

# Critical Times

[Issue #1]

Fall 1995

## Government to slash workers' compensation

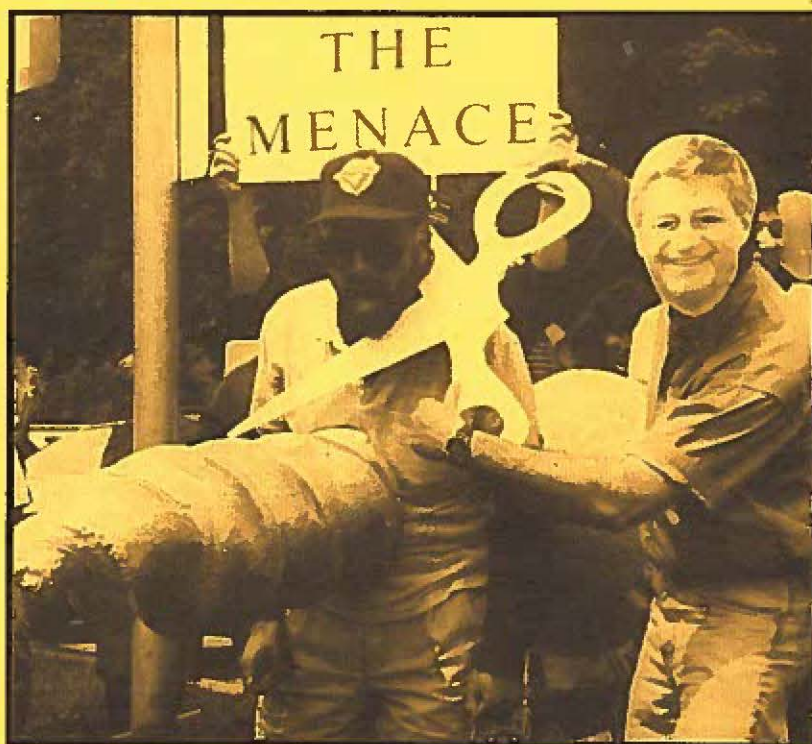
*"Everything is on the table. There is not one sacred cow..."*

Cam Jackson, minister for  
Workers' Compensation

### More cuts to come

The Ontario government has promised to make changes to workers' compensation as part of their Common Sense Revolution. Some of these changes will start this Fall and others will start in the Spring of 1996.

Changes have been made to workers' compensation many times. But this time is different. **The new changes will affect all injured workers, not only people coming into the system after the changes are decided.**



A dramatization of the cuts to workers' compensation and what they will mean to injured workers across the province.



## Crisis!

*"The system is already technically bankrupt.... People who are not working do not need as much income as those who are working."*

**PLMAC Business Caucus**

## What Crisis?

*"The WCB is not in debt. It has never borrowed money. It is better funded today than it was 10 years ago. The WCB has \$6.8 billion savings in the bank. It announced*

*a \$130 million surplus for 1994 after paying \$359 million in rebates to employers."*

**Karl Crevar,  
Ontario Network of  
Injured Workers' Groups**

## Privatization

The government is considering contracting out the administration of the Workers' Compensation Board and services such as vocational rehabilitation. However contracting out, or privatizing, these services will only give injured workers

worse service with no accountability.

If you think it's bad now, just wait. If these services are in the hands of private business, how will injured workers appeal decisions?

Cheaper programs won't mean better programs.

## More pressure on injured workers to go back to work too soon

Every injured worker wants to go back to work as soon as possible.

This promise could mean injured workers being forced back to work before they are ready.

If people go back to work before they have healed, they risk getting hurt again or becoming permanently disabled.

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## New 3-day waiting period

Right now the employer must pay the worker's wages for the day of the accident. The WCB pays from then on. There is no waiting period. Now the

government wants a 3-day unpaid waiting period. This will encourage workers not to report their workplace injuries.



## **Cut benefits by 5%**

Right now, benefits are based on 90% of net average earnings. The government says they will cut this to 85%. This may apply to everyone.

## **Review lifetime pensions**

The government is thinking of ways to take away lifetime permanent disability pensions awarded to people injured before 1990.

## **Cut future economic loss (FEL) awards**

The government has promised to cut future economic loss (FEL) awards by 15% to 40% for injuries after 1990.

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## **Cut employers' premiums by 5%\***

The average employers' premium is now less than in 1989. As if this weren't enough, the government has promised to give them a 5% reduction. This will save employers \$98.5 million a year and more.

As well, each year the WCB is taking money collected for benefits to injured workers to pay rebates to employers under the experience rating system. Last year rebates totalled \$359 million.

\*Due to public pressure this has been temporarily delayed.

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## **Employers rewarded for reducing claims, not injuries**

The government has promised even lower premiums to employers who report fewer injuries. This will encourage employers to pressure injured workers to use sick time or claim

long-term disability rather than workers' compensation. It will also encourage employers not to report injuries and to challenge all claims and appeals.

## **No more benefits for some injuries**

The government wants to change the kinds of injuries covered by workers' compensation. Injuries such as stress, chronic pain, back pain, and repetitive strain may no longer be covered. At the same time there will be tougher rules about how the injury is related to work. For example, if an injured worker's disability gets worse it will be blamed on aging or other personal factors and will not be covered.



## **I'm not an injured worker. How will these cuts affect me?**

Government and employers have cut back on workplace health and safety. Serious injuries have gone up. Every

worker is only one accident away from becoming an injured worker. If benefits are reduced, employers may

pay lower premiums but taxpayers pay more to cover social assistance and health care costs for injured workers.

## **What you can do to fight changes to workers' compensation**



Call or write your MPP's office. Tell your MPP what these changes will mean for you and for other injured workers. To find out who your MPP is call **1-800-668-2727**.



Sign and circulate the Ontario Network of Injured Workers' Groups' petition.

