Joint Health and Safety Committees:
Finding a Balance

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Joint committees are part and parcel of the system of internal responsibility. This system places primary responsibility for preventing workplace accidents and occupational disease on co-operative action by workers’ representatives and local managers. For Drache and Glasbeek, the system of joint committees and the philosophy of internal responsibility serve chiefly to dilute management’s ultimate responsibility without changing the balance of power in the workplace. Others are more sanguine. Some observers see joint committees as significantly improving conditions in the workplace reducing the need for regulatory enforcement of standards.

The purpose of this paper is to examine both the potential and the limits of joint committees and, in particular, to consider the external factors which augment or diminish the impact of joint committees.

*Workplace Injuries and Strategies for Change:*

Over the fifteen years, from 1983 to 1997, accepted time-loss injuries per 1,000 employees fell by approximately one-third. However, the experience across provinces differed markedly. In B.C. for example, the injury rate declined by only 18%, whereas in Ontario and Quebec the rate fell be 37% and 35% respectively. The contrast is significant. Public policy in Ontario and Quebec is strongly committed to the philosophy of internal responsibility and to the role of joint committees. In both provinces, the period from 1983 to 1997 saw a considerable strengthening of legislative and administrative support for joint committees. This begs the question: were joint committees a significant factor in the improved workplace health and safety performance of Ontario and Quebec?
Assessing the role of joint committees in reducing workplace injuries is a complex task. No jurisdiction in Canada relies wholly on joint committees. Indeed, one of the arguments of this paper is that the functioning of the internal responsibility system must be considered in the context of the regulatory system and the incentives and cross-subsidies that are imbedded in the premium structure of the workers compensation system.

The *internal responsibility system* emerged in the unionized mining industry in the 1950's and 1960's and, to a lesser extent, in the manufacturing industry. The system was described in some detail in the 1976 *Report of the Royal Commission on the Health and Safety of Workers in Mines* (the Ham Report). The Ham Report set out four principles. First, the internal responsibility system required joint health and safety committees. Second, the joint committees should have the power to inspect, investigate and, in some readings of the Report, the power to make decisions respecting health and safety. Third, individual workers should have the right to refuse unsafe work. Fourth, workers should have the right to be informed of substances used in the workplace which could be harmful. In one way or another, Ham's internal responsibility principles inform health and safety legislation in all jurisdictions. There are, however, significant differences in how these principles are applied. Legislation differs in the authority conferred on joint committees and on the extent to which committees are mandatory. In some jurisdictions, committees
must be certified and committee members must be trained. The right to refuse is circumscribed in some provinces. Finally, the role of the health and safety inspectorate differs across jurisdictions. In some provinces, the inspectorate performs its classical enforcement role. In others, the inspectorate is mandated to carry out a mediating role and to facilitate the operation of joint committees.

A study done for the Macdonald Royal Commission concluded that, “the adoption of the internal responsibility system... was one of the key developments in the 1970's.” (Digby and Riddell, 1985). In Ontario, the Report of the Royal Commission on Asbestos described the internal responsibility system as “the cornerstone of the Ontario Health and Safety Act...” (Ontario, 1984). In Quebec, the Beaudry Report had a comparable impact and set forth similar principles.

Jurisdictional Comparisons:

Prior to the mid-1970's the preponderant view was that provincial responsibility for labour relations led to inconsistency and a tendency to restrict changes, so as not to impair a jurisdiction’s competitive position. Weiler challenged this view. He argued that, in the Canadian context, federalism promoted innovation, not rigidity. (Weiler, 1980). The evolution of health and safety policy conforms to Weiler’s paradigm.

Table No. 1 compares the adoption of Ham’s internal responsibility principles across the 13 Canadian jurisdictions, as of 1998.

<table>
<thead>
<tr>
<th>Mandated Joint Committee</th>
<th>Right to Know</th>
<th>Right to Participate</th>
<th>Right to Refuse Unsafe Work</th>
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Table No. 1
Adoption of “Ham Principles” of Internal Responsibility by Jurisdiction
(based on Bernard, 1995 - updated)
Federal & X & X & X & X
Yukon & X & X & X & X
Northwest Territories & a & X & X & X
British Columbia & X & X & X & X
Alberta & a & X & X & X
Saskatchewan & X & X & X & X
Manitoba & X & X & X & X
Ontario & X & X & X & X
Quebec & b & X & X & X
New Brunswick & X & X & X & X
Nova Scotia & X & X & X & X
Prince Edward Island & a & X & X
Newfoundland & a & X & X

<table>
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<tr>
<th>Mandated Committees:</th>
<th>Joint Committees statutorily required, in at least some classes of workplace.</th>
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<tbody>
<tr>
<td>Right to Know:</td>
<td>Statutory requirement on employer to disclose use of substances or generation of byproducts which may be hazardous. Effectively enforced through adoption of Workplace Hazardous Materials Information System (WHMIS).</td>
</tr>
<tr>
<td>Right to Participate:</td>
<td>Right of members of Joint Committees (or health and safety representatives) to participate in detection, evaluation and formulation of strategies to reduce workplace hazards.</td>
</tr>
<tr>
<td>Right to Refuse:</td>
<td>Right of an individual worker to refuse to do work that he or she judges to be unsafe, without risk of discipline, subject to final determination by a government health and safety inspector. The right may be limited with respect to some types of workplaces and some occupations.</td>
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The general position as of 1998 may be summarized as follows. In all 13 jurisdictions, the right to know is operative, largely through the adoption of the Workplace Hazardous Materials Information System (WHMIS). The right to refuse applies, at least in some form, to a significant proportion of the work force, especially in the private sector. Joint committees are required by statute for most classes of workplaces in all but four jurisdictions, with the remaining four vesting in the Minister of Labour the authority to require the establishment of a committee. (In Quebec, joint committees may be initiated by a union request or by the request of 10% of an employer’s workforce at a particular establishment.) The right to participate is tied to the establishment of a joint committee. Only in Alberta, do the rights of committee members not
extend to inspection and evaluation.

**Internal Responsibility and Adversarialism:**

One of the issues which colours the expectations of joint committees and the evaluation of their impact is the relationship of the internal responsibility system to the adversarialism that characterizes employer-employee relations in many workplaces. Proponents of the internal responsibility system frequently see workplace health and safety as non-conflictual, in comparison with the economic issues that are front and centre in collective bargaining. Critics of internal responsibility see joint committees as an attempt to paper over fundamental conflicts of interest. In consequence, critics of the internal responsibility system attach more importance to regulation and enforcement.

The *Ham Report* explicitly rejected the view that labour and management interests were in conflict in the area of workplace safety. Thus, Ham wrote that “since both parties desire the good of the individual worker, confrontation can and must be set aside with respect both to accidents and to health-impairing environmental exposure.” (Ham, p 105). Elsewhere, in the same report, Ham wrote, that “there is emphatically no place for the adversary system of collective bargaining in dealing with matters of health and safety.” (Ontario, 1976 p 157) A similar view was advanced in the *Report of the Joint Federal-Provincial Inquiry Commission into Safety of Mines and Mining Plants in Ontario* (the Burkett Report). This Report spoke of the need to develop, “the capability to deal with day-to-day health and safety concerns in a co-operative and consultative manner within the context of a free collective bargaining system...” (Ontario, 1981, v 1, p 117). The Burkett report asserted that unions and management should accept that “day-to-day attention to health and safety matters is distinct and apart from the other aspects of the union-management relationship.” (Ontario, 1981, v 1, p 87). Indeed, the Burkett report recommended that worker members of joint committees be constrained from engaging in “partisan union political activity of any kind.” (Ontario, 1981, v 1, p 69)

The alternative view - that workplace health and safety is inextricably bound up with conflictual labour-management relations - rests on three pillars: history, the theory of compensating wage differentials and
the practical matter of dealing with the costs.

