

conclusion to draw from that.

GARY HINES: And just a closing remark, it seems that you gentlemen at the table, today, have a heart for the Legion. I hope that you can in negotiations, and as this thing goes forward, assist the Legion in forming group insurance because I think that's the way to go. We've done it in other areas, there are specialty companies that insure the motorcycle industry and so on, that seem to be able to give reduced rates. I will ask you as you go forward to continue to put heart into the discussions so that those making corporate decisions are going to recognize, as we do as individuals, the value of our Legions.

DON FORGERON: Being the son of a D-Day veteran and a former Legion president, I fight this battle not just here, but I fight it at home as well. I have heard many times the need to get something done on this file. We will continue to do that.

THE CHAIR: Thank you, Mr. Hines, and I can attest to what Mr. Forgeron has said because I know his father personally and have no doubt that he is constantly reminded of Legion and veterans' issues. Next on the list is Mr. Chataway.

JOHN CHATAWAY: Thank you very much, Mr. Chairman, and certainly I very much appreciate attending this meeting today because it's very important. I think everybody on this committee realizes that we can't solve a problem or a challenge for our Legions by not discussing it. We very much appreciate your attendance here, and all three of you for your presentation. I know that many others have Legions in their ridings, and in Chester-St. Margaret's we have five Legions and a Lions Club that acts for a Legion in another community, so that is six that are very important.

We all realize that in Nova Scotia, we are very dedicated to the military. Of course, we've had the discussion of what is a veteran, World War II - and certainly congratulations to your dad, and June 6th is coming up - of course, we have the present military too. We have many Nova Scotians that are committed to the military, and the vast majority of Nova Scotians back this up. If Legions across Nova Scotia are faced with these challenges all the time, my goodness, we really can't afford to lose them.

You mentioned, in your presentation about Legion-related issues. Yes, there have been discussions by some insurers about putting all the Legions together. I would like more detail. Who have these people seen, and is there a consensus among them about what they have done, talking about Legions specifically? Is it local, Atlantic or national? I think everybody would appreciate more facts and figures. I'm sure the association, the Insurance Bureau of Canada - I don't think it would be very hard to say here are all the Legions, you have the names on there somewhere. Have you on an annual basis met with the Legions or the national Legion organization or the Atlantic Legions to talk about the insurance?

Another thing is, I would like some information about the Superintendent of

Insurance, has that office ever contributed to a potential solution, or at least an analysis of the challenges Legions are facing?

DON FORGERON: Let's see if I can take them in order. I don't have a lot of the details on the group plan, in terms of which insurers this particular broker has met. There may be other brokers out there who've also done some work or are doing some work, and the Legion, itself, may be doing some additional work.

[10:00 a.m.]

We left the meeting with the Command, which was held about six, eight weeks ago, thereabouts. The date may have since passed, but there may be an opportunity for us to address, I believe it was a national convention in Truro, or a provincial convention, I'm not exactly sure. Also, an offer to continue to meet and continue to make available to them whatever expertise we can, whether it's on the risk management side, whether it's on the group side. I don't know what contact there has been between the broker who's developing this group plan and the Legion, I think you would probably be best served to talk with the Command or the broker themselves.

Meetings such as the one we've had, similar meetings are taking place across the country. I don't know if they've had them with central Command, the way that we have here in Nova Scotia, but there has been availability of insurance issues with other sectors in the business community. We've met, here in Nova Scotia, with a variety of other groups, as have my colleagues across the country, whether they're in sport and recreation, in the tourism sector and so on. So there are meetings like that taking place, provincially and nationally.

On this particular file, we meet and talk with the Superintendent of Insurance and the department on a regular basis. I don't recall talking specifically on this issue with them of late. That's not to suggest they haven't spoken to people in the industry, but I don't think we've had an official meeting with them on the issue of Legions.

JOHN CHATAWAY: Who would coordinate the gathering of all information? Don, you just said, okay, this group might have talked, these people might have talked, the superintendent might have done this. Is there anybody in the Insurance Bureau of Canada, or maybe any suggestion, who concentrates specifically on this?

DON FORGERON: I think the . . .

JOHN CHATAWAY: A sort of critical path, if you . . .

DON FORGERON: The onus, to some extent, would fall to the people who would make decisions about whether or not they wanted a group plan and how the group plan

would be structured. As Stan mentioned, there are a number of issues that need to be ironed out or that would have to be ironed out in any group plan, to make sure that it worked for all members of the Legion. Presumably a meeting would ultimately have to take place or an exchange of information, at least, between those people attempting to put together a group plan and the Legion itself, to see if they can come to some agreement, if that's of interest to Command. I can't tell you, obviously, if it is or not. There may be other concerns that they have with respect to a group plan, I don't know.

There's also a role, as I mentioned when we met with the Legions, that some outside independent advice could also be helpful for them, outside of an insurer, outside of a broker, outside of anybody who had a vested interest in this other than providing professional advice.

So there might be a role there for that type of an individual to play, to provide guidance and advice to the Legions as to the best route for them. Is it a group plan and, if so, what type? If not, what else could they do?

JOHN CHATAWAY: My final question, you mentioned Legion-related issues, government legislation, is there any sort of consensus, or anything like this, about what governments should or should not be doing, either provincially or federally in this regard?