Contact your local injured workers' group or:

- the Ontario Network of Injured Workers Groups at **(905) 387-1894**
- the Union of Injured Workers of Ontario at **(416) 657-1215**
- Toronto Injured Workers' Advocacy Group at **(416) 924-6477** (Industrial Accident Victims' Group of Ontario) or at **(416) 461-2411** (Injured Workers' Consultants)

Written and produced by  
Toronto Injured Workers' Advocacy Group,  
Union of Injured Workers, Ontario Network of Injured Workers' Groups,  
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**October 1995**



# Critical Times

Issue #2

February/March 1996

## Government blueprint for workers' compensation:



This could be the future.

*"The proposals in the Jackson report signal the biggest attack on workers' compensation in 80 years. The entire system could be destroyed. We are in the fight of our lives."*

Karl Crevar,  
Ontario Network of Injured Workers' Groups

## Benefits cut, Pensions cut, Many injuries not covered, And more...

The Ontario government has released a report by Cam Jackson, minister for workers' compensation. This edition of *Critical Times* highlights the proposed changes. We have tried to explain the key points of the government's report in brief and simple terms as a way to open up discussion on this important topic.

The government will only be taking written comments on the report until March 15. We must act fast. We must demand public hearings on this report.



## **My claim has already been settled. Am I affected?**

Yes. These proposals will reduce the benefits of past, present, and **future** injured workers.

## **Right to appeal?**

The report suggests restricting what can be appealed and introducing a time limit for appeals.

It also talks about eliminating the Workers' Compensation Appeals Tribunal (WCAT). Appeals would stay within WCB. There would no longer be an independent body to review WCB decisions.

## **Cut temporary benefits up to 15%**

Benefits are now based on 90% of net average earnings. The Jackson report proposes cutting this to as low as 75%.

## **Time limits on future economic loss (FEL) awards**

Injured workers can now get future economic loss (FEL) awards until age 65. The Jackson report proposes that most FEL awards be given only for preset, very limited amounts of time.

## **Right to representation?**

One suggestion in the report is to eliminate the Office of the Worker Adviser, which helps injured workers with their appeals. Another suggestion is to combine it with the Office of the Employer Adviser. Yet another is to return it to the WCB as it was before 1985.

## **Non-economic loss (NEL) awards under review**

The Jackson report proposes eliminating non-economic loss (NEL) awards for pain and suffering.

Injured workers would no longer be covered for as long as their disability lasts. More injured workers will have to turn to unemployment insurance and welfare.

## **Privatization**

The report talks about turning over the entire workers' compensation system to private insurers. This would affect all aspects of the system from making a claim to getting rehabilitation services. Once privatized, the system would never become public again.

## **Pensions and supplements**

The report proposes reviewing, cutting, or ending:

- cost of living increases,
- "older worker's" supplements, and
- the \$200 benefit.

It also talks about buyouts of lifetime pensions at discounted rates and reducing or ending all lifetime pensions at age 65.



## **Employers to control claims**

Right now, when a worker has a work-related injury, the worker makes a claim to the WCB. The Jackson report proposes that the claim be made to the employer, who would be in control of payments for the first six weeks of an injury. Some employers already try to pressure workers not to claim for their injuries or to use sick days or vacation time instead. This could get worse.

## **Collective agreements overruled**

Collective agreement "top ups" of WCB benefits would no longer be allowed.

## **WCB last resort**

The report proposes that the WCB would be the "last insurer". This means that in order to get WCB benefits, you might have to use all other insurance first. For example, taxable benefits like private disability insurance, UI sickness benefits, and CPP disability would be deducted from WCB benefits.

## **Health and safety**

The report proposes that the WCB shift away from compensation towards prevention of injuries. It suggests that training for workers and incentives for employers alone will reduce injuries. These measures have already been tried without success.

## **Workers lose protection**

The WCB could withdraw from enforcing the rights of workers and leave workers and employers to negotiate settlements. Proposals include relying more on deals between workers and employers and less on appeals to resolve workers' compensation disputes. This could mean that workers

## **I'm not an injured worker. Should I worry?**

Yes. Last year more than 1,000 injuries were registered every single day with the WCB in Ontario. An accident can happen to anyone at any time.

give up the legal right to compensation. Workers may be pressured to accept settlements which would not be in their best interests.

Non-unionized workers, who often have no representation, could find it especially hard to negotiate with their employers on their own.

## **Limit injuries covered**

Proposed changes include redefining work-related injuries. They would limit what is now covered by the WCB.

Certain injuries or occupational diseases would no longer be covered. The report singles out repetitive strain injuries, strains,

sprains, chronic pain, back pain, and occupational stress as areas that may no longer be covered.

As well, lifestyle factors such as age, weight, sports and hobby activities, and habits like smoking, could be blamed for your disability.



## Crisis!

The report calls for changes because the WCB is in serious financial difficulty and the future of the entire system is at stake. It says:

- the WCB has a huge debt (unfunded liability),
- injured worker benefits are out of control, and
- employers' premiums are too high and Ontario cannot compete.

## What crisis?

Many employers have been taking huge rebates and not paying their share of the costs for many years. Now they say we have a crisis and want to cut benefits for injuries. Remember that injured workers gave up the right to sue their employers in return for fair compensation.

- The WCB has never borrowed money and is not in debt. The unfunded liability is a projection of future costs.
- The benefits expense per claim has fallen steadily and is now the lowest in 10 years.
- Ontario industries pay lower rates than neighbouring provinces and states. Employers' premiums are lower now than in 1988.

## Why should the people of Ontario be concerned?

Proposals in the Jackson report would transfer even more costs from the workers' compensation

system to the Canada Pension Plan and Ontario health care and welfare systems.

Responsibility for the cost of workplace injuries would then be transferred from employers to taxpayers.

## What you can do to fight these proposed changes

☎ Call, visit, or write your MPP and say what these proposals mean for you and for injured workers. To find out your MPP call **1-800-668-2727**.

☎ For a copy of the report call **(416) 326-7400** or **1-800-267-9517**.

☎ Contact your local injured workers' group and sign the petition calling for public consultations or:

- the Ontario Network of Injured Workers Groups at **(905) 387-1894**
- the Union of Injured Workers of Ontario at **(416) 657-1215**
- Toronto Injured Workers' Advocacy Group through Industrial Accident Victims' Group of Ontario at **(416) 924-6477** or Injured Workers' Consultants at **(416) 461-2411**

☎ Contact your union.