History: joint committees did not arise ex nihilo. Prior to the system of internal responsibility, it was a common union strategy to establish such committees through contract negotiations. Labour Canada reported that by 1980, 45% of collective agreements covering bargaining units of 200 of more employees had provisions for joint health and safety committees. (Canada: Labour Canada, 1981). Similarly, a study conducted in 1986 found that in 1977 in Ontario, almost 40% of unionized workplaces with 20 or more employees had a committee. (Ontario, 1986, v 2, p 35). Contractually founded joint committees were the dominant model in the mining industry, which was the focus of the Ham Royal Commission. Viewed against this history, removing these committees from their context of conflictual labour-management relations has little prospect of succeeding.

Compensating Wage Differentials: a central premise of the economic theory of wages is that, in some degree, risks to health and safety, are factored into wage rates. (Digby and Riddell, 1985 p 294). Other factors being held constant, jobs that entail greater risk will command a wage premium. However, as Dickens notes, “every study of differences between union and nonunion compensation for exposure to deadly hazards has found that union members receive much larger [compensating differentials] than nonunion workers.” (Dickens, 1988 p 320). In light of the strong evidence of a wage effect, especially in unionized workplaces, it is difficult to see how health and safety can be removed from conflictual labour-management relations.

Dealing with Costs: the costs of remedying an occupational health and safety deficiency may be exceedingly high. Reducing noise pollution, dust or fumes can involve significant capital expenditures. Replacing hazardous substances in a production process may involve a costly re-engineering of production processes. Altering job designs or changing work organization to reduce individual exposure to risk may have significant implications for wages or efficiency. These costs must be borne by someone - if not by consumers, in the form of higher prices, then by workers, as lower wages, or shareholders, as lower profits. As Doern notes, “the private firm has a strong built-in bias to err on the side of less costly
changes.” Doern concludes that “all protestations and assertions to the contrary, occupational and environmental health is a bargainable item.” (Doern, 1977 p 18).

The view that workplace health and safety is a shared interest leads to a preference for a problem-solving modus operandi on joint committees. In contrast, the view that workplace health and safety is shaped by the conflicting interests of labour and management leads to an expectation that joint committees will be an extension of the collective bargaining relationship. Kochan et al., highlighted the difference between a problem-solving orientation and a negotiating style. (Kochan, Dyer and Lipsky, 1977, p 45 ff). The analysis is based on earlier work by Walton and McKersie. (Walton and McKersie, 1965 and 1993). In the Walton and McKersie analysis, problem-solving and bargaining are stages in a relationship, rather than alternative modes of conduct. The relationship proceeds in two phases. The first is characterized by problem solving. In this phase, the parties share information, engage in full and open communication, identify alternative solutions or priorities and define the joint gains (or losses). The parties seek to maximize the amount of information exchanged and avoid coercive or threatening tactics. The second phase involves the actual bargaining. In this phase, the parties attempt to select one of the alternative solutions or priorities and determine the precise distribution of gains or costs. Behaviour necessarily changes in this phase. The parties limit their communication and rely on principal spokespersons. Either or both parties may engage in bluffing, attempt to establish their firm commitment to a particular position or use various forms of coercive behaviour, such as warning, promises and threats. Issues that otherwise stand alone may be linked in an effort to configure a bargain. Kochan et al. found from a survey of 51 unionized plants in New York State that “while management apparently adopts either a problem-solving or a negotiating style of behaviour [throughout the interaction], union representatives are more likely to engage in both strategies at the same time or neither strategy at all.” (Kochan, Dyer and Lipsky, 1977, pp 8-9).

The conclusion that problem-solving and bargaining are phases in a relationship argue strongly against imputing to health and safety issues the unique property of standing above the conflicting interests of labour and management. If this perspective is accepted, it is unreasonable to expect the internal
responsibility system to eliminate sharp disagreements, especially when these are based on different interests and priorities. Conflict is not evidence that the joint committee system is failing. Rather it is evidence that the parties have moved to the difficult stage of choosing among alternative solutions and dealing with the costs involved.

Comparisons of Coverage of Joint Committees:

While all jurisdictions provide for joint committees, there are significant differences in the “trigger conditions” which makes it mandatory to establish a committee. Most jurisdictions exempt small workplaces, drawing the cut-off line typically at 20 employees, although Saskatchewan and Newfoundland use a 10-employee threshold. Some jurisdictions distinguish between workplaces using hazardous substances and those which do not. In Quebec, the procedure is to designate sectors rather than specific employers. Currently, nine sectors are designated. In some jurisdictions, where hazardous substances are not used, the employment threshold may be higher. This is the case in B.C. Alternatively, the requirement to establish a committee may be subject to Ministerial discretion. Alberta and P.E.I. stand alone in relying entirely on Ministerial discretion. Table No. 2 summarizes requirements for joint committees in each of the 13 jurisdictions.

<table>
<thead>
<tr>
<th>First Enactment</th>
<th>Original Coverage</th>
<th>Current Coverage: Mandatory or Voluntary</th>
<th>Current Coverage: Scope</th>
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<tbody>
<tr>
<td>Federal</td>
<td>1978 Designation by Minister.</td>
<td>Mandatory</td>
<td>20 or more employees.</td>
</tr>
<tr>
<td>Yukon</td>
<td>1973 Mandatory: 20 or more employees</td>
<td>Mandatory</td>
<td>Same as original: 20 or more employees.</td>
</tr>
<tr>
<td>Northwest Territories</td>
<td>1977 Mandatory: 10 or more employees</td>
<td>Subject to direction of Chief Safety Officer</td>
<td>Subject to direction of Chief Safety Officer.</td>
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<tr>
<td>British Columbia</td>
<td>1977 Mandatory: - High Hazard: 20 or more employees, - Low Hazard: 50 or more employees</td>
<td>Mandatory</td>
<td>Same as original: - High Hazard: 20 or more employees, - Low Hazard: 50 or more employees.</td>
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<tr>
<td>Saskatchewan</td>
<td>1972 Mandatory: 10 or more employees</td>
<td>Mandatory</td>
<td>Same as original: 10 or more employees.</td>
</tr>
<tr>
<td>Manitoba</td>
<td>1977 Designation by Cabinet.</td>
<td>Mandatory</td>
<td>20 or more employees.</td>
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Underlying policies on coverage are assumptions on the type of problem to be addressed by joint committees. For example, to require the establishment of joint committees in workplaces where hazardous substances are used, but to exempt other workplaces, is to implicitly see the primary role of joint committees as auditing exposure to designated substances. Such policies implicitly assume that occupational disease and injury are essentially “blue collar” problems. The data do not support this view. On a national basis, approximately 47% of injuries were accounted for by other than “blue collar” industries. Policies which view joint committees as relevant chiefly in “blue collar” industries miss not only more than half of the work force, but almost half of all workplace injuries.  

Comparisons of Functions and Rights of Joint Committees: 

Generally all jurisdictions provide for members of health and safety committees to have three rights. Members have a right to be present when government inspections are undertaken. Members have a right to participate in the investigation of complaints or instances when the right to refuse unsafe work is invoked. And finally, members must have access to necessary information, such as accident reports, investigation reports and technical data on machinery and equipment and substances used or produced in the workplace. In Ontario and Quebec, the right to specific types of information is explicit in the statute.
In other jurisdictions, the right to information is implicit. Table No. 3 compares the role, powers and functions of joint committees and joint committee members.