DON FORGERON: I think there ought to be, as I mentioned earlier, a dialogue that takes place around some of the court decisions that are driving some of the decisions that insurance companies make with respect to liability. That discussion has not taken place. It could be a provincial discussion. Many of these rules are provincially written and could be changed provincially. As I said, I think it would have to be a fairly wide-ranging discussion to make sure that all points are canvassed and properly considered. When you're talking, again, about transferring liability for actions from one group or from one individual to another, you have to be careful when you do that. So we'd certainly welcome - and I suspect that you'll probably hear more from us over the next several weeks with respect to some specific suggestions, and a call for a broader discussion.

There are hearings taking place across the province right now, through the Insurance Review Board. There was some press coverage today in one of the local papers that was talking about the very poor turnout that they were seeing at pretty much all the locations they were going, but in spite of that I think there might be some good that could come out of the final report of this committee that could assist not just Legions but many other groups. We're seeing some groups in the volunteer sector also experiencing some difficulties. So there might be a dialogue, a discussion that emerges from that that could be helpful.

THE CHAIR: Mr. Steele.

GRAHAM STEELE: All the MLAs are very protective of their non-profit organizations, because there are so many of them. They're the heart and soul of the community. They put on festivals, shows, the clubs, service organizations serving youth and seniors and everybody in between, serving every interest, every community concern. Some of them are at risk of having to end their activities because of insurance. Then you add on to that the difficulties faced by some of our Legion branches, which are another kind of non-profit organization, and the core of it is the active remembrance for those who've died, and honour for those who've served and still serve in the Armed Forces.

So when you're talking about putting Legion branches at risk because of insurance, you're getting to the very heart of what it is that MLAs care about. After hearing your presentation today, I'm still at a loss to understand the sudden and dramatic increases that Legions have seen in the last year or two. We read about one Legion that used to pay \$2,500 and then two years ago it doubled to \$5,000, and then last year it doubled again to \$10,000.

We read about another Legion that used to pay \$4,000, and then the president is quoted as saying he nearly fell off his chair when he opened the envelope this year and it was \$11,000. There's one Legion in the Valley that I was reading about that has 340 members and charges their members \$30 a year. That's \$10,200, and their insurance bill is \$10,000, so that takes up every penny of their revenue.

Now, we've talked a bit today about liquor liability, so I want to start by asking you about that. This liquor liability stuff, it's nothing new. The original case was 30 years ago. When I was in Law School in the late 1980s, it was already an old case. The Legion case that's cited elsewhere in this paper is from 1980. The paper that you've distributed to us today is already 10 years old. This stuff about liquor liability is not new, and there's nothing that has happened in the last year or two, or three or five, that appears to justify the doubling, tripling, and quadrupling of insurance rates.

My first question to you is, can any one of you point to something specific that has happened in the last few years to justify not just the rates the Legions pay for liquor liability, because we know that's there, but that justifies the sudden and dramatic increase in the last year or two?

DON FORGERON: There are a couple of factors, and I'll ask my colleagues to talk about capacity issues that I referenced a little bit earlier. In the documents that we shared with you, we showed the claims growth that has taken place right across the country for the years 1999 to 2002; there has been a significant increase in claims right across the country. You're right, Graham, that liquor liability has been around for quite some time, but every year or so yet another decision comes down the pipeline that awards a multi-million dollar settlement, and that forces all of these underwriters to go back and reassess how they're pricing their portfolios.

There's no question that through most of the 1990s commercial insurance rates in Nova Scotia were, I wouldn't say at all-time lows, but certainly some very significant periods of low or no premium increase and I think it's the dramatic change from where they were, where they were so low, back to levels that are more commensurate with the risks that they present. I mean some of these lines still are not profitable in spite of the premiums that are being charged.

So one of the factors has been claims growth, there's no question that there is an increase in claims and, as I mentioned on commercial property, which is a portion of the premium that these Legions pay in Nova Scotia, that line of business still isn't profitable in spite of these premium increases. So that's one of the factors. You're not going to get a single magic bullet that you'll be able to focus on and say it's this one thing. I think there are a variety of things and I invite Stan to say a couple of words on capacity issues that have had an impact on some of these lines of businesses, especially on the commercial side.

STAN KEEPING: Well, I would just add to the discussion, and again I don't think there's any magic answer to it, the industry in Canada and worldwide only two years ago was losing a substantial amount of money. It's a function of premium and in claims, dollars out. The investment side is an angle and I think what you saw a couple of years ago is the combination of bad underwriting results in commercial lines and many lines and low investment return and hence the industry lost a lot of money. So you saw a dramatic turn in pricing over the last two years. There's no getting around that.

I think Don has already alluded to it in the discussion and I believe it to be a reality in our marketplace that pricing has begun to change in the commercial marketplace. Last year the industry I think had an 11 per cent return. Companies will compete again heartily in that type of marketplace and you will see pricing no doubt level and change again. Anecdotally I can say, I can recall about 10 years ago in our local marketplace for liquor liability type of risks, our own underwriting team, we did write a chunk of that business. We saw pricing go down in that particular part of the cycle and began to lose business because it was being competitively taken away. So it does happen in other parts of the cycle, pricing change. What we've seen over the last couple years, and again beginning to change now, is a flip side of it, a dramatic change in the business where both lost dollars and investment gave very bad results to companies. They began to withdraw capacity to basically begin to get out of lines of business that were difficult or they perceived to be difficult.

THE CHAIR: Mr. Steele.

GRAHAM STEELE: Let's look at this chart that you gave us on claims growth. If I understood you correctly, Don, you said this chart shows claims growth for all lines across

the country?

DON FORGERON: Yes.