✉ Write Cam Jackson before March 15 at 777 Bay St., 10th floor Toronto, Ont. M5G 2E5

Written and produced by Toronto Injured Workers' Advocacy Group, Union of Injured Workers, Ontario Network of Injured Workers' Groups, and Community Legal Education Ontario (CLEO). Call (416) 408-4420 to order copies.

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# Critical Times

Issue #3

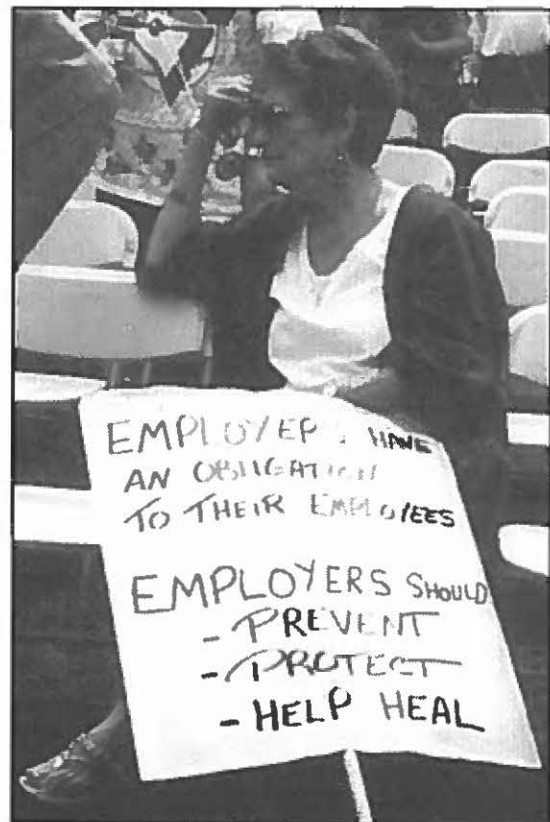
Summer 1996

## Cuts for Injured Workers: Is the WCB really broke?

The Ontario government is going ahead with its plans to make the biggest cuts ever to workers' compensation benefits. It claims the WCB is in a financial crisis and that drastic change is needed. It proposes to cut \$15 billion from injured workers' benefits by the year 2014 and reduce employers' costs by 5% in the first year in order to deal with this crisis. Let's look at the facts.

- The WCB is not in debt. It collects more money than it pays out in benefits. For example, in 1995 it had a surplus of \$510 million left at the end of the year. In total it has \$8 billion in the bank.
- In 1994 the WCB paid back more to employers in rebates than it paid in temporary disability benefits to injured workers. It paid \$359 million to Schedule 1 employers and \$337 million to their injured workers.
- Employers owe the WCB nearly \$200 million every year in unpaid and uncollected premiums.

- The rate employers pay for WCB premiums is comparable to rates paid elsewhere in North America. On average, employers' premiums are even lower now than in 1988.





# Our history: 80 years of WCB

## **Before 1915:**

### **Lawsuits and charity**

People hurt at work had to sue their employers or their co-workers. The process was long, expensive, and not always successful for injured workers. Many ended up relying on charity.

A Royal Commission headed by Sir William Meredith recommended that Ontario establish a workers' compensation system.

## **1915:**

### **Justice and humanity**

The Workmen's Compensation Board (the WCB) was created. Working people gained the right to full and fair compensation. Employers gained protection from lawsuits.

The system was based on four basic principles:

**No Fault:** compensation payable regardless of who was at fault.

**Duration of Disability:** compensation payable for as long as the worker's

disability lasted. No injured worker should need to rely on welfare or on charity.

### **Independent**

**Administration:** managed by a board accountable to the government and independent from employers.

**Employer Funded:** all costs paid by employers because they profit from the work and are protected from lawsuits. No contributions from workers or from tax money.

The WCB's motto was: "Justice speedily and humanely rendered".

## **1930:**

### **Proud to be the best**

It was the Great Depression, yet the WCB was proud to tell the world that it stood first in benefits. Its Circular 2 of January 1930 said:

*"In liberality of benefits Ontario stands first among the laws of the Continent.... The weekly maximum in New York, for instance, is \$20, Ohio \$18.75, Michigan \$14, Pennsylvania \$12, British Columbia \$24.04 and Nova Scotia \$12.69, as compared with Ontario's \$25.64 a week."*

Circular 2 also said:

*"When a workman meets injury or death in his employment it is a matter of justice as well as humanity that recompense should be made for the loss."*

## **1985:**

### **Fairness and dignity**

After years of pressure from injured workers, Bill 81 brought automatic cost-of-living adjustments. On December 17, 1985, all three political parties applauded the Minister of Labour when he said in the Legislature:

*"The pain, the loss, the disruption and the disorientation caused to a worker and his or her family by a disabling injury is suffering enough. We should never add to this suffering the indignity of having to come cap in hand to the steps of the Legislature angrily demanding merely the protection of compensation benefits from the annual rate of inflation. From this day forward, injured workers will never again be in this humiliating position."*

**1996:**

**Employers gain,  
workers lose**

The current government's proposals to change the workers' compensation system undermine the principles on which the system was established and has been operating under for over 80 years.

**Back To Charity?**

The principle that workers should be fairly compensated for as long as their disability lasts is gone. It is being replaced with the idea that injured workers will not go back to work unless their "hand-out" is cut back to an amount which is too small to live on.

**Employer Decides Claims**

Starting in 1998, a worker's claim for a workplace injury will be made directly to the employer. Benefits would then be paid by the employer for the first 6 weeks of the claim unless the employer disputes it. This ends independent administration of compensation. It also undermines the no fault principle as workers will be more hesitant about making a claim.

**From Employer Funded  
To Tax Funded**

As benefits are cut, and fewer injuries are covered by the WCB, more workers will have to turn to programs like Welfare to survive. Not only is this unjust and inhumane for the worker, but it means

that employers are no longer fully funding the compensation system. Tax dollars will now subsidize the cost of workplace injuries.

