

## Deputation to People's Budget process – March 20, 2013

(Speaking notes)

My name is Orlando Buonastella and I speak for Injured Workers' Consultants, a community legal clinic funded by legal aid, and run by the community. Our service to injured workers is absolutely free of charge. Our clinic has fought alongside the injured worker and labour movements for justice for injured workers since 1969. It's a pleasure to face a panel with your commitment and our shared battles over the years. It's both political and "personal".

I want to endorse the excellent and comprehensive submission by the Thunder Bay and District Injured Worker Support Group. They have documented the true poverty of injured workers and the reason for this poverty: the refusal of government and employers to live up to their side of the bargain struck in 1915 by the Meredith commission. Injured workers gave up the right to sue employers for damages, in exchange for prompt and just compensation. **"The true purpose of a compensation law is to provide for the injured workman and his dependants and to prevent their becoming a charge upon their relatives or friends, or upon the community at large"**. This is what Justice Meredith said on October 31, 1913 as he presented his final report to the Legislature. It became a model for all compensation boards of Canada ever since.

What is happening 100 years later? Because of the "budget hysteria" that gripped the McGuinty government before his exit, injured workers are now relying on their families, their friends and the community. Who is the community? In 1913 it would have been a religious charity perhaps. Today it is the social assistance system of Ontario, mainly ODSP or OW.

Remember, when an injured worker is cut off compensation, he or she is forced to turn to ODSP or OW. This means that an employer funded system (worker's compensation) is shifting its costs on a ratepayer funded system. It represents a huge downloading of employer costs. Employers continue to be protected from lawsuits, but are now downloading the cost of compensation to the ODSP, OW, the municipality and the property tax system.

Believe me, this is happening more and more. McGuinty panicked; even though there was no WSIB deficit (the WSIB has assets of about 16 Billion). He hired a very determined banker to reduce costs **on the cuts on the backs of injured workers**, contravening the Government's own promise to the contrary. Under Mr. Marshall's administration, whatever was left of the "justice idea" is being systematically destroyed. The old adjudication motto was "look to allow". The new one is "look to deny" and it comes from the top, aided and abetted by the KPMG professional, who profit while promoting social dislocation. Here is an example of an injured worker whose back condition is blamed on age rather than the injury. This happens routinely now and contravenes 100 years of progressive

policy. Interestingly, not only is workers' compensation denied, here. In the rejection letter, the injured worker is given the address of the closest social assistance office. (I have attached the letter).

### **Can the budget process deal with WSIB issues?**

Yes! The Liberals have already answered this. In the 2007 Ontario budget, they introduced a 2.5 percent cost of living adjustment to WSIB benefits for 3 consecutive years. They said the budget would be used to make the change effective quickly. Legislation would follow via the WSI Act. If there is a will, there is a way. And they have used this way already. Here are two modest proposals for the 2013 budget process before us:

- 1) **Just as in the 2007 budget, the 2013 budget should include a provision for full cost of living for injured workers moving forward and a retroactive adjustment for the years they were denied one.** All they have to do is follow the recommendations of esteemed professor Harry Arthurs. He was hired by the WSIB and the Ministry of Labour to make recommendations on the appropriate cost of living for injured workers. He recommended full cost of living going forward and gave a detailed formula for a catch up for the past years. His recommendations on cost of living for injured workers should be part of the budget. This would not be an additional cost to the province, as it would be borne by employers via the WSIB. It would be a saving for the province, as ODSP and OW costs would be reduced. By denying full cost of living to injured workers and ignoring Arthurs, the Liberals are breaking the promise that the unfunded liability would not be resolved "on the backs of injured workers". Premier Wynne has a chance to address this broken promise and her commitment to fairness right now.
  
- 2) While important, full cost of living will not deal with the problem of downloading to ODSP and OW satisfactorily. More needs to be done. **Each ODSP and OW file has a notation whether they collected benefits from the WSIB. The Social Services office should contact the WSIB and insist that this case be fairly reviewed by the Board. These injured workers should be fully protected financially while the case is reviewed, of course, and their rights to appeal and representation at the WSIB made known to them.** If not accepted by the WSIB, they should be returned to social services without disruption. I am certain that many ODSP files would end up where they belong, the WSIB. True, the WSIB President, David Marshall may not get his Cabinet approved \$80,000 a year bonus for cutting WSIB expenses, but the system would be more just for the rest of Ontarians.

These proposals are not meant to address all issues faced by injured workers. I have attached an excellent letter by the Ontario Network of Injured Workers

Groups, sent to all MPPs and dated February 19, 2013. It outlines the major issues and broken promises that need to be addressed.

Thank you for including our issues in your deliberations.

Orlando Buonastella