GRAHAM STEELE: I mean, does that include things like auto?

DON FORGERON: Yes, that's all lines of business for the industry.

GRAHAM STEELE: But what we're dealing with with the Legions, of course, is commercial property or the factor the industry seems to be focusing on which is liquor liability?

DON FORGERON: Right.

GRAHAM STEELE: So do you have any statistics on claims growth on those two lines?

DON FORGERON: I believe we can put something together for the committee.

GRAHAM STEELE: And, of course, I certainly don't want to turn this into another debate on auto insurance . . .

DON FORGERON: Don't, please.

GRAHAM STEELE: . . . but you will remember that you showed us similar charts about growth in auto insurance. So I'm assuming that when you take auto out of here, that the numbers for commercial property and liability would be considerably different than what is presented here?

DON FORGERON: I don't believe so, Graham. As I mentioned, in spite of, in Nova Scotia at least and I don't know how specific we can get the numbers, but in Nova Scotia for commercial property, as I mentioned, in spite of significant premium increases, that line of business continues to lose money. So, you know, there is only one large cost factor that we deal with and that's claims. I mean our expenses as an industry have actually gone down over the last several years. Of things we can control, we have controlled well. We can't control claims costs so commercial property premiums have gone up and losses continue. There's only one answer and that's claims costs continue to go up as well.

GRAHAM STEELE: You see, that's exactly what I'm looking for, is some concrete facts on claims because what we have here is a chart for all lines across the whole country and we don't have, and I don't know if you can obtain, information on claims for the kind of liability the Legions have across the country, or Atlantic Canada, or Nova Scotia, or how about claims against Legions specifically because I'm sure you can understand that part of the frustration Legions are feeling is that they're seeing their rates double, triple, quadruple

and then when they try to find out what the reasons are, the reasons become these very amorphous national trends that don't explain why they've seen this sudden dramatic increase.

[10:15 a.m.]

DON FORGERON: But the answer I just gave you, that Stan and I gave you, in terms of why there has been an increase is a fairly specific answer. We're talking about an increase in claims costs - that's what drives premiums, whether it's on auto insurance or whether it's on commercial property.

GRAHAM STEELE: I have to interrupt you there because we don't have the information in front of us about claims costs.

DON FORGERON: I said I'll endeavour to get you whatever we can to whatever level of detail we can. When you talk about Legions and the liability exposure, Graham, it doesn't matter if it's a Legion in Musquodoboit or if it's a home in British Columbia, or a bar in downtown Toronto, the responsibilities that are placed on the individual in charge, if you will, with respect to serving alcohol, is the same.

So we may not have a claim for liquor liability for a Nova Scotia Legion ever, but the fact remains that that potential is still there and a premium has to reflect that. As Dennis said, he collected \$750 for that one policy where he now has a \$175,000 claim. I don't think anybody would want to see us have to go back to that individual and collect the full amount of the claim just so that we could keep the premiums low. You understand the basics of insurance. These premiums that we're collecting for Legions go towards paying claims. For commercial property, there haven't been enough of them. There haven't been enough premiums.

GRAHAM STEELE: How can the industry explain the fact though that other non-profits that have nothing to do with alcohol whatsoever are feeling the same pinch? How can it be liquor liability if they're seeing the same doubling, tripling, quadrupling of rates?

DON FORGERON: You didn't want to get into a discussion about auto insurance; I don't think we want to get into a discussion about liability exposures for the volunteer sector. But they are all driven primarily by court decisions that have placed the onus of liability on these organizations - different types of liability exposures that exist. It's reflected in the premiums that need to be charged. All you have to do is - you don't even have to read court cases, just read the paper and watch the news and listen to the radio and you'll hear about court decisions across this country that sometimes leave us scratching our heads. That ultimately, while some of us may find it amusing at times, finds its way into the premiums that we pay because those liabilities exist.

Again, it doesn't matter where in the country it is, if the court decision is in one province that liability now exists right across the country, and the premiums have to reflect that.

DENNIS FURLONG: Graham, I wouldn't want to leave you with the perception that the commercial market is one big ball and that's all we look at. Inside of that, we will segment the types of risks we have based on their activity, their occupation, the exposures that we have. For example, we will look at the real estate industry as a whole; we will look at the restaurants' hosting group as a whole; we will look at manufacturing; and we will determine the pricing based on the analysis of those numbers.

In the case of the Legions, because there is the host liquor liability, that is grouped together with the hosting industry and, as Stan mentioned, there is a subgroup or a subset that we look at.

GRAHAM STEELE: Just one more question and that is that the bar and restaurant industry is not shy about approaching MLAs whenever something's on their mind. We talk to them fairly frequently and, if we don't call them, they call us. They've a whole long list of issues that they have and they've never once raised with us the issue about their insurance bills. So if liquor liability really is the issue and rates are going up for Legions, can you sit here today and tell me that every bar, every restaurant that serves liquor in Nova Scotia is seeing their rates double, triple, and quadruple as well?

DON FORGERON: They may not have been approaching you, Graham, but they've certainly approached us on countless occasions, whether it's through Luc Erjavec, or directly through his association, through the CFIB. We've had meetings with all of those groups and a bar owner's liability bill is primarily that. It's very much a concern of theirs - in fact the CFIB released a study at the tail end of last year that talked about insurance as being one of many cost drivers that were affecting small business owners. Many small bars and taverns in Nova Scotia are members of the CFIB. They certainly have made their case to us, that they have some problems.