**No More Justice And  
Humanity**

Even during the last Depression, the WCB did not abandon the principles of justice and humanity. Today, along with dignity and legal right, these principles are missing from the government's proposals for change. Instead, they are overshadowed by cries of "financial crisis" when there is none. This "crisis" is used to justify cuts to benefits, give employers more control, and open the door to private insurance companies.

**The unfunded  
liability is  
misleading**

The government's complaints about the WCB having an unfunded liability are misleading. An unfunded liability is the difference between projected future costs and money in the bank now.

The WCB does not need to have all future payments in the bank today. As a mandatory program for employers, it will always have a funding base for its future costs. One of the reasons it is not a fully funded system is because employers wanted a plan which allowed them to pay each year. That was cheaper

for them than paying all the long-term costs at once.

The government says its proposals will make the WCB financially secure. What they actually do is take money now going to injured workers' benefits and services and give it to employers in the form of rebates and lower premiums.



# What is your unfunded liability?

## Alberto's Story

Alberto is young and has a good job. He pays all his expenses and still puts a little bit away each year. If he lives another 40 years and his costs stay the same, he will need one million dollars. He has money in the bank, but his unfunded liability — the difference between his future costs and what he has

now — is still close to one million dollars! Is he in financial crisis? No. We all have an unfunded liability.

## The WCB's Story

What if Alberto won \$400,000 in the lottery? He would then be like Ontario's Workers' Compensation Board. The WCB has already saved nearly half of what it needs for all of its

future expenses. As well, the WCB can be sure that money will be coming in every year from employers' premiums. The only threat is that many companies are starting up in industries not covered by the WCB. If the government wants to make sure that the WCB is properly funded, it should require every workplace to have workers' compensation. For example, did you know that banks and insurance companies have chosen not to have their employees covered by workers' compensation?

## Highlights of Proposals

### How much will employers gain?

Employers will gain a total of \$118 million every year with the 5% cut in their premiums. As well, they will not have to pay the \$15.2 billion in benefits by the year 2014 that they would owe to injured workers under current law.

### How much will injured workers lose?

Reduced cost-of-living adjustment	=	\$9.3 billion
Retirement payments cut in half	=	\$1.4 billion
Benefit levels reduced 5.6%	=	\$3.1 billion
Chronic pain pensions gone	=	\$1.4 billion

Injured workers will lose a total of \$15.2 billion in benefits by the year 2014.

For more information or if you would like to join the fightback, call your local injured workers' group or:

- the Ontario Network of Injured Workers Groups at (905) 387-1894
- the Union of Injured Workers of Ontario at (416) 657-1215
- Toronto Injured Workers' Advocacy Group through Industrial Accident Victims' Group of Ontario at (416) 924-6477 or Injured Workers' Consultants at (416) 461-2411

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# Critical Times

Issue #4

February 1997

## Workers' compensation gone? Not if you speak out now.

The proposed new name in English says it all: the Workplace Safety and Insurance Board. The words "workers" and "compensation" have been dropped altogether. The new system, if it becomes law, clearly favours employers at the expense of workers. Bill 99 will overturn the very foundation and focus of the system established in 1915.

After pressure from injured workers, unions, and some opposition MPPs, the government agreed to hold public hearings on Bill 99. Injured workers have won victories through public hearings in the past. When a previous government proposed drastic changes in 1983, injured workers got public hearings. More than

3,000 people came to the Toronto hearings. The government withdrew the proposed law.

Injured workers and unions are demanding that the government withdraw Bill 99. "It is important that people who have something to lose by these

changes — workers and injured workers — be given a chance to say what they think," said Phil Biggin, Executive Director of the Union of Injured Workers. Already hundreds of people have signed up to speak at the public hearings. Make sure you do too by sending in the form on the back page.



June 1, 1983: The overflowing crowd in the committee room forced public hearings to be held on the front steps of Queen's Park.



# Bill 99 abandons basic princi

The Workers' Compensation Board (the WCB) was created in 1915. Working people gave up the right to sue their employers if they were hurt at work, in exchange for the right to full and fair compensation. Injured workers were no longer left dependent on their families or on charity. Employers gained protection from lawsuits. It was cheaper for them to pay WCB premiums than to pay damages in lawsuits. The system attempted to treat injured workers with fairness and dignity. It was based on principles of justice and humanity.

With Bill 99 we are looking at a change in direction and principle for the workers' compensation system. What will these changes mean to working people in Ontario?

"A just compensation law...ought to provide that the compensation should continue to be paid as long as the disability caused by the accident lasts, and the amount of compensation should have relation to the earning power of the injured workman."

*1913, Sir William Meredith, founder of the workers' compensation system*

- ✂ Bill 99 proposes to change the name to the Workplace Safety and Insurance Board. Ontario becomes the only province to drop "workers'" and "compensation" from the name. Compensation drops from first priority to last.
- ✂ Most past, present, and future pensions and Future Economic Loss (FEL) Awards reduced by cuts in cost-of-living. \$9.3 billion to be cut over next 17 years.
- ✂ FEL awards less secure because they will be reviewed at least every year for 6 years or more often.
- ✂ The right to appeal a decision severely limited. WCAT (Workers' Compensation Appeal Tribunal) no longer independent and appeal rights cut off by time limits.
- ✂ No more compensation for permanent chronic pain disabilities.
- ✂ The WCB's duty to provide vocational rehabilitation services gone.
- ✂ Benefits for future injuries based on 85% of net wages instead of 90%.
- ✂ Injured workers forced to give up privacy of some medical records.
- ✂ The WCB gains the power to cut all benefits if an injured worker does not follow its plan for medical treatment.
- ✂ As of January 1, 1997 employers saving 5% on their premiums, roughly \$100 million every year.

# les of workers' compensation

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"I am...pleased to see the emphasis on prevention of illness and injury...The focus of the WCB has been on compensation after the fact instead of prevention."

*Elizabeth Witmer, Minister of Labour*

**"Worker" and  
"Compensation"  
gone from more  
than just the name**

"How does cutting benefits prevent injuries?...If benefit levels are cut deeply enough, some workers will continue working despite their injuries...Injuries will not be prevented, but the statistics will look better."