Table No. 3
Comparison of Role, Powers and Functions of Committees and Committee Members as Set out in Legislation

<table>
<thead>
<tr>
<th></th>
<th>Role in Complaints</th>
<th>JHSC Inspections</th>
<th>Government Inspections</th>
<th>Maintain Records</th>
<th>Role in Right to Refuse Cases</th>
<th>Recommendations</th>
<th>Access to Information</th>
<th>Develop Programs</th>
</tr>
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<tr>
<td>Newfoundland</td>
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<td>✓</td>
<td>✓</td>
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<td>Nova Scotia</td>
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<td>P.E.I.</td>
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<td>New Brunswick</td>
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<td>Quebec</td>
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<td>Ontario</td>
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<td>Manitoba</td>
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<td>Saskatchewan</td>
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<td>Alberta</td>
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<td>B.C.</td>
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<td>N.W.T.</td>
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<td>Yukon</td>
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<tr>
<td>Federal</td>
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Some jurisdictions require joint committees to undertake regular inspections of the workplace, independent of government inspections. In Ontario, this must be done monthly. In Alberta, an internal inspection is required coincident with every meeting of the committee. B.C. requires “regular inspections.” Swinton, however, notes that some labour representatives complain that employers reduce internal inspections to “walk-arounds” that afford little opportunity for actual inspection. (Swinton, 1983 p 155). All jurisdictions, except Alberta and the Northwest Territories, require records to be kept of meetings, recommendations and investigations. Some jurisdictions require minutes to be posted. Nine of the thirteen jurisdictions direct committees to undertake safety education and promotion in the workplace. The exceptions are Nova Scotia, Ontario, B.C. and the Northwest Territories. Only Ontario requires that two members of the committee - one management and one labour representative - receive approved
Manitoba, New Brunswick and Saskatchewan allow committee members to take a leave of absence to obtain training. All jurisdictions, except B.C., Alberta and P.E.I. require employers to provide paid time for committee functions. Only four jurisdictions - Newfoundland, P.E.I., Quebec and Saskatchewan - require meetings to be held during regular working hours. Most jurisdictions stipulate a minimum number of meetings per year - typically 3 to 4. P.E.I., Nova Scotia and Alberta do not specify a minimum number of meetings.

Quebec is unique in conferring on joint committees the right to choose a physician approved by a designated hospital or community health centre to prepare and monitor a work site plan and to be in charge of health services in the establishment. The designated physician is a non-voting member of the joint committee. This has led to a relationship with health professionals that is among the most advanced in Canada.

With only one partial exception, the legislation in all 13 Canadian jurisdictions provides that committees only make recommendations to senior management. Time limits may apply. For example, the 1990 amendments to Ontario’s statute require that management respond to recommendations within 21 days. Parsons regards the advisory role of joint committees as a dilution of the “direct responsibility” advocated in the Ham Report. (Parsons, 1988, p 26). Fidler, however, offers a more conservative reading of Ham: “under Ham’s proposed ‘internal responsibility system for the performance of work,’ management was to define safety standards and supervise their implementation. Worker safety representatives were to ‘audit’ safety conditions and be front-line advisors to both the inspectorate and company supervisors. The joint labour-management committees were to play a ‘consultative and advisory role,’ ‘communicating management intentions’ to the workers and enabling management to ‘benefit from the insight of workers.’” (Fidler, 1985 p 337). It is acknowledged by all commentators that the internal responsibility system did not diminish managerial prerogative. Swinton’s comments on the Ontario statute apply to other jurisdictions:

“[T]he legislation’s commitment is to consultation, but no more. There is a strongly held belief that health and safety come within management’s...
prerogative, unless bargained away, and the Occupational Health and Safety Act was not meant to shift the balance of power in the workplace to the worker side, either by granting actual decision-making power to joint health and safety committees or by turning government inspectors into interest arbitrators.” (Swinton, 1983 p 153)

The partial exception is Quebec’s legislation which gives joint committees the right to select individual protective devices and equipment “best adapted to the needs of the workers in their establishment.” Management is required to assume the cost of these purchases, though it may be presumed that the employer’s representatives on the joint committee would not act without sanction from senior management.

Digby and Riddell argue that, “if the internal responsibility system is to be highly effective, functional authority should be vested in these committees. They may have only limited efficacy if they are restricted to an advisory role.” (Digby and Riddell, 1985, p 313). Digby and Riddell point out that many workplace hazards are intrinsically linked to the type of machinery installed and the type of equipment used. The design of jobs, especially in so far as they require the repetition of certain motions, is also likely to be a contributor to industrial injury both in the physical strain to which repetitive procedures give rise and their effect on overall attitudes to the work process.

Scandinavian “work environment” legislation affords employee representatives a greater say in the approval of new machinery and equipment, though falls short of conferring a right to veto new machinery or equipment which the employee representatives regard as failing to take adequate account of health and safety needs. Closer to the Canadian legal tradition would be an application of the “duty to bargain in good faith,” which is found in labour relations statutes and which applies to formal collective bargaining. As various labour boards have commented, the “duty to bargain” pertains to process, not to outcome. The “duty to bargain” does not imply an obligation to settle, nor is it a bar against “hard bargaining.” The “duty to bargain” is generally held to require that the parties meet, that they exchange relevant information and that they make proposals to settle their differences. Labour boards have identified “surface bargaining” as a violation of the requirement to bargain in good faith. “Surface bargaining” is
distinguished from “hard bargaining” by a pattern of conduct that may be characterized as perfunctory or evasive. Many collective agreements provide for a duty to consult. Labour boards regard the duty to bargain as a significantly more substantive obligation than an obligation to consult. The view of George Adams, writing as chair of the Ontario Labour Relations Board, is representative of labour boards in all jurisdictions. Adams characterized this duty to consult as being "many shades lighter in content than the duty to bargain in good faith." (Consolidated Bathurst Packaging Ltd and International Woodworkers of America, OLRB - September 10, 1983, 4 CLRBR NS) The Canada Labour Code, it should be noted, already confers a duty to bargain on the introduction of new technology during the life of a collective agreement. The Code requires an employer to bargain to resolution or impasse over the effects of that change. After a limited period of time, this duty to bargain expires and the employer can act unilaterally. There is no right to take industrial action nor any right to arbitrate. However, a failure to bargain in good faith can be the subject of a complaint to the Canada Labour Relations Board.

Consideration should be given to introducing into the internal responsibility system a standard comparable to the “duty to bargain in good faith” found in labour relations statutes. Introducing such a standard would communicate a public policy expectation that the interaction of the parties on joint committees should be no less focussed or substantive than that expected in formal collective bargaining. Applying a standard comparable to the “duty to bargain in good faith” would also provide scope for remedy to managerial (or union) disregard for the internal responsibility system, through reference to the Labour Board.

Effectiveness of Joint Committees:

The remainder of this paper will review the empirical literature on the effectiveness of joint committees. It was observed earlier that the internal responsibility system is only one of three broad strategies for achieving a reduction in occupational injuries and disease. This context is important to keep in mind. Similar policies respecting internal responsibility can be associated with strikingly different results, if the principles of regulation differ significantly or if there are marked differences in the extent of cross-subsidization in WCB premiums.
In reviewing the literature on the effectiveness of joint committees, we will consider first those studies that were done of Canadian experience and subsequently studies that were done in jurisdictions outside Canada. In general, only studies completed after 1990 are discussed. More recent studies are considered first.

*Canadian Studies on Impact of Joint Committees*

Lewchuk, Robb and Walters (1996):

Lewchuk *et al.* identified 637 manufacturing and retail workplaces studied in 1991 by Shannon *et al.* (Shannon *et al.*, 1992) and surveyed the co-chairs of joint committees at these workplaces for information on when the committee was established. These workplaces were then cross-linked with WCB data on accepted time-loss injuries. Survey and WCB data were available for 206 workplaces. These comprised a mix of manufacturing and retail workplaces. The distinction is important because the retail sector was not initially subject to the requirement to establish joint committees. Lewchuk *et al.* pose two questions. First, were there differences between the change in injury performance in the manufacturing and retail sectors that became evident with the implementation of the *Occupational Health and Safety Act*. Second, within the manufacturing sector, were there differences in the change in injury performance arising from whether the joint committee was established prior to or after the statutory requirement. Lewchuk *et al.* hypothesize that committees which were established prior to the legislative requirement were voluntary and reflected a higher degree of management commitment. Committees established in the period 1978-1980 were put in place to comply with the legislated obligation. Those established after 1980 were set up following a period of non-compliance.