GRAHAM STEELE: Remember that what I am asking you is - Legions understand and accept that they have to pay for insurance. They have always accepted that. It's the amount, and the fact that there has been a dramatic increase within the space of a year or two. Our bar owners elsewhere in Nova Scotia are seeing similar dramatic increases in their insurance bills.

STAN KEEPING: They have seen a dramatic increase in their liability insurance, yes.

THE CHAIR: Thank you, Mr. Steele, and I would encourage you to come visit the owners of the Island Nest restaurant in Arichat or the MacBouch Beverage Room in St. Peters, who certainly have contacted me about the - I would say matching increases in their

liability costs also in those establishments. I can assure you that they have been contacting the MLA for Richmond County on that issue. Mr. Theriault.

HAROLD THERIAULT: Thank you for your presentation. I'm sorry I'm a little late getting here, my name is Harold Theriault, MLA for Digby-Anapolis. You seem to be talking about alcohol a lot here this morning. That seems to be the major problem for Legions. Can you say that if a Legion was not to serve alcohol anymore, starting today, that their premiums that went from \$2,500 to \$10,000 would revert back to \$2,500 if they stopped serving alcohol?

STAN KEEPING: I think it's a safe assumption to say that if they did remove their liquor sales that their liability premiums would change, I would speculate, dramatically.

HAROLD THERIAULT: Dramatically. Maybe that is something the Legion should be calculating here. If they are not making enough money to pay for their liquor licence and their insurance, maybe that is something that needs to be looked at by the Legions. We talked about blanket coverage, group claims. I believe that you, the insurance companies, already do have blanket coverage.

I'm in the whale-watch industry, have been for 10 years. I've never known of an accident in Atlantic Canada, on the Atlantic Ocean in the whale-watch industry, but our premiums have doubled and tripled in that. There was one little accident in the Great Lakes the last couple of years with an old boat, out in a storm. He shouldn't have been there. But yet our premiums are going up in this industry because of something that happened 2,000, or 3,000 miles away from us that was a different business altogether than here in the Atlantic Canada area.

We are being blanketed by that, we are being blanketed by Transport Canada in their reports, treating everyone equal no matter what. Just like that accident in the Great Lakes, if you had that boat even around the Bay of Fundy - it was never fit to be on the water, period, in a lake, in a mud puddle, whatever. We are being blanketed by the insurance company. If somebody has an accident in British Columbia, my insurance goes up.

No matter what it is, we are being blanketed. Group insurance and group plans won't really solve any problems. If all the Legions got together, every one in Canada, and made a group plan, they wouldn't save 5 per cent. That's not a big deal off a \$10,000 premium, \$500. But if you're telling me today that if they stop selling drinks in that hall that they are looking at a 75 per cent decrease in their premiums?

DON FORGERON: I don't know if we put a figure on it but to your first point, what happens in other jurisdictions very much has an impact here, with respect to certain legal cases. On the automobile side, no, but if there's a legal precedent set in British Columbia it could have an impact here, I suppose, the same way that it does for other lines

of business; that is why insurers have to take that into account.

That boating accident in Ontario - and I think I'm familiar with it - huge settlements were paid because of that tragedy. If a similar tragedy happened here, in Nova Scotia, that precedent has been set and now anybody insuring a similar-type operation in any other province has to consider that, because the bar has been set now at that and that's what the courts would award and maybe more, that is why precedent in other provinces is important and has to be considered.

With respect to the premium reduction, I don't know. We might be able to provide the committee some comparable quotes for - I don't know even if it can be done in terms of an establishment, a restaurant that does serve alcohol and a restaurant that doesn't serve alcohol.

STAN KEEPING: My only point on my comment was I believe that that is a significant component of how an insurer looks at risk and the liquor liability, and if that were taken away, I think it changes the risk and the likely pricing around it. I think that's a fair speculation. I don't know what the number would be but it changes the nature of that risk for that organization. But that's totally their decision and they run their organization as they do.

HAROLD THERIAULT: Thank you. The last few years insurance companies lost a lot of money until last year when they made a huge profit. Can you give us a figure on how much money the insurance industry in Canada lost in the stock markets in 1999 to 2003?

DON FORGERON: None. The industry didn't lose any money on the stock market, I think one of the earlier speakers talked about that returns were lower for some of those years. I think it was Dennis who talked about how the industry is required to invest their funds. There are some insurance companies operating in Canada that have no money in the stock market whatsoever, all of their investments are in government bonds, treasury bills and all interest-bearing instruments and, by law, I think the figure is that 75 per cent has to be in that, they can't go below that. Some companies choose to have it all in safe, interest-bearing instruments.

So there is a very small exposure to the stock market for common stocks. Many of the stocks that they hold are held long term, they're preferred shares, there is a very small exposure - and it's certainly less than 10 per cent - that the industry as a whole would have in the stock market. So that had an impact, there's no question that the returns weren't as great as they were in previous years but it's a misnomer to say that they lost money. Their earnings were still in the 5.5 per cent to 5.8 per cent range for return, not the 6, 7 or 8 per cent that many people had realized in previous years.

HAROLD THERIAULT: Are premiums going to be reduced for young, male automobile drivers in the near future?

THE CHAIR: Mr. Theriault, we did agree to focus on Legions and I fear if we get on the driver's question, Mr. Steele will be very quick to jump up with a few more questions and, unfortunately, we are running out of time so if we could just stay focused on the Legion aspect just for today.

