WORKERS’ COMPENSATION LAW
A Documentary History in Ontario

(Prepared in 2009)
TABLE OF CONTENTS

ORIGINS & FOUNDATIONS

The Meredith Reports

Commissioned and Task Force Reports: 1932 - 1973

FIRST MAJOR REFORM

Changes in the 1980s and 1990s

Weiler Report

Proposing the Creation of an Independent Appeals Tribunal

Workers’ Compensation Reform, 1988

1991 Standing Committee on Resources Development-Service delivery

Task Force on Vocational Rehabilitation

75th Anniversary Symposium

Other Key Studies and Reports Released During the 1980s and Early 1990s

SECOND MAJOR REFORM (MID 1990s - PRESENT)

Premier’s Labour Management Advisory Committee (PLMAC)

1994 - The Royal Commission on Workers’ Compensation

Standing Committee on Resources Development Submissions

BOOKS, STUDIES AND ARTICLES
ORIGINS & FOUNDATIONS

From the law of Employers’ Liability to Workers’ Compensation Law

Workers’ compensation was established in Ontario in 1914 following an examination of workers’ compensation schemes by Sir William Ralph Meredith. Prior to this, workers had to sue their employers in court to get compensated for their injuries. In 1886, the Legislative Assembly enacted the *Workmen’s Compensation for Injuries Act*,\(^1\) which was essentially an employer liability act.

In 1910, Sir W. R. Meredith was appointed to head a Royal Commission to investigate workers’ compensation, which resulted in the *Workmen’s Compensation Act* of 1914 which went in effect Jan. 1, 1915.

The administration of the workers' compensation system was given to an independent agency, initially called the Workmen’s Compensation Board (the name was changed to “Workers’ Compensation Board” in 1981).

*Workmen’s Compensation for Injuries Act, S.O. 1886, 49 Vict., c. 28*

*Workmen’s Compensation Act, S.O. 1914, c. 25*

Report on workmen’s compensation for injuries
Mavor, James. -- Toronto: Warwick Bros. & Rutter, 1900

This report was submitted to the Legislative Assembly by James Mavor, a professor of political philosophy at the University of Toronto in 1900. He recommended that Ontario should observe British and Continental reforms before taking any steps to establish a no-fault workers' compensation system.\(^2\)

The Meredith Reports

The interim report by Ralph W. Meredith summarizes the laws of European countries, provinces of Canada, and U.S. states covering workers’ compensation at the time of writing (1912). An analysis of principles and comparison of systems follows along with the Minutes of Evidence taken before Meredith.

---

\(^1\) S.O. 1886, 49 Vict., c. 28

MF 3674
Meredith’s final report submitted to Sir John Morison Gibson, Lieutenant-Governor of the Province of Ontario. Meredith proposed that a workers’ compensation system be set up based on the following principles:

- Security of Payment
- No fault system
- Collective liability
- Administration by an independent agency

All of Ralph W. Meredith’s Reports

Interim report on laws relating to the liability of employers to make Compensation to their Employees for Injuries received in the course of their employment, which are in force in other countries, and as to how far such laws are found to work satisfactorily
Meredith, Ralph W. -- Toronto: L.K. Cameron, 1912.

Second interim report on laws relating to the liability of employers ..
Meredith, Ralph W. -- Toronto: L.K. Cameron, 1913.

Final report on laws relating to the liability of employers ..
Meredith, Ralph W. -- Toronto: L.K. Cameron, 1913.

Final report on laws relating to the liability of employers to make compensation to their employees for injuries received in the course of their employment which are in force in other countries . . . with appendixes
Meredith, Ralph W. -- Toronto: L.K. Cameron, 1913.

Commissioned and Task Force Reports: 1932 - 1973

1932 – Middleton

Report of the Commissioner in the matter of The Workmen’s Compensation Act

Roach

Report on the Workmen’s compensation act ; report of the Hon. Justice Roach, commissioner appointed to inquire into and report upon, and to make recommendations regarding the Workmen’s Compensation Act upon subjects other than detail administration
Roach, Mr Justice. / Ontario.

Commission to inquire into and report upon and to make recommendeds regarding the Workmen’s Compensation Act upon subjects other than detail administration. -- Toronto: Baptist Johnston, 1950.
“Appointed as Commissioner in October 1949 by the Lieutenant-Governor of Ontario, Wilfred Daniel Roach examined scales of compensation, payment of claims, industrial diseases, assessments, appeals, accident prevention, merit rating, rehabilitation, investments, and composition of the Board.”  