Lewchuk *et al.* find strong support for the proposition that, following enactment of the *Occupational Health and Safety Act*, injury rates in the manufacturing sector fell more significantly than in the retail sector. Since the requirement to establish joint committees did not apply to the retail sector, this provides *prima
facie support for the view that joint committees had an impact on injury performance. The estimating equation used by Lewchuk et al. suggests that “the reduction in lost-time accident frequencies implied by [the adoption of the Occupational Health and Safety Act] is in the order of 18 percent.” (Lewchuk et al., p 235)

The analysis of the manufacturing sector data indicates equally significant results. The data indicate that “where workplaces moved towards the internal responsibility system either before they were mandated or immediately upon the state indicating they were likely to be mandated, joint health and safety committees improved a workplace’s health and safety record. However, where workplaces moved towards the internal responsibility system only reluctantly, sometimes after a period when they were in contravention of existing legislation, the formation of a committee had no clear effect.” (Lewchuk et al., p 234).

Lewchuk et al. conclude that, “the internal responsibility system... can lead to significantly lower injury and illness rates... This system of health and safety regulation works and should be encouraged.” (Lewchuk et al., p 235) At the same time, the authors emphasize that, “these improvements are neither automatic, nor enjoyed by all workplaces. Simply mandating committees is unlikely to have much effect at workplaces where the internal responsibility system and the co-management of health and safety matters is not embraced by management and/or labour.” (Lewchuk et al., p 235-36).

Levesque (1995):

Levesque surveyed 71 unionized Quebec manufacturing establishments which had joint health and safety committees. The survey involved direct interviews with labour and management and focussed on the tactics they employ in joint committees and their perception of the tactics used by the other party. Tactics were classified as either “coercive” or “persuasive.” Two questions were posed by Levesque: what is the incidence of coercive vs. persuasive tactics and what are the external correlates of a propensity to use coercive tactics.

Levesque’s data suggest that most members of joint committees, whether employer or labour representatives, typically use both coercive and persuasive tactics. In only 18% of joint committees did
both parties confine themselves to persuasive tactics. In an insignificant number of committees, both parties used chiefly coercive tactics. Overall, 64% of management respondents and 56% of labour respondents relied on a mix of coercive and persuasive tactics. (Levesque, 1995, p 223-24). These findings lend support to the earlier suggestion that workplace health and safety cannot be divorced from the broader context of conflicting interests and priorities between labour and management. Levesque also found that the propensity to use coercive tactics correlated to conflict over production goals. Thus, he observes that, “the tensions over production objectives overlap with safety.” (Levesque, 1995, p 226).

This, too, suggests that Ham and Burkett may have been on the wrong track when they argued that health and safety should be severed from the broader context of employer-employee relations and employer objectives.


This survey was based on a mailed questionnaire to joint committee co-chairs in 3,000 workplaces. The response rate was 71.7%. The purpose of the survey was to assess compliance with the procedural requirements of the (Ontario) Occupational Health and Safety Act, to appraise the functioning of joint committees and to evaluate the impact of the “core certification training.” Under the 1990 amendments to the Act, mandatory joint committees were extended to most workplaces and a certification obligation was established. Among the requirements for certification was the completion of “core certification training” by one management and one labour member of the joint committee. The Workplace Health and Safety Agency was established to develop the core certification training and administer the certification process.

Compliance: Overall the SPR Survey found a comparatively high level of compliance. The study concluded that approximately 80% of workplaces were in compliance on 80% of requirements. The following table summarizes the incidence of low levels of compliance:
Table No. 3
Low Levels of Compliance with Procedural Requirements for Joint Committees
(SPR, 1994, p 56)

<table>
<thead>
<tr>
<th>Workplace Size</th>
<th>Non-compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 - 49 employees</td>
<td>44.4%</td>
</tr>
<tr>
<td>50 - 99 employees</td>
<td>34.5%</td>
</tr>
<tr>
<td>100 - 499 employees</td>
<td>23.7%</td>
</tr>
<tr>
<td>500+ employees</td>
<td>10.8%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sector</th>
<th>Non-compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial Sector</td>
<td>28.4%</td>
</tr>
<tr>
<td>Mining and Resources Sector</td>
<td>20.4%</td>
</tr>
<tr>
<td>Public Sector</td>
<td>22.3%</td>
</tr>
<tr>
<td>Retail / Services / Other Sectors</td>
<td>54.2%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type</th>
<th>Non-compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-union</td>
<td>44.4%</td>
</tr>
<tr>
<td>Unionized</td>
<td>20.9%</td>
</tr>
</tbody>
</table>

The data show a significant compliance problem in small workplaces, i.e., workplaces with fewer than 100 employees and in the retail, hospitality and other service industries. The level of non-compliance among non-union workplaces reflects workplace size, sectoral factors and union status. The SPR survey also confirmed other findings on the relation between workplace size and injury rates. As Table No. 4 shows, the reported injury rate was approximately 50% higher in small workplaces.

Table No. 4
Injury Rates per 100 Employees by Workplace Size
(SPR, 1994 p 51)

<table>
<thead>
<tr>
<th>Workplace Size</th>
<th>Injury Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 - 49 Employees</td>
<td>2.9</td>
</tr>
<tr>
<td>50 - 99 Employees</td>
<td>2.3</td>
</tr>
<tr>
<td>100 - 499 Employees</td>
<td>2.3</td>
</tr>
<tr>
<td>500+ Employees</td>
<td>2.0</td>
</tr>
</tbody>
</table>

The SPR Survey revealed that in 25.5% of workplaces, worker representatives to joint committees were selected by management. Joint committees were generally not in compliance with the requirement for monthly inspections of the workplace. Table No. 5 summarizes the survey results:
Training of Committee Members and New Employees: The Survey revealed a continuing need for training of joint committee members. Thirty-five percent of worker members and 41% of management members reported having received no training whatsoever in health and safety matters. Among the issues in which a need for training was cited were stress reduction, reduction of repetitive strain injuries, improvement of air quality and control of hazardous substances. The Survey also showed that a lack of training of new employees was common place.

Operation and Effectiveness: The SPR Survey found that joint committee members “generally reported co-operative relationships in their committee work. This was reflected particularly in the predominance of problem-solving committee actions, as compared to negotiating committee actions.” (SPR, 1994 p 32).
Overall 14.9% of management members and 21.3% of worker members reported having engaged in one or more “negotiating actions.” (SPR, 1994, p 33). The tenor of joint committees was both affected by the general character of labour relations and also a factor influencing labour relations. Forty-three percent of management members and 41.5% of worker members reported that their work had improved labour-management relations. Fewer than 5% of either group reported that joint committee work had worsened labour-management relations. However, 9.6% of management members would disband the joint committee if they were not required by legislation to have one in place.

Table No. 8 summarizes the incidence of specific changes that were judged to contribute to a safer work environment. Table No. 7 also separates the incidence of specific changes between committees in which a worker had completed the core certification training versus committees in which this training had not begun. The first tier of the core certification training comprised a 40 hour training programme following a prescribed text.

<table>
<thead>
<tr>
<th>Table No. 7</th>
<th>Specific Changes Related to Occupational Health and Safety as Reported by Worker Members of Joint Committees (SPR, 1994 p 33)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All Committees</td>
</tr>
<tr>
<td>Improved Frequency and/or Procedures for Inspections</td>
<td>28.3%</td>
</tr>
<tr>
<td>Identified Controls for Toxic Substances</td>
<td>19.3%</td>
</tr>
<tr>
<td>Improved Health Hazard Detection or Monitoring</td>
<td>26.3%</td>
</tr>
<tr>
<td>Improved Personal Protective Equipment</td>
<td>36.9%</td>
</tr>
<tr>
<td>Made Specific Work Practices More Safe</td>
<td>48.1%</td>
</tr>
<tr>
<td>Improved Ergonomic Design of Work Activities</td>
<td>27.7%</td>
</tr>
<tr>
<td>Reduced Stress in Specific Jobs</td>
<td>14.3%</td>
</tr>
<tr>
<td>Improved Engineering (Ventilation, etc.)</td>
<td>28.6%</td>
</tr>
<tr>
<td>Improved Preventive Maintenance Procedures</td>
<td>30.9%</td>
</tr>
<tr>
<td>Applied H&amp;S Statistics to Solve a Problem</td>
<td>21.1%</td>
</tr>
<tr>
<td>Began New H&amp;S Training for Workers or Managers</td>
<td>33.1%</td>
</tr>
</tbody>
</table>
The breadth and sophistication of the changes tracked in Table No. 8 is significant. These findings are among the most compelling evidence of the positive impact of joint committees. Table No. 8 also shows a strong correlation between implementing specific changes and completing the core certification training programme.