HAROLD THERIAULT: Okay, thank you.

THE CHAIR: That's it? Mr. McNeil.

STEPHEN MCNEIL: I want to thank the members for making their presentation. I just have a few questions, one on the basic formula. We received a chart dealing with two of the items involved in the basic formula on the premiums and claims, but yet nothing has been done with the investment income or the expenses over the last 30 years. Why?

[10:30 a.m.]

DON FORGERON: Well, the significant cost drivers or the significant figures are premiums and claims. Those are by far the largest chunk of both sides of that equation. Expenses are something the industry can control, and over the last several years has controlled very well and we've seen some decreases. We can provide industry expenses for the committee going back over the last several years, if that would be of interest. The same on the investment side, or at least 90 per cent of our revenue comes from premiums. So only about 10 per cent, less than 10 per cent, is earned on the investment side, so it has a much smaller impact in terms of any fluctuations in that. Ultimately the impact on the premiums is not as big as the impact, say, that claims would be because it makes up such a large piece of the other side of the equation.

STEPHEN MCNEIL: The real challenge when you're faced with it out in your constituency is many of my constituents will say to me, you know I've never had a claim yet my premium is going through the roof - and the same with the Legion cases. It almost appears to be a question of making up bad investments, my own personal investments have taken a hit, as they would tell you, and it seems that the insurance companies' investments have taken a hit. So I guess that information would be important, you know, to be able to say to them that that is not the case or that is the case, so forwarding that information would be important to me.

DON FORGERON: Just on that point, I would encourage you to take a look at the report that was released by the Utility and Review Board about a year ago. Now it did focus on automobile insurance, but it did address this very question because many people came forward to the board during those hearings and complained that there really was no problem

in the automobile sector, it was all because of bad investments and the board found that that was not the case, that lower investment returns made a bad situation worse, but certainly didn't create it and that the problems could be found on the claims side, and that crosses all lines of business and not just automobile insurance.

So there is an independent review of the impact that investment income has had. Dennis mentioned a study that was put out by the federal Office of the Superintendent of Financial Institutions last September, and that also independently verified that lower investment returns have not led to premium increases, were not the cause of premium increases, that claims growth was the cause behind it. Needless to say, our industry's credibility has suffered greatly over the last couple of years, so when I stand before you and say that, there is a certain skepticism. So that's why I encourage you to seek out some other independent sources for that, who can verify that.

STEPHEN MCNEIL: Earlier you were mentioning how the premiums were set for the Legions and you mentioned that part of it was being set on activity. Is the premium set by the activity that takes place or the revenue generated by that activity?

STAN KEEPING: Revenue is a factor that's used in a lot of commercial liability ratings. Obviously, if you're a widget manufacturer and you manufacture \$1 million worth of goods, it's different if you manufacture \$10 million of goods, because your product is out there more and, hence, the higher risk. So you will typically see revenue as one of the drivers in pricing, and I would say that in Legions and establishments of that type, that would be one of them and, again, the split of how much is liquor sales versus food sales, versus other activities.

STEPHEN MCNEIL: I have the good fortune of having four Legions in my riding of Annapolis, in Annapolis Royal, Bridgetown, Lawrencetown, and Middleton. Of course, all of them are much more than a place to go and buy a glass of beer - and they've become really a focal point to many of our communities, because they're either the largest facility allowing us to hold a public meeting, you know, that people can go to use. The irony of it is that whether I buy that glass of beer in my own riding or buy it in here, I'm probably paying the same amount, depending on the Legion, but in many cases, depending on what the group is, the Legion is offered up free, to allow someone to come in at a very minimal charge, because of the fact they're providing a community service in many of those communities. So I'm wondering if that is taken into account as part of this. That's why, if you solely look at revenue, a Royal Canadian Legion is probably at a disadvantage here.

DON FORGERON: The revenue would see their premiums go up. Actually it works to their advantage. The lower the revenue, the lower the premium.

STEPHEN MCNEIL: I guess that's what I'm asking about though, is a percentage

of that on the alcohol? You see, whether I buy that glass of beer in Bridgetown or buy it here, it's still going to be the same.

DON FORGERON: Well, it is liquor sales. They categorize the income flows separately so liquor sales would be one, food sales would be another and other activities would be a third component.

STAN KEEPING: I would throw that out as an example of how things are rated. I can't speak for all insurers that may be on whatever Legions, but it's typically one driver. In your case, at a rural Legion, with lower revenues, I would speculate that their liability premiums should be lower than the larger operation here in town.

THE CHAIR: Thanks. If I could have a few minutes just for a few questions. You've made extensive mention of the responsibility of servers in the Legions and other liquor establishments - the importance of education to those servers and being responsible to the patrons. What role has the insurance industry been playing to assist establishments such as Legions in the education of their servers and in the knowledge of what the potential liabilities are to their establishments?

DON FORGERON: I think there is a course available, I believe, through tourism? I know that the Legions subscribe to that and they've indicated to us that their servers are required to take this course as a matter of employment. I think it would be sort of a minimum requirement.

STAN KEEPING: Typically the liability insurers would look to an establishment to see if the staff has been through the course that Don mentions. It would be a selection criteria and likely a pricing guide criteria. That's one advocacy role that the industry did play in supporting that type of education course.

THE CHAIR: So it's safe to say now that the insurance industry itself would be aware of whether any Legions in this province didn't have their servers take this particular course. What you're saying is, this is taken into consideration when determining the risk for each specific branch - is that correct?