*Eric Tucker, Osgoode Hall Law Professor*

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"...the new Workplace Safety and Insurance Board will offer more competitive rates and will better meet the needs of employers and injured workers."

*Elizabeth Witmer, Minister of Labour*

**Employers gain,  
workers lose**

"The...government is poised to put a system in place that will take about \$15 billion directly out of the pockets of injured workers and put a great deal of that money into the pockets of employers."

*Gord Wilson, Ontario Federation of Labour*

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"[I am] glad somebody is finally taking action to correct a terrible situation, a bankrupt system."

*Paul Nykanen, Alliance of Manufacturers and Exporters Canada*

**The WCB is not  
bankrupt**

"How can you be bankrupt with \$8 billion in the bank? Injured workers will be bankrupt if Bill 99 is rammed through."

*Karl Crevar, Ontario Network of Injured Workers' Groups*



# Join the fight against Bill 99

The government wants its new workers' compensation law in place by July 1, 1997. Act now. In order to speak at the public hearings on Bill 99 you must register. Fill out this form, cut it out, and mail it.

Mr Todd Decker  
Resources Development Committee  
Room 1405  
Whitney Block, Queen's Park  
Toronto, Ontario M7A 1A2

Please register me to make a presentation to the Committee at the public hearings on Bill 99. It is important for the Committee to hear from injured workers in my community. Please confirm receipt of this request as soon as possible. Thank you.

Name \_\_\_\_\_


Address \_\_\_\_\_

City or Town \_\_\_\_\_


Postal Code \_\_\_\_\_


Phone \_\_\_\_\_


P.S. Please ask the Committee to ask the WCB to notify all injured workers about the public hearings.


 Contact your local injured workers' group or:

- the Ontario Network of Injured Workers Groups at **(905) 387-1894**
- the Union of Injured Workers of Ontario at **(416) 657-1215**
- Toronto Injured Workers' Advocacy Group through Industrial Accident Victims' Group of Ontario at **(416) 924-6477** or Injured Workers' Consultants at **(416) 461-2411**

 Get on the list to speak at the public hearings. Whether you speak or not, attend the hearings to show you are opposed to Bill 99.

 Call, visit, or write your MPP. To find out your MPP call **1-800-668-2727**.

 Contact your union. Join their Bill 99 fight-back campaign. Or call the Ontario Federation of Labour toll-free at **1-800-788-0227**.

 Write Premier Mike Harris. Tell him why Bill 99 is bad for injured workers and working people. Write to him at the Legislative Building, Queen's Park, Toronto, Ontario, M7A 1A1. Write "Personal and Confidential" on your envelope.

Written and produced by Toronto Injured Workers' Advocacy Group, Union of Injured Workers, Ontario Network of Injured Workers' Groups, and Community Legal Education Ontario (CLEO). Call (416) 408-4420 to order copies.

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# Critical Times

Issue #5

Winter 1997/98

## Injured Workers:

### Your days are numbered under Bill 99

Under Bill 99 you lose the right to appeal Workers' Compensation Board (WCB) decisions if you don't act in time.

Starting January 1, 1998, injured workers and employers will have 30 days to appeal decisions on return-to-work or vocational rehabilitation issues. (As of January 1 vocational rehabilitation plans will be known as Labour Market Re-entry Plans.) You will have 6 months to appeal other issues.

After the time limit expires, there will be no more right to appeal. You will be left at the mercy of the WCB or

the Workers' Compensation Appeals Tribunal (the WCAT) to allow a "late" appeal.

By June 30 you lose the right to appeal the decisions made before 1998 by the WCB about your claim. For some appeals, the time may run out on January 30.

If possible, get advice or representation. Community legal clinics, unions, and Worker Advisers are already flooded with injured workers in need of help. Since the government is responsible for the new law, call your Member of Provincial Parliament (MPP).



Some MPPs will help you with your case. You might also call to demand more services for injured workers.

If you think there are grounds to disagree with any decision the WCB ever made, **act now.**



# Bill 99 passed:

## Dictatorship or democracy?

The Committee reviewing Bill 99 went on the road over the summer to hold brief public hearings. Government members of the Committee showed total disregard for any opinion differing from their own. Despite this, injured workers made their presence felt.

Together with organized labour, injured workers' groups marched to the hearings in Sudbury with black, helium-filled balloons and bouquets of bulrushes. In Windsor, the Committee chair was presented with bloodstained work gloves. In London, injured workers brought black spray-painted flowers. Large band-aids with "Bill of Death" written on them were given out in Cambridge. In Thunder Bay, the Committee was treated to a play showing the effect of Bill 99 on injured workers and their families.

In Kingston, on the last day of hearings, injured workers took over the hearings and presented the Committee with a resolution which stated, in short:

*"... the overwhelming majority of workers have testified that Bill 99 attacks injured workers in the name of profits ... the government members of the Committee have no intention of taking into account the concerns of injured workers and their*

*advocates ... the participants of the Kingston public hearings call on organized labour, the injured worker movement, and progressive organizations to fight against the concepts in Bill 99 and to build support within their communities for a just compensation system and safe and healthy workplaces."*

The Committee returned to Toronto for the clause-by-clause hearings. The Committee only got to page 18 of more than 200 pages of amendments before the hearings ended. At the last session, injured workers took over the hearings and presented their own resolution. (You didn't see that on the 6 o'clock news!)



Injured workers take over the public hearings in Toronto and present a resolution to the committee.



The Toronto resolution was similar to the one made in Kingston but added:

*"... to call upon the opposition parties to commit that if they form the next government they will scrap Bill 99 immediately and restore the basic principles of a no-fault, employer-funded system, paying compensation as long as the disability*

*lasts, administered by an independent Crown corporation, and begin public consultation to determine what is needed to improve workers' compensation."*

Both Dwight Duncan of the Liberal Party and David Christopherson of the New Democratic Party criticized

the Bill as being bad for injured workers.

On October 9 the government passed Bill 99. The final insult was to force injured workers and supporters to leave the public gallery at Queen's Park before the vote.

## What's next?

### WCB must now face injured workers on Bill 99

The limited public hearings on Bill 99 prevented most injured workers and their supporters from speaking about how the changes will affect them. Now that the Bill has passed, the WCB must begin to implement it.