McGillivray

Report of the Royal Commission in the matter of the Workmen’s Compensation Act

“This Royal Commission inspected all phases of the Ontario Board’s operation and concluded that the revised administrative structure implemented in 1965 was operating smoothly. The inquiry resulted in forty-one recommendations for improving the system.”  

“The system” referred to was the Board’s internal appeal process.

The Ontario workers’ compensation system remained relatively stable through the 1960’s. However, late in that decade, a period of intensive debate about the workers’ compensation system began.

1973 The Task Force

The administration of workmen’s compensation in Ontario

Task Force members: A. R. Ard, R.D. Johnston, Michael Starr
Report of the Task Force Workmen’s Compensation Board, 1972

This Task Force was appointed in January 1973 by the Honourable Fern Guindon, Ont. Minister of Labour. It proposed a major reorganization of the WCB, pointing out that its organization lacked sensitivity and effectiveness and advocated for a stronger service orientation.  

---

3 http://www.worksafebc.com/about_us/library_services/reports_and_guides/sources_of_information/Default.asp#Part4

4 supra.

5 supra.
FIRST MAJOR REFORM

Background: 70s - 80s

By the late 60s and early 70s, the compensation system was perceived by injured workers to contain a number of fundamental flaws. In 1974, injured workers joined together to form the Union of Injured Workers (UIW), in an effort to bring pressure on the government and the WCB. Of critical importance to the Union was the question of permanent partial disability awards – pensions.

On February 11, 1980, the Minister of Labour announced the appointment of Professor Paul C. Weiler to make recommendations with respect to the workmen’s compensation system in Ontario. (The law reform debate was largely framed around processes emanating from the appointment of Professor Paul Weiler to study the system.)

1984 - Bill 101 brought changes to benefits for injured workers, the administrative structure of the WCB, and the establishment of four independent new bodies.

1989 - Bill 162 introduced the dual-award system (compensation for economic and non-economic loss), new vocational rehabilitation and re-employment provisions. The year 1989 marked the 75th anniversary of the Workers’ Compensation Act in Ontario.

The last half of the 1980s witnessed a significant transformation of the workers’ compensation system in Ontario. This overhaul affected every aspect of the system: legislative, organizational, operational, financial and cultural.6

Changes in the 1980s and 1990s

Legislation

Workers’ Compensation Act, R.S.O. 1980, c.539 (pre-1985)
Workers’ Compensation Amendment Act, 1984 (No. 2), S.O. 1984 c. 58 (Bill 101) (pre-1989)
Workers’ Compensation Act, R.S.O. 1990, c. W. 11 (pre-1997)

Bill 101, 1984
(Effective April 1, 1985)

Benefits:
Did not include the dual award wage loss system for permanent partial disability compensation. Various amendments broadened the scope of supplementary awards to the existing permanent pension.

---

Administration:
WCTA was created as an independent body to serve as the final level of appeal from decisions of the WCB.

IDSP was created as an independent agency to recommend on compensation criteria for occupational diseases (Occupational Disease Panel by Bill 165-abolished by Bill 99)

Office of the Worker Adviser & Office of the Employer Adviser established
The name of the Board was changed from the “Workmen’s” to the Workers’ Compensation Board.

1990 amendments- Bill 162, 1988
(R.A July 26, 1989-Effective January 2, 1990)

The second half of the implementation of the Weiler proposals began in June 20, 1988, with the tabling of Bill 162. Bill 162 comprehensively reformed the system of compensation for permanent disabilities and enacted for the first time strong re-employment provisions.

Bill 162, an Act to Amend the Workers’ compensation Act, is the most significant change to the Act since its inception. It contained three main initiatives: 1) the dual – award model of disability compensation, 2) vocational rehabilitation, and 3) re-employment obligations. Several new time limits were included in the Act and some benefits payment periods were restricted.

Towards Weiler and the First Major Reform

The report known as the “Grey Paper” was prepared for the WCB by Ken Harding, former secretary of the Association of Canadian Workers’ Compensation Boards in 1979. It would be studied with a view to restructuring the compensation system in Ontario. It was perceived as extremely narrow and subjective by the Injured Workers Consultants (IWC), which called on the government to institute a broad enquiry of the whole system by an independent source.

Current concerns in workmen’s compensation. [WCB Grey Paper]

The 1978 actuarial report prepared by the Wyatt Company, raised questions about the financial soundness of the workers’ compensation system. The report recommended that a much more broadly-based study was needed to resolve what were perceived to be controversial items in the workers’ compensation system.