Compared with the earlier survey in 1986 (see below), the 1994 survey found a perception of significant improvements in committee performance among both management and worker members. Table No. 8 compares results from the two surveys. As can be seen, by all measures, the performance of committees improved between the two surveys.

Table No. 8
Perceptions of Committee Performance as Reported by Management and Worker Members of Joint Committees (ACOHOS, 1986 and SPR, 1994 - Appendix C, p C.2)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall record in improving safety</td>
<td>59.4%</td>
<td>76.8%</td>
<td>56.2%</td>
<td>76.3%</td>
</tr>
<tr>
<td>Overall record in reducing health hazards</td>
<td>58.9%</td>
<td>74.1%</td>
<td>60.3%</td>
<td>77.9%</td>
</tr>
<tr>
<td>Success in inspections</td>
<td>67.6%</td>
<td>85.9%</td>
<td>66.5%</td>
<td>87.4%</td>
</tr>
<tr>
<td>Joint committee works well or extremely well</td>
<td>57.3%</td>
<td>61.1%</td>
<td>61.7%</td>
<td>68.5%</td>
</tr>
<tr>
<td>High Rating of workers' knowledge of Act</td>
<td>16.6%</td>
<td>23.7%</td>
<td>18.8%</td>
<td>25.9%</td>
</tr>
<tr>
<td>High Rating of workers' contribution to joint committee</td>
<td>42.5%</td>
<td>59.1%</td>
<td>45.0%</td>
<td>64.1%</td>
</tr>
<tr>
<td>Joint committee viewed as co-operative</td>
<td>71.9%</td>
<td>84.1%</td>
<td>89.4%</td>
<td>91.0%</td>
</tr>
<tr>
<td>Management selects worker members of joint committee</td>
<td>35.2%</td>
<td>25.5%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Workplace Health and Safety Agency (1994):
The Workplace Health and Safety Agency was a bipartite body, established primarily to oversee delivery of health and safety training and to certify joint committees. The Agency was established in 1990 by the then Liberal government and disbanded in 1995 by the newly elected Progressive Conservative government. In a 1994 study, the Agency analyzed accident, lost-time and fatality data for the period
1972-1989, comparing Ontario's experience to the rest of Canada. The Agency found that the decline in Ontario exceeded the decline in the rest of Canada. In Ontario, accidents declined at an average annual rate of 0.21 incidents per 100 workers, versus 0.18 in the rest of Canada. There was no statistically significant correlation to unemployment. Fatalities evidenced a greater annual rate of decline in Ontario than in the rest of Canada, averaging 0.50 per 100,000 workers in Ontario versus 0.19 per year outside Ontario. This decline was largely attributable to a reduction in fatal accidents. Deaths arising from occupational disease increased over the period, although this reflected a more liberal recognition of fatality claims by the WCB.

The Workplace Health and Safety Agency's findings are consistent with those of Lewchuk et al. However, the Lewchuk et al. study carries the analysis further by contrasting the manufacturing and retail sectors and by controlling for the year in which a joint committee was established.

Tuohy and Simard (1993):

The study by Tuohy and Simard, in fact, is two separate studies. The first examines the Ontario experience, the second the Quebec experience. The studies seek to isolate the impact of joint committees. More specifically the studies considered whether joint committees have an effect on the injury rate and whether committees reduce the requirement for government enforcement.

Ontario Findings (Tuohy): The Ontario study relied on a survey based on pooled data for the period 1980-1985, conducted for the Advisory Council on Occupational Health and Occupational Safety. (Advisory Council, 1986). This survey examined the functioning of joint committees in terms of indicators such as frequency of meetings, record maintenance, number of inspections, depth of management participation and formulation of recommendations. Tuohy correlated these data with administrative data on accepted injury claims, Ministry of Labour inspections and compliance orders. A total of 920 complete observations form the basis for the study.
Tuohy found that, by far the most important variable explaining lower relative injury rates was the presence of an experienced, stable workforce. This is an important finding, since many employers are increasing the proportion of part-time, casual and agency-supplied employees in their total workforce. Tuohy also found that “committee capacity” was also an important factor. “Committee capacity” is a composite variable reflecting principally: scope of committee activity, access to information, training, institutionalized procedures and decision-making role. While injury rates were the most important factor determining the frequency of inspections, Tuohy found that inspectors relied on committees in lieu of inspections, based on the nature of management representation on the committee and the age of the committee. However, this pattern of enforcement by the inspectorate is not well supported by the data. Tuohy comments that, “we did not find the age of the committee, or the presence of senior managers on the committee in small and non-union workplaces, to be directly related to lower injury rates, yet these were factors which reduced the likelihood of inspection.” (Tuohy and Simard, 1993, p 10) “Protagonistic relations” between labour and management were associated with a higher compliance order rate but with a lower injury rate. Factors, such as age of the committee and “committee capacity” were strongly associated with an increased propensity by senior management to accept recommendations. No separate appraisal, however was made of the quality or significance of these recommendations.

Quebec Findings (Simard): The Simard study drew on 117 usable survey returns correlated to administrative data. The survey was conducted in 1985-86 and assessed committees in terms of certain performance and capacity indicators. Like Tuohy, Simard found “a general tendency for workplace factors to have a greater impact, when compared to committee factors...” He points out that this “remind[s] us that occupational health and safety performance results form a complex of factors that lie beyond the usual realm of committees.” (Tuohy and Simard, 1993, p 22). For workplaces with more than 75 employees, the impact of joint committees is positive for all injury performance measures. In smaller workplaces, this pattern does not hold. This is attributed by Simard to differences in the age of committees in large and small workplaces. Joint committees are generally of longer standing in workplaces with 75 or more employees. Supporting this interpretation, Simard found that there is a lag in the impact of joint committees on injury rates. In part this arises from characteristics of the Quebec
legislation. In Quebec, committees are established automatically in nine sectors, if requested by a union or 10% of employees. Outside of these sectors, committees are established by mutual consent. In this context, newer committees typically arise in response to particular incidents or higher than average injury rates. Thus, in the initial years, the presence of a committee may actually be associated with above average injury rates until the committee’s efforts and recommendations have an impact on injury performance. Simard also found that outside of the designated sectors, where committees were established by mutual consent, there was no evidence that the existence of a joint committee had any discernible impact in the absence of a union.

Tuohy and Simard summarize their joint findings: “The most important result of the joint study is the finding that committees with bipartite structures, broad scopes of activities and institutionalized procedures reduce injury rates and improve problem-solving capabilities at the workplace level.” (Tuohy and Simard, 1993, p 47). Finally, Tuohy and Simard note that, “both studies found that adversarial relations between management and labour formed part of a factor which was associated with lower injury rates in unionized workplaces.” In Ontario, however, “adversarial and collaborative strategies were linked...” (Tuohy and Simard, 1993, p 44) This is consistent with Levesque’s findings and lends further weight to the view that occupational health and safety issues cannot be divorced from the broader context of labour relations and the conflicting interests and priorities that characterize those relations.

Saari et al. (1993):

The Saari et al. study bears only indirectly on joint committees. The study examined the preferences of companies in the transportation equipment and machinery sector in Quebec with respect to complying with WHMIS training requirements. The study tracked the preferences of 92 plants, all of which were members of a bipartite sector association. The study also monitored indicators of commitment to a safety culture, such as the evidence of senior management participation in health and safety matters, the presence of joint committees and accident prevention activities. The survey was undertaken in 1989-1990. The sector association offered companies the option of training employees directly through a four-
hour course in WHMIS at only nominal cost for provision of materials or training a company instructor in a
two day course. Companies that chose the latter course would then provide training internally. This was
judged by Saari et al. to be the costlier choice for most companies as it required a greater commitment of
staff time and financial resources. The general finding was that companies with a stronger safety culture
evidenced a marked preference to internalize WHMIS training, while companies with a weaker culture
opted for the less costly compliance strategy. The study suggests that sector-based organizations may
provide a useful role in providing basic training to companies which do not, for whatever reason, see a
value in internalizing the health and safety training function or have the means to do so.