STAN KEEPING: I would say that would be correct. Again, I would say that many of the Legion branches could be insured individually with insurance company X and someone else is insured with insurance company Y. I can't speak for all but I think typically what you're saying is correct.

THE CHAIR: As far as the industry is concerned, is this course being offered by tourism sufficient to meet the liability concerns that the industry has expressed and that the courts, obviously, have ruled on?

STAN KEEPING: I think it's typical of courses across the country. In general, I support it and recommend it.

THE CHAIR: Other than the course itself, are there added steps or an added charter or rules that should be adopted by the Legions themselves which may be able to assist in the liability issue to lower the risk? In other words, is there something more than just a course that they could be doing which would, as a result, bring that risk down more to a minimum?

STAN KEEPING: In general, I'd say it's worth a broader discussion. Again, as an active consumer, the Legions should engage their insurance companies or their insurance broker in that discussion and investigate that.

DON FORGERON: I think it behooves them to want to make the risk as attractive as possible, whether it's a Legion or any other commercial risk out there. You want the underwriter to look at your risk and say, here's somebody who cares about their business, who cares about their customers, who cares about their well-being. And you exhibit that in many ways. As Stan says, it's probably a good discussion to be had with the Legions that they could have, again engaging either people in the industry who have sort of loss-control experience or outside consultants. It certainly would be to their advantage to make sure that on the liquor liability side and all other aspects of the operation, that they're doing everything they can to make their operations as safe as possible. That will reflect itself in premiums ultimately.

THE CHAIR: You indicated earlier that as a result of the changes going on in the insurance industry itself, a number of companies were no longer covering Legions and similar establishments. I'm curious if you're aware of exactly how many companies are available to Legions in Nova Scotia who are actually interested in providing coverage to them?

DON FORGERON: It's not a statistic that we would track. The Legion did share with us at one point a list of who all the branches were insured with. There was a fair number. The problem is, there aren't as many as there were in years gone by. A lot of the traditional insurers have gotten out of, not just the Legion business but many of the lines of commercial business. So it has reduced the roster, and in some cases they're forced to deal with specialty markets, which usually means much higher premiums.

THE CHAIR: What you're saying is that traditional insurers, for the most part, have pulled out of this type of coverage.

DON FORGERON: Many have. There are still some.

STAN KEEPING: Again, there are a lot of names on that list of people still in that

line of business, but it's reduced from what it used to be. There's no doubt about it.

THE CHAIR: I know you're saying you don't keep specific track, but just for our own understanding, as committee members, are we talking a half dozen companies, a dozen, 30, more? I'm just curious myself, what are we talking about here?

DON FORGERON: I would probably prefer to try to get a better sense rather than just guess at it, which is what I think we would be doing at this point. We'll try to canvass the market and see if we can come up with a more precise figure for you.

THE CHAIR: Just on the issue of liability, I find it an interesting topic with the legal background, and I think a lot of us were taken aback a bit by the Ontario case and the host liability issue, which not only becomes an issue for bars or Legions but for ourselves as individuals in our own homes. You have made reference to possible government involvement on this issue, which I'm assuming, reading between the lines, would possibly be some sort of legislation which would protect hosts or protect servers in this sort of case. What work has been done by the industry, whether here in Nova Scotia or nationally, to have discussions on the issue of whether we should be looking at bringing in legislation on this issue to prevent these types of cases and again address who the true burden really falls upon in these types of matters?

DON FORGERON: As Mr. Steele mentioned earlier, the issue is not a new one, it has been around for quite some time. The industry has looked at it, going back over the last 20 years. The issue hasn't changed much, the court decisions change a little bit, and they continuously raise the bar. But the issue of alcohol liability has been around for some time. I think most of the solutions of a legislative nature are relatively obvious in the broad sense. I think the challenge would be to find a way to do it, the specifics of that might be a little more challenging. I suspect that once all sides are heard on this that quite a healthy debate would take place, and there would be some people who would speak out very strongly against changing the current rules.

THE CHAIR: I question what discussion is taking place. If I'm to walk into my Legion in Arichat and they present me with a consent form prior to myself ordering a drink - is that where we're going, that upon entering you'll be given the ticket, almost like an amusement ride, and on the back it lists all the waivers of liabilities upon entering the facility. Is that where we're moving? Is that where the industry wants to see these types of establishments move on the issue of liability?

DON FORGERON: Insurance and premiums really are a reflection, to a large extent, of trends within society. The liability premium really is just reflecting back to us as Canadians how our courts have evolved and the types of decisions that have been brought down. If, as a society, we feel that some of these court decisions, such as the host liability

one in Ontario recently, have gone too far, then I think there's a discussion that has to take place, that as a province or as a country, is this how we want to see those things settled or is there another way?

Insurance is really sort of the canary, I guess, if you will, of some of these problems in society and how people are compensated for injuries they receive. It goes well beyond insurance, and that's why I say the discussion has to be a broad discussion.

THE CHAIR: That's it for me. We have time for a few quick snappers. Mr. McNeil and then Mr. Langille.

[10:45 a.m.]

STEPHEN MCNEIL: I just want to go back a little bit. We've had an hour and 45-minute meeting, and you've met with the Legions. Where's your responsibility on this now, to show some leadership and ensure that this moves forward with the Legions in terms of whether it be the group or the options that they have? You mentioned earlier about a broker that was investigating it. Who might that be, and has he had any contact - can we get him together with the Legions, can your group show that kind of leadership to move forward on this?