7 See Dee, Garth, “A Short History of Workers’ Compensation” p. 14
8 Backgrounder MF 8962
9 Examination of the Financial Structure of the Workmen’s Compensation Board and an Assessment of the Actuarial Deficit (Toronto: Wyatt Co., 1978)

Weiler Report

Professor Paul Weiler was commissioned by the Honourable Robert G. Elgie, Ont. Minister of Labour, to review the system of Workers’ Compensation in Ontario. “Recommendations were submitted respecting the decision-making procedures of the WCB, the scheme of compensating injured workers, the method of financing compensation, the relationship between the WCB and the OS&H division of the Ministry of Labour, the role of workers advisors, and the decentralization of claims adjudication.” 10 11

First Report

In his first report, Weiler reviewed the philosophical underpinnings of workers’ compensation; he outlined the issues and made a number of proposals aimed at overhauling the benefit system and the administrative structure of workers’ compensation. On November 18, 1980, Labour Minister Elgie tabled Weiler’s first report, Reshaping workers’ compensation for Ontario.

Reshaping workers’ compensation for Ontario

Reshaping workers’ compensation for Ontario

Second Report

Weiler’s second report addressed the issues of how industrial disease should be handled within worker’s compensation, the relationship of this program to others involved in the compensation and prevention of disabling injuries to Ontario workers, and systemic reform. The second report pointed the way toward consideration of a system of universal disability compensation as one possible solution.

10 http://www.worksafebc.com/about_us/library_services/reports_and_guides/sources_of_information/Default.asp#Part4

11 For more background on the context and goals of the Weiler report, see Will injured workers get a fair hearing? : an educational forum on workers’ compensation and the Weiler Study : current problems and issues. / Weiler, Paul C. Toronto: Committee on the Weiler Study, 1980. KF 3615 ZB3 C65 1980. This background paper was prepared by the Committee on the Weiler Study for the Educational Forum held Sunday, June 8th, 1980 in Toronto. It included an overview of problems with the Ontario WCB, a discussion of perceived racism and sexism at the Board, the relationship of workers’ compensation and educational health and safety, the precursors to the Weiler study, an analysis of the financial workings of compensation, a look at legislation in Saskatchewan and British Columbia.
Protecting the worker from disability: challenges for the eighties

Third Report

In this Report Weiler re-examined the original dual-award proposal in light of the debate since 1980 and changes in the compensation system. He recommended a new variant of the dual award system, moving from an “actual wage loss” system to a “projected wage loss” proposal.

Permanent partial disability: alternative models for compensation

Summary of the Weiler report on workers’ compensation benefits for permanent partial disability. [Dual award]

Professor Weiler in Phase II of his study entitled Protecting the Worker from Disability: Challenges for the Eighties, issued in April of 1983, gave considerable attention to the compensation of occupational disease in Ontario. The research for Professor’s Weiler’s study was done by Dr. Annalee Yassi and her findings are detailed in this document.


Responses

Responses to the study of the workmen’s compensation system in Ontario (Weiler report)

Submissions

Submissions to the study of the workmen’s compensation system in Ontario (Weiler report)
Toronto, 1981.

Submission of the Ontario Federation of Labour to Professor Paul C. Weiler].

Coverage since 1915 of industrial diseases under the Workmen’s Compensation Act, Ontario.
Workers’ Compensation Board

Commentaries

This report was prepared for the Minister of Labour, Robert G. Elgie, pursuant to arrangements made with Professor Paul C. Weiler, by Professor Terence G. Ison.

Compensation for industrial disease under the Workers’ Compensation Act of Ontario

re: Ison Report. [Weiler’s review of Professor Ison’s report on compensation for industrial disease, prepared for the I.D.S.P.]

Proposing the Creation of an Independent Appeals Tribunal


The Minister of Labour, Elgie, introduced this White Paper on June 25, 1981. The White Paper is a two-part Ministry response to the Weiler Report. The first half consists of a 71 page distillation of Weiler’s recommendations into 21 major proposals. The second part is draft legislation putting these proposals into legislative language.