Shannon et al. (1992):

This study was undertaken for the (Ontario) Industrial Accident Prevention Association. IAPA is an
employer association. The study was based on a survey of 1,000 employers in eight sectors,
supplemented by interviews. Each survey involved four sub-surveys - worker co-chair of joint committee,
management co-chair, senior manager and human resources director. Forty-four percent of surveyed
firms completed all four surveys. Survey respondents were cross-tabulated with their accepted time loss
frequency rate, based on WCB data. Firms were categorized as having low, medium or high lost-time
frequency rates.

As with Tuohy and Simard, Shannon et al. found that the most important determinants of lost-time
frequency rates were factors related to the characteristics of the work force. Workplaces with low lost-
time frequency rates employed more workers over the age of 50 and fewer workers under the age of 25.
They also employed more workers with a least 5 years seniority and fewer workers with under 2 years
seniority. Finally, firms with low lost-time frequency rates also had lower rates of labour turnover.
(Shannon et al., 1992, p 107, Table 9.1)

The survey confirmed that joint committees typically engaged in advisory and reactive roles and did not
exercise executive authority. However, “workplaces with low lost-time frequency rates were more likely to
have joint health and safety committees with executive duties.” (Shannon et al., 1992, p iii). Union structure was also a factor of some consequence. Each additional steward per 100 members reduced LTFR by almost 8%. This result suggests that unions that push responsibility downwards are more likely to have a positive impact through their structure than unions which are more centralized. The study found that, “there was also evidence that committees where labour members received some health and safety training, or where labour members had access to external professional assistance, such as a union financed health and safety specialist, had lower lost-term frequency rates.” (Shannon et al., 1992, p 108). Finally the study confirmed the findings of other surveys that there were high levels of co-operation and conflict concurrent in joint committees. Interviews, subsequent to the survey, found that managers acknowledged that “economic constraints can influence what is done in health and safety - trade-offs are commonly made.” (Shannon et al., 1992, p 174). This is consistent with the view that health and safety issues cannot be divorced from the conflicting interests and priorities of workers and management. Nevertheless, the interviews also found a reiteration of the theme that some joint committee members did not want “problems in the latter [i.e., industrial relations] spilling over and affecting safety.” (Shannon et al., 1992, p 174).

Havlovic (1991):
This study analyzes fatality data in the B.C. logging industry from 1940 to 1989. Havlovic notes that B.C. achieved lower accident and fatality rates in logging and achieved declines in rates sooner than was the case in California, Oregon or Washington, where the industry faced similar conditions. This superior injury performance was attributable to a mix of safety committees, training programmes, enforcement, penalties and changes in managerial priorities. While acknowledging the contribution of safety committees, Havlovic does not isolate their impact from other factors.

ACOHOS / SPR (1986):
This survey was undertaken in 1985-86 by SPR Associates for the (Ontario) Advisory Council on Health and Occupational Safety. This was approximately five years after the requirement to establish joint
committees. The Survey was based on questionnaires mailed to 3,000 labour and management members of joint committees and a separate survey of management in 3,800 workplaces. Response rates were 76% among joint committee members and 93% among managers.

Overall, the ACOHOS Survey found a high level of nominal compliance with the procedural requirements. Joint committees had been established in 93% of workplaces in which committees were mandatory. Among the procedural requirements in Act were regular meetings, posting of minutes and investigation of accidents and refusals. The survey found that “most firms comply fully with most features of the Act, but few are in full compliance.” (Advisory Council, 1986, p 107). However, compliance with specific provisions of the Act was uneven. “[O]nly 22% of workplaces with joint health and safety committees appear[ed] to be in full compliance with the Act.” (Advisory Council, 1986, p v).

The ACOHOS Survey found that joint committees were functioning well in 58% of workplaces, adequately in 30% of workplaces and poorly in 12%. Survey results, however, highlighted the difficulties of joint committee members - principally labour members - in obtaining what they regarded as the necessary information to perform their tasks. Twenty-eight percent of worker members and 9% of management members reported not having adequate information. The ACOHOS Survey also highlighted the absence of training in health and safety among joint committee members. A striking 19% of worker members and 13% of management members were not aware of the health and safety implications of designated substances. Overall, the survey found the 19% of management members and 39% of worker members of joint committees had received no training whatsoever on key issues in occupational health and safety, including hazard recognition, control of designated substances, investigation procedures, requirements under the Act and problem-solving techniques.

The results of the ACOHOS Survey were instrumental in shaping subsequent amendments to Ontario’s Occupational Health and Safety Act. As discussed above, these amendments addressed the coverage of mandatory committees, their access to information and the need for committees to be certified.
International Studies on Impact of Joint Committees

This study is based on a sample of 79 Massachusetts manufacturing plants. The number of inspections and the number of “serious” citations by inspectors are used as a proxy for the level of hazard in the workplaces. Boden et al. found no general effect of joint committees, that is to say the presence of a joint committee was not a reliable predictor of whether a plant had a high or low level of hazard. However, the researchers did find that if committees were separated between those perceived as effective by their members and those not so perceived, there was an discernible effect. Effective joint committees functioned as a substitute for OSHA enforcement.

Cooke and Gautschi - U.S. (1980):
Cooke and Gautschi surveyed 113 manufacturing plants in Maine to estimate the impact of OSHA inspections and the establishment of joint union-management safety programmes at the plant level. The study found that plant-specific programs, jointly administered with unions, reduced lost days. Moreover, “plant-specific efforts have been more effective on average in reducing injuries than have been outside regulatory activities.” (Cooke and Gautschi, 1980, p 256). The impact of plant-specific programmes was approximately double that of external regulation.

This study surveyed labour and management co-chairs in 51 unionized manufacturing plants in New York State. All of these committees were voluntary. The degree of committee activity was largely determined by the priority assigned to it by the union. Kochan et al. found that the involvement of OSHA inspectors had different effects on union and management members of committees. The study concluded that the involvement of OSHA inspectors moved management from a negotiating style of interaction to a problem-solving style. The opposite, however, was true of the union. (Kochan et al., 1977, p 50). This finding
should not be surprising, since the involvement of an OSHA inspector typically is occasioned by a union request and reflects a decision by the union to use a coercive tactic. While Kochan et al. regarded joint committees as valuable innovations, they concluded that, “major safety improvements appear to be less a function of union participation in a safety committee than on the direct pressure of OSHA regulations.” (Kochan et al., 1977, p 72).

This study relies on data generated by the third Workplace Industrial Relations Survey (1990). WIRS is a systematic review of industrial relations practices. After sample attrition, 432 establishments were included in the analysis. The study found that joint committees in which employee representatives were chosen by unions had the greatest injury reducing effect compared with both no such committee and committees otherwise configured. Table No. 9 summarizes these results:

<table>
<thead>
<tr>
<th>Table No. 9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injuries per 1,000 Employees</td>
</tr>
<tr>
<td>1990 U.K. Workplace Industrial Relations Survey</td>
</tr>
<tr>
<td>(based on Reilly et al., Table No 2, p 282)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No Committee</th>
<th>10.9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joint Committee - Union appoints all Employee Representatives</td>
<td>5.3</td>
</tr>
<tr>
<td>Joint Committee - Some Employee Representatives not appointed by Union</td>
<td>7.5</td>
</tr>
<tr>
<td>Joint Committee - No Employee Representatives appointed by Union</td>
<td>6.1</td>
</tr>
</tbody>
</table>

Beaumont and Leopold document the failure of voluntarism to lead to a satisfactory diffusion of joint health and safety committees. The failure of voluntarism led to the adoption in 1974 of legislation permitting unions to appoint health and safety representatives with inspection powers and requiring employers to establish a joint committee on application by a union. (Atherley et al., 1976).