Much of the real effect of Bill 99 will depend on policies such as:

- What is chronic pain?
- What is mental stress?
- Will injured workers still be entitled to compensation for psychological disabilities?

- How much of the clothing allowance should the WCB pay?
- Will the WCB apply their anti-fraud policies against employers as well as injured workers?
- What will the WCB do now that it is in charge of preventing accidents?
- Can the WCB reduce wage loss benefits because you get a Canada Pension Plan (CPP) Disability Pension?

There is no voice for injured workers on the WCB Board of Directors. They need to hear directly from injured workers who are the experts on many of these important issues. They have already started making policies without consulting injured workers. If we organize and speak out now, we can make a difference.

If you'd like to get involved, contact your local injured workers' group or the organizations listed on the back page.

# Demonstrations planned for 1998 across Ontario



Santa has a word with the Premier at last year's demonstration at the WCB in Toronto.

Written and produced by Toronto Injured Workers' Advocacy Group, Union of Injured Workers, Ontario Network of Injured Workers' Groups, and Community Legal Education Ontario (CLEO). Call (416) 408-4420 to order copies.

*Critical Times* is also available in Chinese, French, Greek, Italian, Polish, Portuguese, and Spanish.

Produced by volunteer labour including members of OPSEU Local 525.

CLEO receives funding from the Ontario Legal Aid Plan and Department of Justice Canada.

Keep in touch. Demonstrations will be happening across Ontario during 1998.

For more information call the Ontario Network of Injured Workers' Groups at (905) 387-1894 or your local injured workers' group for information.

You can also call the Union of Injured Workers at (416) 657-1215, or Toronto Injured Workers' Advocacy Group through Industrial Accident Victims' Group of Ontario at (416) 924-6477 or Injured Workers' Consultants at (416) 461-2411.

## Start the campaign to repeal Bill 99 now!

Will the Liberals and the New Democratic Party promise to repeal (take back) Bill 99 if they win the next election in 1999? Start talking to your MPP now.

## Toronto Injured Workers

On **January 21** come to a public meeting about appeals. The meeting will be at **Bloor Collegiate**, 1141 Bloor Street West (just west of Dufferin) at **7:00** in the evening.



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# Critical Times

Issue #6

Fall 1998

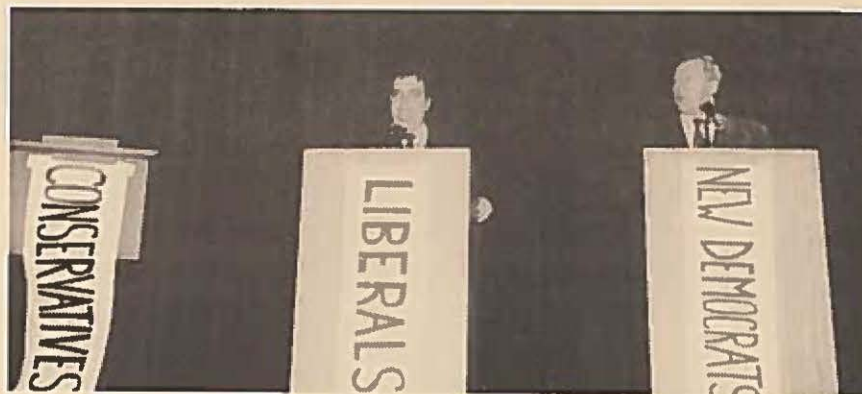
## Opposition pledges to repeal Bill 99

This year Toronto's Injured Workers' Day began as usual with a rally at Queen's Park. Then everyone marched to a nearby theatre to see the new video about injured workers, "Myths at Work", and to hear a political debate on workers' compensation issues. All three parties were invited, but only the Liberals and NDP came to speak.

Chuck Murray, an injured worker, reminded them of their opposition to Bill 99 and asked, "...will you and your party put forward a repeal of Bill 99 and a restoration of the name Workers' Compensation Board? If elected, will you implement this?"

Howard Hampton, leader of the provincial New Democratic Party, answered: "Yes. Yes. Yes... if we are going to have any measure of social justice in this province Bill 99 will have to be reversed, Bill 99 will have to be taken out."

Mr. Duncan, labour critic for the Liberal party, said: "Yes. Yes. Yes... and I don't think its good enough to simply go back to what it was. I think we have to sit down and look very carefully at the whole question of pensions and where they're going..."



All three parties were invited. Howard Hampton, leader of the New Democratic Party and Dwight Duncan, labour critic for the Liberal Party attended. The Conservative Party did not send a representative.



# Fraud is being used as a smoke-screen to cut benefits

Last year, the WCB began a \$10 million anti-fraud program and increased the budget for the fraud department by 394%. This included a special "fraud hotline" to call and report fraud and private investigators to spy on injured workers.

This year, the government began the cuts to benefits and services for injured workers under Bill 99. Cuts to cost-of-living adjustments alone take \$15 billion out of the pockets of injured workers.

The more people hear about a fraud problem, the more they believe the Board is in financial trouble. It often

makes people think that fraud by injured workers must be a big problem, yet only 10% of the charges (16 out of over 150 charges laid this year), are against injured workers.

If the public thinks there are so many cheaters that the system is out of money, they have less sympathy when benefits and services get cut. The government would find it much harder to cut benefits and services if everyone knew how much the WCB has in the bank. This figure is over \$8 billion.

Some types of fraud actually save the employer and the Board money, like not reporting a "lost-time" injury

or reporting it as "no lost-time". In a 1992 survey, about 29% of the employers admitted they used short-term disability plans or gave time-off with full wages instead of reporting to the Board.

One government document says that most of the debts owed to the Board are unpaid employer assessments. These are called "bad debts" or "revenue leakages" instead of fraud. WCB Annual Reports show this loss is over \$100 million each year. If the Board collected all this money, it wouldn't need to take it out of the pockets of injured workers.

## Workers' Compensation Fraud? A True Story

The Board laid 24 charges against the Canadian Salt Company and 2 of its managers recently. The company and the managers are charged with knowingly making false or misleading statements.