The White Paper proposed the creation of an independent appeals Tribunal and increased access by workers to documents concerning them. These recommendations were adopted in Bill 101, which established the Workers’ Compensation Appeals Tribunal. WCAT became operational on 1 October 1989.12

White paper on the Workers’ Compensation Act

White paper on the Workers’ Compensation Act

Standing Committee on Resources Development

The Standing Committee on Resources Development has frequently examined the operations of the Ontario Workers’ Compensation Board. Between 1980 and 1988, the Standing Committee reviewed the Board’s Annual Report on a regular basis. The Standing Committee also held public hearings in 1984 and 1989 to assist in its review of Amendments to the Workers’ Compensation Act (Bills 101 and 162, respectively)." 13

12 See Workers’ Compensation in Ontario: a decade of reform. / Derstine, Dirk Nathu Shamash. -- University of Toronto Faculty of Law review. 1990 v.48 p.22-47. 1990. (p. 36)

On September 8, 1982, The Standing Committee on Resources Development began hearings on the Weiler Report and White Paper with a mandate to invite briefs and public appearances on WCB reform. This is the final report of the Standing Committee on Resources Development with respect to the Weiler Report and the Government White Paper.


[Transcripts of the Standing Committee on Resources Development re Annual Report, Workers’ Compensation Board, 1983].
Ontario. Legislative Assembly. Standing Committee on Resources Development. 1983.


In keeping with the statutory requirement of s. 85 of the Workers’ Compensation Act, the WCB’s report was referred to the Standing Committee on Resources Development. NOTE: In 1984 the practice differed from previous years in two respects: groups were invited to comment on the report in public hearings and the Committee made a decision that a report of its own would come out of its deliberations.

[Submission of 1985 10 08 to the Standing Committee on Resources Development on the Workers’ Compensation Board Annual Report 1984].
Employers’ Council on Workers’ Compensation. 1985 10 08.

[Transcripts of the Standing Committee on Resources Development re Annual Report, Workers’ Compensation Board, 1984].

Pursuant to s. 85 of the Workers’ Compensation Act, the Board filed its 1985 annual report with the Minister of Labour, who in turn submitted it to the Legislative Assembly.


The Committee held public hearings in Toronto from March 9 to March 13, 1987. The Committee recommended the establishment of a Royal Commission to review the workers’ compensation system in Ontario with the objective of making recommendations to the government for a new Workers’ Compensation Act.


Office of the Worker Adviser

Report to the Standing Committee on Resources Development

Standing Committee on Resources Development - Bill 101


[Transcripts of the Standing Committee on Resources Development re Workers’ Compensation Amendment Act (Bill 101)].

[Exhibits submitted to the Standing Committee on Resources Development re Workers’ Compensation Amendment Act (Bill 101)].
Workers’ Compensation Reform, 1988

On June 20, 1988, Minister of Labour Gregory Sorbara introduced to the Legislative Assembly amendments to the Worker’s Compensation Act.

This publication includes the amendments (Bill 162), the Minister’s statement to the Assembly, and some background material.

Workers’ compensation reform, 1988

WCB Green Paper

The Green paper process was initiated by Mr Sorbara, Minister of Labour in 1988, during the Bill 162 debates. The purpose was to study important aspects of workers’ compensation law not dealt with by Bill 162.14

Labour’s positions on matters raised during the green paper external committee discussions on workers compensation reform.

Re: the Green Paper on workers’ compensation. [Board’s views on topics which might be included for discussion in the Green Paper]

Standing Committee on Resources Development- Bill 162


Hansard re: Bill 162, Workers’ Compensation Amendment Act, 1988

[Transcripts of the Standing Committee on Resources Development regarding Bill 162, Workers’ Compensation Amendment Act - February 27 - July 10, 1989]

Submissions to the Standing Committee on Resources Development regarding Bill 162, Workers’ Compensation Amendment Act, 1988

1991 Standing Committee on Resources Development—Service delivery

In April 1991 the New Democratic Member for Muskoka-Georgian Bay, Mr. Dan Waters used his party’s privilege under the provisions of Standing Order 123 to ask the Standing Committee on Resources Development to conduct “a review of the procedures of the Workers’ Compensation Board which impede the provision of efficient services to workers and employers.”


In 1992, the Interim report of the Operational Review was tabled.

Operational review of service performance: interim report

Task Force on Vocational Rehabilitation

“After much outcry about the way rehabilitation was being administered in the province, the government created the Task Force on rehabilitation in 1986. The task force comprised of employer and employee representatives, and representatives of the medical community.” 15

This is the report produced by the members of the Task Force on Vocational Rehabilitation. The government tabled this report in April 1988. The report recommended comprehensive reform of the nature and delivery of vocational rehabilitation services.

An injury to one is an injury to all. Towards dignity and independence for the injured worker.

An injury to one is an injury to all: towards dignity and independence for the injured worker: a summary of a report submitted to the Minister of Labour on September 2, 1987

Submission to the Ontario Task Force on Vocational Rehabilitation by the Ontario Federation of Labour.