Pragnell - Australia (1994):
This analysis is based on the Australian Workplace Industrial Relations Survey (AWIRS) conducted in
1989-90. The focus of the study is New South Wales. Legislation provides for the establishment of a joint committee if directed by the Work Cover Authority or on application by a recognized trade union. The Australian system is thus intermediate between a voluntarist model and a mandatory model and functions in a manner similar to that in Quebec. In manufacturing, 59% of establishments had established joint committees, while in the wholesale and retail sector the proportion was only 36%. Eighty-three percent of companies with 200 or more employees had committees compared to 26% of companies with 20 to 49 employees. The likelihood of a committee being established declined as the proportion of part-time employees increased. Only 9% of non-union workplaces had committees. Pragnell concludes that “less voluntaristic arrangements, for instance mandatory committees as is the case in Canada, might be considered to overcome the lack of penetration of committees.” (Pragnell, 1994, p 37).

Factors Influencing the Effectiveness of Joint Committees:

The Ontario Advisory Council concluded that “unless fully developed through careful legislation and implementation, through training and education, and unless fully integrated with the workplace, the joint health and safety committee leads not to self-regulation, but rather self-deception.” (Advisory Council, 1986, vol 2, pp 169-170). This conclusion is supported by the analytical literature. Lewchuk et al., for example, found that in Ontario there was a marked difference between committees established with management support and those established without such support. Similarly, Boden et al. found no significant effect from the presence of joint committees per se, but noteworthy effects when committee capacity was taken into account.

In the foregoing, a number of factors have been identified as contributing to the effectiveness of joint committees. Two clearly stand out. The first is access to information. The second is training for members of joint committees, and in particular for the co-chairs.

The 1986 ACOHOS Survey underscored the difficulties of labour members in obtaining information. Inadequate access to information was cited by 28% of worker members. Surprisingly, 9% of
management members had the same concern. By the time of the 1994 SPR Survey, this issue largely had been put to rest. It may be inferred, therefore, that the current provisions of the Ontario statute have addressed this problem.³

The second critical factor is training committee members. Survey evidence in 1986 showed that one out of five management members and two out of five employee representatives had received no training whatsoever. Equally striking was the finding that 19% of worker members and 13% of management members were not aware of the health and safety implications of designated substances. The need for committee members to be trained is a theme which runs through the analytical studies. Ontario devised its core certification programme to address this deficiency. The 1994 SPR Survey found a marked contrast between the performance of committees where core certification training had been completed and where it had not yet been commenced.

Empirical studies have broadly identified managerial commitment as an important factor in the effectiveness of committees. The difficulty with managerial commitment is that, while it is undeniably important, there are no obvious policy instruments to compel or encourage such commitment. Legislation can specify monthly inspections and regular meetings. Legislation can also set time limits for responding to recommendations. Useful as these provisions may be, they are unlikely to engender commitment where it would otherwise be lacking. It was suggested earlier that occupational health and safety legislation might be strengthened by porting over the “duty to bargain in good faith” that has been a longstanding feature of labour relations statutes. This would provide a partial remedy to what in the labour relations arena would be termed “surface bargaining.” Also potentially important is the structure of WCB premiums and related penalties for poor health and safety injury performance.

There may also be scope to occupy an intermediate position between vesting executive responsibility in joint committees and confining committees to a purely advisory role. The Quebec statute, for example, assigns to joint committees, decision-making power on personal protective equipment and the selection of an external medical advisor. Safety policy might also be assigned to joint committees, though the
legislation would have to determine whether the employer’s position or adjudication prevailed, in the event of an impasse. A role could also be defined for joint committees in the oversight of occupational health services. There has been some movement in this direction in the European Union. (Gevers, 1983 and Gevers, 1985). The provisions of the Canada Labour Code respecting mandatory bargaining over the introduction of new technology might be adopted, at least in respect of the occupational health and safety implications of new machinery and equipment. As discussed earlier, the Canada Labour Code requires employers to bargain over the effects of technological change, but allows the employer to proceed after a period of time, if bargaining reaches an impasse. As a restriction on an employer’s ability to make decisions, there is little substantive difference between consultation and a duty to bargain along the lines of the Canada Labour Code’s treatment of new technology. However, in terms of process, the duty to bargain establishes a higher standard which is consistent with the intent of occupational health and safety legislation.

The availability of impartial expertise may also strengthen a joint committee by enhancing its overall capacity to deal with occupational health and safety issues. The Quebec statute is unique in directing committees to establish a relationship with a qualified medical professional. There has been little systematic exploration of the effect of this provision. Nevertheless, a comparison of injury trends in Quebec and B.C. suggests that the Quebec model has yielded benefits which must be given weight.

Lastly, it is important to the functioning of joint committees that the health and safety inspectorate adopt an appropriate operating philosophy. We turn to this topic separately, in light of its complexity.

Role of The Health and Safety Inspectorate:
A contentious policy issue is the relationship between the health and safety inspectorate and the system of internal responsibility. There are three areas of potential conflict which can require the intervention of inspectors. The first, and most obvious, involves an employer that has no commitment to the internal responsibility system. In these circumstances, enforcement through inspectors is essential. Weak
enforcement signals other similarly minded employers that non-compliance is the most expedient course. A second area of conflict relates to the cost implications of addressing a particular risk to occupational health or safety. Where addressing the risk of occupational injury or disease involves significant potential costs, there is a strong likelihood of conflict between employee and management members of joint committees. Finally, acceptance that disease pathologies result from the workplace will also be contentious, given the uncertain liabilities that may arise. For all of these reasons, conflict between labour and management members should be expected. Such conflict should be seen not as evidence that the internal responsibility system is failing, but as evidence that the system has approached its limits. Kochan et al., it will be recalled, found that the intervention of inspectors positively altered the approach of management representatives in joint committees.

What then should be the relationship of health and safety inspectors to the internal responsibility system? The predominant view in government has been that inspectors should only intervene when they are satisfied that a joint committee cannot resolve the matter. This has often led to a perception of weak enforcement. Fidler has described the conflicts that arose in Ontario over the role of the inspectors and their complaints that they were directed to defer to the joint committees, long after it was apparent that problems were not being resolved internally. (Fidler, 1985). In Ontario, concerns with the health and safety inspectorate led to the appointment of a special review. (Ontario, 1987).

The difficulty in striking a balance between premature and delayed intervention is compounded by two factors. Many governments have seen the internal responsibility system as a means of reducing public expenditures on compliance. The conclusion drawn by critics of the internal responsibility system, namely that it substitutes for enforcement and waters down compliance, may be well founded in some jurisdictions. Most governments have also assigned to their inspectorate responsibility for supporting the internal responsibility system by acting as mediators and facilitators to joint committees. In labour relations, it has usually been judged important to maintain a clear cut distinction between the mediation and facilitation role and the adjudication role. Only in consensual proceedings does one find a mediator-arbitrator. In statutorily founded proceedings, the distinction between mediation and arbitration is
invariably maintained. The failure to reflect this separation of roles in occupational health and safety was unsound. Indeed, in principle, there is no reason to believe that a technically qualified inspector will have the skills of a mediator or conversely that a mediator will have the technical understanding required to make enforcement decisions. It would be appropriate, therefore, to divide the mediation roles from the enforcement roles.

Limitations of Joint Committees:
The research findings reviewed in this paper have supported, often with qualifications, the adoption of the internal responsibility system. It is important, however, to recognize the limitations that are inherent in the internal responsibility system. Broadly similar internal responsibility systems will have significantly different effects, if the regulatory regimes differ or if there are perverse incentives in the structure of WCB premiums.