The company was also charged with failing to

report a material change in circumstances, failing to provide information to the Board, and failing to notify the Board within 3 days after learning of an accident to a worker.

The Board alleges that the company reported "lost-time injuries" as "no lost-time

injuries", and did not provide the Board with needed information for classification purposes. Incorrect reporting can lower employer premiums.

If employers dare to try this in unionized workplaces, imagine what goes on in the workplaces that are not unionized!



## What you can do...

If your employer demands you perform work that is unsafe and puts you at risk of injuring yourself or others, you can refuse to do the work under the Occupational Health and Safety Act. Contact the Ministry of Labour to have an inspector come to your workplace or work site.

If your employer tries to talk you into not reporting an accident or injury to the Board, call the Board at **(416) 344-1000** and make a claim for compensation. You can also call the fraud hotline and report your employer for fraud.

### WCB Fraud Hotline...

If your employer harasses you or another worker for making a workers' compensation claim, call the Board's toll-free "fraud hotline" at **1-888-745-3237**.

You do not have to leave your name or any details. If you want, block your call



press \*67

on your touchtone phone



dial 1167

on your dial phone

**before** you dial the number of the hotline.

## If the Board won't protect workers who report their injuries, who will?

Bruce Pierce worked for a medium-sized roofing company in July 1997. His employer paid him in cash and did not make deductions for Revenue Canada or pay WCB premiums.

In July, Bruce cut his thumb on a circular saw. The injury was never reported. Bruce worked until December, when the pain became unbearable. His employer paid him another 4 weeks, then cut him off and refused to return his phone calls.

Bruce contacted a legal clinic. His injury was reported to the Board and his employer's failure to report the injury or pay premiums was reported to the "fraud hotline".

Two months later the claim was allowed and the employer was fined for not reporting the injury. But the claims adjudicator used the lower hourly rate reported by the employer to calculate Bruce's benefits, even though Bruce reported higher earnings to Revenue Canada and the Board.

In May, the Board said Bruce was fit to return to work. The employer soon began to harass him for "making trouble" and "costing them a lot of money". All efforts to get the Board to protect Bruce from harassment failed and he was forced to quit.

The Board says that it is not its responsibility to protect injured workers from this kind of employer abuse.

### "MYTHS AT WORK"

#### The Story Behind Workers' Compensation Reform



Copies of the video are \$15 each (includes taxes, shipping, and handling). Free copy to injured workers' groups.



To order: phone **(416) 924-6477**  
fax **(416) 924-2472**

Produced by the Toronto Injured Workers' Advocacy Group, a coalition of community legal clinics and injured workers' groups representing injured workers.



# It's election time again!

There's a provincial election coming up. Start by talking to your MPP, and as soon as the election is called, talk to the party candidates. Find out where each party stands on workers' compensation issues and let them know your concerns.



## Ask the candidates...

Here are some questions you can ask the candidates before the election.

**If your party is elected, will you repeal the new workers' compensation law, Bill 99, and restore the name Workers' Compensation Board?**

**Benefits are now 85% of net earnings. Will your party restore them to 90%?**

**Benefits for permanent disabilities have been time-limited. Will your party restore permanent pensions to people with permanent disabilities?**

**Time-limits are now 30 days or 6 months depending on the issue. Will your party remove the new time-limits for making an appeal?**

**Last year the Board made cuts to entitlements. Will you restore payments for clothing allowances and back braces?**

**The Appeals Tribunal is now bound by Board policy. Will you restore the Appeals Tribunal's independence?**

**Vocational rehabilitation has been taken out of the Workers' Compensation Act and the services have been privatized. Will your party restore the obligation of the WCB to provide vocational rehabilitation services including assistance for injured workers searching for work?**

**In 1985, all parties supported full indexation of workers' compensation benefits. Will your party bring back full indexing of long-term benefits for disabled injured workers?**

**Workers have been harassed or fired for reporting injuries. Will your party take steps to protect workers who report accidents at work?**



## Toronto Annual Christmas Demonstration

Friday, December 11

11 a.m.

WCB Building  
200 Front Street West

For more information about upcoming events in your area, call the Ontario Network of Injured Workers' Groups at (905) 387-1894 or your local injured workers' group.

You can also call the Union of Injured Workers at (416) 657-1215, or Toronto Injured Workers' Advocacy Group through Industrial Accident Victims' Group of Ontario at (416) 924-6477, Injured Workers' Consultants at (416) 461-2411 or Toronto Workers' Health and Safety Clinic at (416) 971-8832.

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# Critical Times

Number 7

May 2001

## The Mega-Tribunal:

*Why fix something that isn't broken?*

The government is proposing to "streamline" agencies and tribunals that deal with workers' rights.

Under this proposal, the Workplace Safety and Insurance Appeals Tribunal (WSIAT), and 5 other specialized tribunals, would be replaced by a single new Mega-Tribunal, called the Unified Workplace Tribunal.

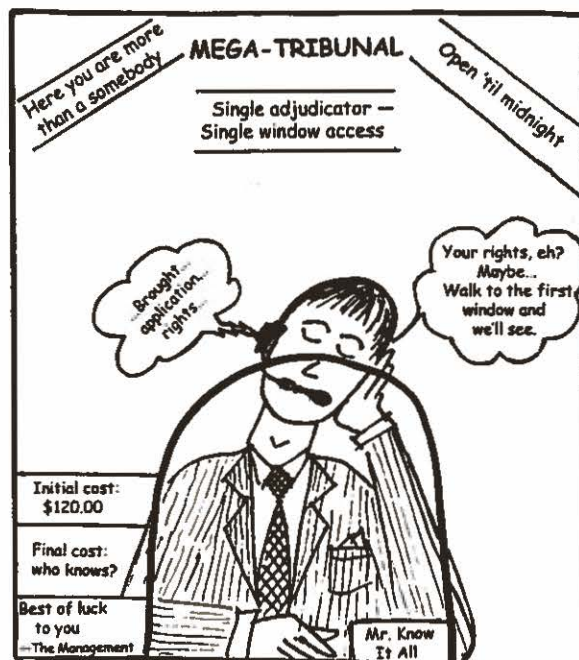
### Why the Mega-Hurry?