DON FORGERON: Certainly, we'll do whatever we can to facilitate it. We don't hold any sort of regulatory authority. We can't force a company to put insurance in place. We certainly can't force the Legions to do anything they don't want to do either. But as a facilitator, we have made a commitment that we would like to see this thing through. We would like to see a resolution to the problem, and we'll do whatever we can by bringing groups together, by talking about it in forums such as this, and we'll continue to do that until a solution is found. We'll do whatever we can to bring those parties together.

STEPHEN MCNEIL: What's the next step then? Where do you go from here? What do you see as your responsibility from here? We've talked about it for an hour and 45 minutes. What can the Legion members take from this meeting to feel some comfort that this situation is going to be dealt with? Obviously it's a very serious one for many of the Legions around Nova Scotia.

DON FORGERON: It's been a while since we've met with the Legions. I know that at least one member of my staff has been trying to make contact over the last several weeks on more than one occasion to try to get an update on where things are from their perspective, have they made any progress, where do they see things going, what would they like to see happen next. Dependent on what answers we get back from them, that will dictate, essentially, the direction that we'll take. The issue of the group plan is really one, largely, between the broker and the Legions. That's a case where they have to either come to an agreement or not on whether or not that's a viable option for them. As I said earlier,

we can't impose that solution on either of those groups. But as I've said, we've met with them, and we're willing and wanting to meet with them again to see what steps we might take next on this file.

STEPHEN MCNEIL: So before you leave today, you'll have a conversation with some of the members who are here to maybe set up the next step for them?

DON FORGERON: Absolutely.

THE CHAIR: Mr. Langille.

WILLIAM LANGILLE: Just a couple, Mr. Chairman. The first one is more or less a statement, not a question. About a year ago, in the paper and on TV, there was a parade in Fredericton for the Legion, and to have that parade, I think the insurance company was charging them \$1,200. I didn't even know you had to have insurance to have a parade. I don't know if you're aware of that, you probably are. The other thing is, just straying away from the Legion, an example, recently, that came to light here a couple of weeks ago, an ox pull on the South Shore, insurance for \$10,000. These are all indications of insurance companies putting a price - I don't know about the justification, but I'm sure there must be if you people are charging that much.

Having said that, I just want to get back to the Legions and Mr. Barnes. I would ask him a question, did you have your Provincial Command meeting, your annual meeting this year?

THE CHAIR: Mr. Barnes is not here as a witness.

WILLIAM LANGILLE: I realize that.

THE CHAIR: Just on that I was hoping that once we're done with the Insurance Bureau that, in fact, with the consent of the committee, we may want to ask Mr. Barnes and Mr. Aucoin to update us on a few other matters. I think that opportunity will be there afterwards.

WILLIAM LANGILLE: I will just make a statement, then. I would make a recommendation that the Provincial Command, at their annual meeting, pass a resolution appointing a committee to look into the feasibility of group insurance with the insurance brokers. That would be a recommendation that I would make here and now. I can't talk to Mr. Barnes, so I'll have to drop that for now. I thank you very much for coming, and I thank the Chairman for this. This is a concern to all of us, insurance, and I'm glad that Mr. Chairman had the foresight to bring you people here today and that you accepted and came.

THE CHAIR: Mr. Wilson, very quickly.

DAVID WILSON: Just a quick comment, and I understand, hearing the discussions today, that your industry sets their premiums by claims paid and what happened in the past. I think a big effect or something that greatly affects the claims is court cases. So I'm a bit disappointed to hear that you're not really advocating changes in law or legislation. I would just encourage you - maybe we need to change laws over time. In the situation we see today, with insurance costs and what's been happening in the court cases, hopefully you guys will recognize the need to get involved and be active in potential changes to legislation and bills in our country and our province. I look forward to interacting with you over the next little while if I'm still here.

DON FORGERON: We'll make a commitment to come forward with some recommendations if you make a commitment not to criticize us then.

THE CHAIR: Mr. Forgeron, I leave it to you and your colleagues to make any closing comments before we move on to something else.

DON FORGERON: I just want to thank the committee for the chance to come forward. We share your concern about this. There aren't any easy solutions, and they certainly won't be found if people aren't talking, and I think the committee's work is important and will help us towards trying to find a solution. Thank you for having us, on behalf of my colleagues.

THE CHAIR: On behalf of our committee, I certainly want to thank you for coming in. I think you have been very open and frank with us today; you have faced a lot of questions. I think Mr. Hines made mention that we all have a heart for the Legions, I think all of us in this room, both elected and non-elected, certainly share that sentiment, and I'm hoping that from here forward that we will be able to work toward some solutions, and it has given the Legion and ourselves a better understanding of some of the issues facing them.

Before we adjourn, I would like to ask the committee, with their consent, if we could take a five-minute break, and following that if we could ask Mr. Barnes and Mr. Aucoin to possibly update the committee, as many of you will see in the correspondence that we have written to a number of government agencies requesting some funding support for some of the youth programs. I know a number of them have indicated there has been contact made. Unfortunately we haven't been able to see through the correspondence what exactly has come out of that contact. If it is agreed with the committee members that we would ask them, after a five-minute break, to come in and meet with us it would be great.

Is it agreed?

It is agreed.