A finding that was reiterated in more than one study was the overriding importance of broad labour market and work force characteristics as determinants of injury rates. Other things being equal, a work force that is older, full-time and has a low rate of turn-over will have a lower injury rate than a work force that is younger, has a high proportion workers who are not full-time or not permanent and has a high turn-over. The term “non-standard” characterizes divergences from the pattern of full-time, permanent employment. Betcherman has documented a secular trend toward an increased reliance on non-standard workers by Canadian employers. Total non-standard employment increased from approximately 23.75% in 1975 to 29.25% in 1993 (Betcherman, 1995). The share of non-standard employment tends to increase during economic downturns and to remain at a higher plateau during the subsequent economic expansion. It is likely that, by now, the share of non-standard employment has crossed the 30% threshold. The trend towards a greater share of non-standard employment in total employment will increase the risk of occupational injury.

The research findings examined also found a correlation between unionization and the effectiveness of the internal responsibility system. Joint committees were more likely to be found in unionized workplaces and are more active in those workplaces. Tucker has estimated that over 90% of work refusals occur in
unionized workplaces. (Tucker, 1986). We should not be surprised by that fact. Without the protection of a grievance system, few workers will be inclined to exercise their statutory right to refuse to perform unsafe work. Similarly, only a small minority of non-union members of health and safety committees will summon inspectors to rectify persistent non-compliance with standards. While near universal unionization was not a presumption of the internal responsibility system, widespread unionization - at least in high incidence sectors - was an unstated premise of that system. Indeed, trying to understand the system of internal responsibility and the role of the right to refuse without recognizing the central importance of unions is like trying to put on a production of *Hamlet*, but leaving out the ghost.

Trends in unionization have not been favourable to the internal responsibility system. Since 1976, unionization in the resource industries has declined by 16.7%. In the manufacturing sector, unionization has fallen by 22.9%. (Galarneau, 1996, p 46, Table 2). Moreover, those segments of manufacturing that have seen growth in both absolute and relative terms - industries such as plastics or electronics - are almost entirely non-union. Not simply in relative terms, but in absolute terms, there are fewer unionized workers in manufacturing and resource industries today than there were in 1976. In 1997, according to the Labour Force Survey, two-thirds of workers in the goods producing industries were not members of a trade union. For an increasing number of workers - increasing both absolutely and relatively - the unstated premise of the internal responsibility system, i.e., the presence of a union, no longer holds.

The research findings canvassed in this paper also showed a lower degree of compliance with statutory obligations in the private service sector. In part, this arises from the conventional wisdom that occupational health and safety is a “blue collar” problem. Joint committees are less common in the private service sector and their capacity is less developed. At the same time, there is increasing recognition that occupational disease arising from stress and from repetitive strain is not confined to the “blue collar” industries. The joint committee model historically arose in the resource and manufacturing sector. The transfer of this model to the highly unionized public sector was relatively successful. Porting the joint committee model over to the private service sector will prove far more difficult. There is no tradition in the private service sector of joint committees, nor is there a well developed health and safety
culture. To extend the internal responsibility system to the private service sector will require a commitment to enforcement and training that exceeds what is currently typical in most jurisdictions. A further distinction that arose in some of the studies reviewed was between occupational safety and occupational disease. Safety issues typically involve such matters as: workplace procedures, the use of protective clothing or equipment, and installing safety devices on machinery, e.g., shut-off switches, guards, etc. The internal responsibility system has undoubtedly made a significant contribution in promoting workplace safety - especially when safety issues can be addressed without a significant capital expenditure. Indeed, safety issues lend themselves to problem-solving and to jointly developed solutions. Arguably, safety issues were predominant in the thinking of those who initially framed the system of internal responsibility. While joint workplace committees have had a positive impact on safety, their efficacy in the prevention of industrial disease is another matter altogether. Yet, it is in the prevention of industrial disease that future gains in workplace health must be made. Indeed, in the service sector, stress-related occupational disease is likely to be more important than work-related injuries as a cause of illness and lost time.

The critical importance of industrial disease, whether it arises from repetitive strain, stress or from prolonged exposure to contaminants, needs no elucidation. Statistics Canada’s General Social Survey found that among manufacturing sector workers, 34% reported that they were exposed to dangerous chemicals or fumes. Fifty-eight percent said they were exposed to dust or fibres in the air they breathed. (Grayson, 1994, p 42). Perhaps in some situations, the remedy can be identified easily and will entail only a small cost. However, those circumstances are likely to be the exception, not the norm. By far the more common situation is one in which there will be lengthy dispute over the workplace contribution to a pathology and a reluctance on the part of an employer to accept the implied liability. Addressing repetitive strain, for example, may require a major re-design of jobs and possibly of machinery. Similarly, the elimination of contaminants can involve significant capital expenditures and the re-engineering of production processes.

Preventing industrial disease will entail greater reliance on standard setting and epidemiological research.
With each iteration of standards, there will be a need to provide training to the members of joint committees. It should be recalled that, prior to the introduction of core certification training in Ontario, a disturbingly high proportion of worker members and management members of joint committees were not aware of the health and safety implications of designated substances.

Conclusions:
Since the 1970's, the internal responsibility system has been the defining feature of workplace health and safety policy in Canada. In adopting the internal responsibility system, governments typically sought to insulate occupational health and safety from the conflict that characterizes labour relations. This approach is profoundly flawed. History, economic logic and the need to deal with potentially costly changes in plant and equipment all make it inevitable that the internal responsibility system will be characterized as much by conflict as by problem-solving. A policy which views conflict as evidence of failure will only lead to disappointment and frustration. Indeed, the mistaken view that conflict should be avoided diverts attention from the real tasks which are to manage conflict and balance interests. This is the classical view of the function of an industrial relations system. It has served us well. Workplace health and safety policy would be better served by accepting the realism of the classical view.

The evidence from empirical research is that joint committees can play an important role in improving workplace health and safety. However, there is also broad agreement that joint committees per se do not lead to improved injury performance. The critical factor is the capacity of these committees. Key determinances of capacity are the right of committee members to information and mandatory training of committee members. Equally important are the regulatory environment and the structuring of economic incentives. Internal responsibility is not a substitute for standard setting, nor for enforcement, though the operation of joint committees may reduce the overall reliance on penalties and enforcement orders. Standard setting and regulatory enforcement are particularly important in workplaces where managerial commitment to improved health and safety is lacking.
The future of the internal responsibility system be separated from structural changes in the labour market. Injury rates are lower among full-time, permanent workers. The trends in the labour market, however, are away from full-time, permanent employment as the norm. Similarly, high rates of unionization were an unstated premise of the system of internal responsibility. In much of the economy, however, that premise is invalid. This may point to the need to adapt to the Canadian context the European works council model.

The system of internal responsibility and the concurrent strengthening of regulatory standards brought about a significant reduction in workplace injury rates. Iterations of this model may lead to further improvement. Structural trends in the labour market, however, are unfavourable. The growth of non-standard employment and the decline of unions, especially in the private sector, will weaken the efficacy of the internal responsibility system. Significant future improvements will require institutional innovation, not simply adjustments in policy.

End Notes:

1. Injuries data derived from Table No. 1, “Number of Accepted Time-Loss Injuries by Province, 1982-1997,” Work Injuries and Diseases, Association of Workers Compensation Board of Canada. Employment data derived from Statistics Canada, Survey of Employment Payroll and Hours (SEPH), CANSIM Matrix No. 4285. SEPH measures paid employment and excludes, therefore, the self-employed. Note that some workers in federal jurisdiction, e.g., employees of chartered banks, will be counted in SEPH but are not covered by Workers Compensation Boards. Conversely, some WCB’s permit self-employed persons to take voluntary coverage.

2. (a) Logging, mining, manufacturing, construction, transportation, communications and utilities and wholesale trade
(b) Standard Occupational Classifications: Major groups 72-74, 76, 82, 84, 86, 90, 92 and 94-96

3. The Act reads as follows:

Sec. 9(18) Powers of committee - It is the function of a committee and it has power to:
(d) obtain information from the constructor or employer respecting,
   (i) the identification of potential or existing hazards of materials,
       process or equipment, and
   (ii) health and safety experience and work practices and standards
       in similar or other industries of which the constructor or employer has knowledge;
   (e) obtain information from the constructor or employer concerning
the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety.

As well, the committee is to be consulted on the preparation of a hazardous materials inventory. Sec. 36(2)(b)
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