The current Appeals Tribunal was the end result of a thorough review process that lasted years. It was an open process with plenty of consultation from all sides. On the other hand, the Mega-Tribunal proposal has been pushed forward quickly with very little consultation. No groups who use WSIAT have asked for such drastic changes and no studies have recommended them.

#### Barriers to Justice:

- user fees
- legal costs
- appeals without hearings

*See inside...*



# Would you appeal if...

## **You had to pay a user fee?**

The government is considering charging a fee to make an appeal at the Mega-Tribunal. That could stop many injured workers from going ahead with their appeals.

## **You might have to pay your employer's legal costs?**

The government is thinking about giving the Mega-Tribunal the power to award legal costs. This means that if you lose your appeal, you could be made to pay your employer's costs. This risk would stop many workers from appealing.

The Workplace Safety and Insurance Board is already denying more claims than ever before. Because user fees and legal costs would discourage appeals, more workers would not get the benefits they are entitled to.

## **You may not ever get a hearing?**

The government thinks there are too many appeal hearings.

To cut down on the number of hearings, the new Mega-Tribunal would have the power to review a case before a hearing and decide if the appeal should go ahead. You could have your appeal rejected *before* your case is heard.

The Workplace Safety and Insurance Appeals Tribunal (WSIAT) already has a similar system, but without the power to dismiss the case. In several cases, workers were urged by WSIAT staff to drop their appeals, but they didn't — and they won after all the evidence was heard in an oral hearing. Under the system proposed for the Mega-Tribunal, these workers might have never been given the chance to tell their full story in person to an adjudicator.

## **You had to hire a lawyer?**

Legal clinics, the Office of the Worker Advisor, and unions give free legal help to injured workers, and many of their representatives are not lawyers. Because the new Mega-Tribunal may be more legalistic and adversarial than the WSIAT is now, you may need the specialized training of a lawyer.

It could also become more difficult for injured workers to represent themselves.

## **The end of appeals at the Board?**

Now, an injured worker has 2 chances to appeal a decision: first at the Appeals Branch of the Board, then at WSIAT. The government is considering getting rid of the Appeals Branch. If that happens, the Mega-Tribunal would be the only chance for an injured worker to appeal a negative Board decision.



## **Doing more with less?**

Merging 6 tribunals into one is supposed to improve speedy access to appeals. However, the Minister of Labour has said that the Mega-Tribunal would have 30 to 50 full-time decision-makers, compared to 150 full- and part-time members of the 6 existing tribunals. With at least 3 times more cases for each member to decide every day, the Minister of Labour will really have to speed up the Mega-Tribunal production line. But the government has a solution for this...

## **No more tripartite appeals**

Right now, the WSIAT is "tripartite". This means it is made up of members from the worker community, the employer community, and neutral chairpersons. Having different perspectives has proven to be of vital importance to fair, balanced, and well-reasoned rulings. However, the Mega-Tribunal will not be tripartite, and most appeals would be heard and decided by only one person.

## **Who is confused?**

The Mega-Tribunal is supposed to provide "single window access", a kind of one-stop shopping for legal rights. The government says people with workplace problems are confused about which agency to go to.

But this one stop would really be the last stop. The Mega-Tribunal would be the final level of appeal, not the place that workers start their claim. They would still have to figure out which agency to go to and start their claim there. If your problem involves several areas like human rights, workers' compensation, and health and safety, you would still have to start at every one of those agencies. The Mega-Tribunal would not make anything easier if people are confused about where to take their problem.

## **No more Office of the Worker Advisor?**

The government's proposals include a review of the Office of the Worker Advisor (OWA). This could mean doing away with the OWA as an independent agency. The OWA gives free legal help to injured workers around the province and is an important part of the injured worker community.

## **Less expertise, less independence**

Right now, there are over 90 members on the WSIAT. They are experts in workers' compensation, which is a very complex area of law. Together, the 6 tribunals to be merged have 150 members deciding cases under 24 different pieces of legislation. Can one person be an expert in so many different areas of law?

The proposal requires getting rid of them all, but they would be able to compete for the 30 to 50 government appointments at the Mega-Tribunal. New members would have to sign agreements to follow government policies.

Can injured workers be confident that their appeals will be heard by knowledgeable, fair, impartial, and independent decision-makers at the Mega-Tribunal?

# What you can do to get involved...

## Speak out!

Call or write the government with your comments. Send a copy of your letter to your MPP, the Minister of Labour, the Attorney General, and Premier Harris. Ask to be notified of any further study or chance to comment on the proposal.

## Phone or fax...

**Your MPP:** To find out who your MPP is and get their phone and fax number, call 1-800-668-2727.

**Chris Stockwell, Minister of Labour**

Tel: 416-326-7600

Fax: 416-326-1449

**David Young, Attorney General of Ontario**

Tel: 416-326-4000

Fax: 416-326-4016

**Premier Mike Harris**

Tel: 416-325-1941

Fax: 416-325-3745

## Talk about it!

Tell your family, friends, and community. These changes will affect all workers in Ontario, unionized and non-unionized, public and private sector.

For more information about upcoming events in your area, call the Ontario Network of Injured Workers' Groups at 905-387-1894 or your local injured workers' group.

You can also call the Union of Injured Workers at 416-785-8787.

Or, you can contact the Toronto Injured Workers' Advocacy Group through:

- Industrial Accident Victims' Group of Ontario at 416-924-6477,
- Injured Workers' Consultants at 416-461-2411, or
- Toronto Workers' Health and Safety Clinic at 416-971-8832.

Printed postcards that can be sent to the Minister of Labour are available from the Industrial Accident Victims' Group of Ontario.

<div data-bbox="1437 1087 1518 1138" data-label="Image"></div> <div data-bbox="1169 1148 1477 1276" data-label="Text"><p>Hon. Chris Stockwell Minister of Labour 400 University Ave., 14th Floor Toronto, Ontario M7A 1T7</p></div>
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Critical Times was written and produced by Toronto Injured Workers' Advocacy Group, Union of Injured Workers, Ontario Network of Injured Workers' Groups, and Community Legal Education Ontario (CLEO).

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