Let me just say I'm not sure what the Insurance Bureau or what your company policies are towards sponsoring different activities, but allow me to put a plug in on behalf of the committee for the Legion and some of its important youth programs that they put on. We have approached a number of government agencies, and certainly if there is some funding through your different companies that go towards such worthwhile activities, I would encourage you to speak with Mr. Barnes or Mr. Aucoin about some of their programs. It's not a lot of money, but it's important funding for a very important cause. So let this be a plug on behalf of the committee for the Legion on that issue.

Again, thank you, and we will recess for five minutes and meet back here afterwards.

[10:53 a.m. The committee recessed.]

[11:07 a.m. The committee reconvened.]

THE CHAIR: I'll call the committee back to order. We agreed just before we took a break to have Mr. Barnes and Mr. Aucoin update us on some of the correspondence that has been going out regarding funding. I did receive a request from Mr. Steele to maybe ask if Mr. Barnes or Mr. Aucoin could give us a quick reaction to some of the presentations that we did receive from the Insurance Bureau and some of the other companies involved. So, Mr. Barnes, we are running over our committee time, but if you could give us maybe a quick reaction from the Legion. I know you had some discussions afterwards with Mr. Forgeron as to maybe where you'll be proceeding from here on this issue.

VICTOR BARNES: Yes, it was enlightening in a lot of ways, this meeting this morning. I had a hard time keeping shut, too, I will tell you, for a couple of things that came up, but there were some very, very interesting points brought forward. I really appreciated the invite to come even though it was hard to sit and say nothing, but I learned a lot. One of the things I want to say is, as you know right now, we have 119 Legions in Nova Scotia that we will not have at the end of the year. I have a terrible feeling we're going to lose some and a lot of it has to do with insurance along with the financial problems we're having with everything else, but what I'm working on is trying to get them to amalgamate rather than to just close and lose everything.

It's pretty hard to do and they're stubborn, they are stubborn, believe you me, but I don't have to wait, as Bill Langille said, about a resolution to go forward, I don't think I need a resolution. I think I can set up a committee and I will do that ASAP and have a meeting with these gentlemen we were talking to this morning. Apparently, one of them has already been trying to get hold of us, but Frank has been extremely busy because we're on our way to London, Ontario, very shortly, for the Dominion Convention. Having mentioned that, at the Dominion Convention we are accepting, the Dominion Convention

for the year 2012, again in Nova Scotia. So that's a big plus and it's going to be a big plus for Nova Scotia. The committee has accepted the fact and we will be bringing it forward at the convention. They've asked us to and we are going to accept it.

THE CHAIR: It sounds good. So I take it it's safe to say that from that, is that you will be moving forward with both Mr. Forgeron and other representatives to deal with this issue. I know Mr. Langille had good intentions about his resolution, but I certainly was very reluctant to have any resolution coming from this committee to tell the Legions as to where they should be going on this issue. I'm sure there has been a lot of work done by the Command already on this and I'm sure that work will continue on this. I thank you for your kind comments about being invited here this morning and I think it was a very productive session for the committee members and I'm pleased to hear that the Command also took a lot out of our presentation here this morning . . .

VICTOR BARNES: I have some names from him and that's what I was looking for. He kept mentioning a certain individual and I finally got the name, so we have a place to start.

THE CHAIR: I'm glad to hear that. The other purpose of having you here, Mr. Barnes, just quickly, is to give us a bit of an update on the reaction and correspondence you've received. The Subcommittee on Veterans Affairs had met - myself, Mr. Pye and Mr. Chataway - and we had sent numerous correspondence out to both the provincial and federal governments seeking financial support for some of the youth programs put on by the Legions. I'm wondering if you could tell us where that stands right now, what you've received and whether you've been in contact with any of these agencies?

VICTOR BARNES: We have been in contact with a couple of them. As a matter of fact, I believe there's a meeting coming up very shortly with another one - I can't remember which one, there's just a little too much going on for me to keep track of all the names. We've had a few replies, all in the negative so far, but we're still keeping the faith, shall we say.

JOHN CHATAWAY: Ted Scrutton.

VICTOR BARNES: Pardon me?

JOHN CHATAWAY: Ted Scrutton, from the . . .

VICTOR BARNES: Yes, that I believe is the gentleman we have the meeting coming up with very shortly.

JOHN CHATAWAY: From what I understand, that's very wise, yes.

THE CHAIR: He's with Sport and Recreation, if I'm not mistaken, Mr. Chataway. Yes, I think it says in the letter from the minister that they were going to be setting up a meeting. I believe we're still waiting for a response from Veterans Affairs. I know that the Member of Parliament, Geoff Regan, did forward our correspondence to Minister John McCallum, so we're waiting. I don't believe we've received a response on that yet.

I can assure you we'll continue to lobby and, as you saw from our little plug we put in there with the insurance industry, I'm hoping maybe they'll call you and offer some funding also for some of your programs. Anything additionally that we can do, I would encourage you to contact us. I think you can clearly see that all members are more than happy to assist. I want to thank you personally - I know I've received a couple of invitations to some of the Legion events, and I think other members have received those also. So I certainly thank you and I know members will do their best in their busy schedules to try to attend as many of those functions as possible.

Just before we adjourn, committee members, in the past, usually when the House is no longer in session, our committee has met on a limited basis. I'm just curious what the wishes are of the committee members as to when we should meet again.

JOHN CHATAWAY: At the discretion of the Chair.

THE CHAIR: So be it. Further discussion? We will meet again at the call of the Chair. If any issues do come up, Mr. Barnes, on your front, we're a phone call away. Thank you again.

The committee is adjourned.

[The committee adjourned at 11:13 a.m.]