

NO MORE CAP IN HAND



COST OF LIVING PROTECTION AS A RIGHT

“The measures being proposed by the present government will ensure that injured workers will no longer have to worry about whether and to what extent their benefits will be adjusted. In future all claimants will be assured, as a matter of statutory right, of an annual adjustment which takes into account the effects of inflation... The pain, the loss, the disruption and the disorientation caused to the 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 that humiliating position.”

- Honourable Bill Wrye, Minister of Labour, December 17, 1985.

Compensation - Not A Favour

In the last weeks of 1985 a minority Liberal Government introduced Bill 81, an Act to Amend the Workers' Compensation Act. As Bill Wrye, the Minister of Labour, stated when he introduced the Bill into the Legislature, it's key aspect was enshrining the statutory right of injured workers to an automatic, annual adjustment to their compensation benefits to reflect the increase in the cost of living.

This moment marked an historic victory for injured workers in Ontario. From the late 1960s through the early 1980s, they had pressed the government for this essential change. Their demands had been turned aside by successive Conservative governments who told injured workers to be patient. The government knew best and would grant increases if and when it felt they were needed.



Injured workers did receive increases - usually at the end of the year and infused with a sense of seasonal charity. But the increases never matched the rise in the cost of living. Between 1974 and 1985, injured workers lost 13% of the value of their already inadequate incomes to the forces of inflation.

With annual and automatic indexing of their compensation benefits, injured workers were told, and honestly believed, that they would no longer have to stand outside the the Legislature and the offices of the WCB and endure the driving rains and hot sun of summer and the deep cold of winter. No longer would they have to suffer the indignity of coming “cap in hand” to Queen's Park seeking money they thought rightfully belonged to them.

Inflation Protection A Right?

Injured workers based their belief that protection against inflation was their right in two important historical moments.

In 1910, the Chief Justice of Ontario, Sir William Meredith, was appointed to conduct an enquiry into employer's liability and workmen's compensation laws “in force in other countries, and to how far such laws are found to work satisfactorily.”

Over the next few years Meredith heard from hundreds of people in different provinces, U.S. states, England and Europe. While most participants agreed on the need for change, there were major points of controversy. One highly contentious issue revolved around the question of who should pay? Employer groups thought workers should pay some of the costs as an incentive to return to work as quickly as possible. Injured workers and trade unions thought that workers injured on the job had already paid enough.



In 1913 Meredith submitted his final report to the Conservative government of Sir James Whitney. On the question of who should pay for the compensation system, Meredith came down on the side of workers. Why?

According to Meredith, even if employers were obliged to shoulder all of the operating costs of a new workmen's compensation system, they would ultimately end up losing little or nothing at all. The costs of their premiums, he stated, "forms part of the cost of that which he produces and is added to the selling price." Workers, on the other hand, paid dearly with their health, opportunities for employment, and sometimes their lives. "I believe," Meredith wrote, "that the true aim of a compensation law is to provide is for the injured workman and his dependents and to prevent their becoming a charge upon their relatives or friends, or upon the community at large."

Worker Benefits vs Employer Profits

Seventy years later, on June 1, 1983, over 3,000 injured workers were standing on the grounds of Queen's Park reminding members of the Ontario Legislature that access to workers' compensation benefits were not dependent on good behaviour or showing respect to WCB and government officials. They had been injured at work. Workers' compensation was their right!

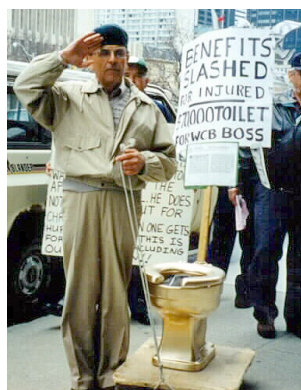
So, too, was safeguarding compensation payments and pensions from the ravages of inflation. One of the four central demands of the Union of Injured Workers when it was formed in 1974, the argument for full, automatic, annual indexing of workmen's compensation benefits was reinforced by Harvard University law professor, Paul Weiler. Appointed in 1980 by the Conservative government to conduct a comprehensive review of the workers' compensation system, injured workers found much to disagree with in his first report. They agreed strongly with him, however, when he wrote:

"In addressing [cost of living adjustments] their should be no question about the entitlement of workers' compensation claimants to inflation adjustments as a mater of right.... Once we award an individual disabled worker a certain share of the real economic pie, our refusal to keep the monetary amount of his pension in line with the changing rate of inflation must mean that someone else in the economy will receive a net increase in his share of



real goods and services. In effect, someone will reap a windfall profit from inflation at the expense of the disabled worker. In the case of workers' compensation benefits, the immediate beneficiary of such inaction would be business."

History had repeated itself! What Sir William Meredith declared in his 1913 report found its echo in the Weiler Report 67 years later. Because it was



workers, their families and communities who truly suffered from workplace injuries, employers should pay to ensure that injured workers could live with dignity and without the fear of poverty. Bill 81 was designed to meet these human needs and economic goals.

Hard Times, Poverty,

Homelessness

Fully indexed workers' compensation benefits are a vestige of the past. During the 1990s different governments introduced and then altered cost-of-living formulae resulting in injured workers losing 20% of the value of their already deficient incomes from 1996 to 2002. The result for increasing numbers of injured workers is a desperate slide into poverty, welfare and homelessness.

The experience of injured workers over the past ten years contrasts starkly with that of Ontario employers. Between 1994 and 2004, their average premium was reduced 25%. This was also the period when experienced-rated rebates netted Ontario employers 1.9 billion dollars!

The Best Of Times, The Worst of Times

It is said that art imitates life. This would seem to be the case with workers' compensation. Charles Dickens, a 19th century British novelist, began his novel "A Tale of Two Cities" with the phrase: "It was the best of times, it was the worst of times..." This fits the current situation of employers and injured workers in Ontario to a tee. We can find a further parallel in another Dickens novel, "Oliver Twist." In this 1838 story Oliver is a young, orphaned boy who at the dinner table draws the straw that places him before the tyrannical workhouse master to ask "Please, sir, I want some more."

Why **injured workers** are going on welfare



In the 19th century Oliver was condemned for wanting more food. Early in the 21st century injured workers are being condemned to poverty and shame by employers and governments who claim that fully indexed benefits are far too costly. One half of the 1.9 billion dollars rebated to Ontario employers would have met this need.

Oliver escaped the workhouse. Injured workers won fully-indexed pensions 20 years ago. History can be repeated.



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The IWHP is a group of injured workers, advocates and researchers who are uncovering and writing the history of injured workers in Ontario. To find out more contact us at: The Bancroft Institute for Studies in Workers' Compensation and Workplace Health and Safety (416-461-2411; Robert Storey, Labour Studies & Sociology, McMaster University, 905-525-9140, Ext. 24693.