15 Dirk Derstine, Shamash Nathu, (1990), “Workers’ Compensation in Ontario: A Decade of Reform” 48 University of Toronto Faculty of Law Review 22 [MF 4238]


75th Anniversary Symposium

In 1989, the Workers' Compensation Board (WCB) hosted a symposium, which brought together leading authorities to discuss subjects such as legislative changes to workers' compensation, new approaches to medical and vocational rehabilitation, and organizational change in large public agencies. This commemorative book includes the text of presenters', guest speakers' panelists' and chairman's remarks.

Other Key Studies and Reports Released During the 1980s and Early 1990s

Committee report on proposed worker’s compensation legislation.
(Report comments, from the law profession’s point of view, on a number of documents proposing changes to the 1984 Workers’ Compensation Legislation.)

Feasibility study with respect to a workers’ compensation program for workers under federal jurisdiction : phase I, report.
Ottawa: Ministry of Labour, 1983.

Project on compensation for personal injury and death : research paper : compensation for loss of working capacity.

Report on compensation for personal injuries and death

Legislative history of industrial disease entitlement. A report to the Medical and Occupational Disease Policy Branch.

Report of the Occupational Disease Task Force
SECOND MAJOR REFORM (MID 1990s - PRESENT)

Legislation

*Bill 165-An Act to Amend the Workers’ Compensation Act and the Occupational Health and Safety Act, S.O. 1994, c. 24*

*Bill 15- Workers’ Compensation and Occupational Health and Safety Amendment Act, 1995, S.O. 1995, c.5*


Premier’s Labour Management Advisory Committee (PLMAC)

As a result of conflicting pressures, in the spring of 1993, a committee composed of trade union and business leaders, the “Premier’s Labour Management Advisory Committee” (PLMAC) was given the responsibility to develop legislative proposals.


1994 - The Royal Commission on Workers’ Compensation

On November 4, 1994, Labour Minister Shirley Coppen officially launched the Royal Commission on workers’ compensation. Ms. Coppen named Lynn William, as chief commissioner, and David C. Smith and Jalynn Bennett as vice-commissioners.

---


The Royal Commission began to receive submissions and to hold hearings. Following the 1995 general election, the new government scrapped the Royal Commission[12] and appointed C. Jackson as Minister without portfolio, responsible for workers’ compensation. The members of the Commission briefed Minister Jackson but did not issue any report on their findings.


The Report on New Directions for Workers’ Compensation Reform, by Minister Jackson, outlined a set of recommendations for extensive changes to the workers’ compensation system based on the comprehensive review of the Ontario’s workers’ compensation system he conducted since his appointment in July of 1995 as Minister Responsible for WCB Reform. These recommendations formed the basis for the introduction by the Minister of Labour, on November 26, 1996, of Bill 99.

New directions for workers’ compensation reform
Jackson, Cam. / Ontario. Minister Without Portfolio Responsible for Workers’ Compensation Reform. -- Toronto: Minister Without Portfolio Responsible for Workers’ Compensation Reform, 1996.

Related Materials Regarding The Report on New Directions for Workers’ Compensation Reform


---

17 See Dee, Garth p. 18


Standing Committee on Resources Development Submissions


Standing Committee on Resources Development Submissions -Bill 99, 1997


KF 3615 ZB37 L58 1997 c.1-2


Books, Studies and Articles


Workmen’s compensation for injuries act, 1892, 55 Vict. cap. 30 (0.): and the Revised statute of Ontario (1887), chapter 135, commonly known as Lord Campbell’s act / with copious notes by George Smith Holmested. Holmested, George Smith. -- Toronto: Bingham’s Print, 1893.

W.C.B. pension history in Ontario.

The workmen's compensation movement in Ontario.

Derstine, Dirk Nathu Shamash. -- University of Toronto Faculty of Law review. 1990 v.48 p.22-47. 1990.

Justice for injured workers: a community responds to government 'reform'.

Justice for injured workers: the struggle continues.

[Bill 162 and other documents relating to legislative history: Key workers' compensation reform proposals: chronology and background notes.]

History of legislative reform of workers' compensation in Ontario.

Poverty law in Ontario: the year in review. Workers compensation. [Includes comment on PLMAC reform proposals and Bill 165]

This nuisance of litigation: the origins of workers'-compensation in Ontario.

The law of employers' liability in Ontario 1861-1900: the search for a theory.


Issues in workers' compensation appeals system reform