



# Consent

## FOR THE PEOPLE

-Robert Metz

*(Robert Metz is president, leader, and a founding member of Ontario's Freedom Party. The following essay is his personal response to Prime Minister Brian Mulroney's call for a national referendum on October 26, 1992, in which Canadians will be asked to respond with a 'NO' or 'YES' to the question: "Do you agree that the Constitution of Canada should be renewed on the basis of the agreement reached on August 28, 1992?")*

As a free nation, Canada is dying and shows no hope of recovery. Worse, Canadians are being led to believe --- by the very politicians who are killing our country --- that a 'YES' vote in the October 26 referendum on our Constitution will make a positive difference to Canadians and save their country in the process.

Nothing could be further from the truth.

The "compromise" that is being heralded as the saving grace of our nation is the culmination of the very process that has brought Canada to the brink of disintegration. With opposing political principles, interests, values, and objectives of every province and special interest group given "equal" consideration, it is somehow believed that a compromise based on these radically opposite concepts can possibly save our country.

It simply won't work, because what has been "compromised" is our individual freedom itself.

Since its "patriation" in 1981, Canada's constitution has demonstrated itself to be a completely unworkable document, based on a set of contradictory and self-destructive principles. While the opening sections "guarantee" fundamental rights and freedoms to every individual, the rest of the document is carefully worded to negate those same fundamental rights and freedoms and to grant all our rights to politicians and governments.

This should hardly be surprising, given that the architect of our current Constitution was Pierre Elliott Trudeau, an avowed socialist whose principles --- despite all his rhetoric about "keeping the state out of the nation's bedrooms" --- virtually ensured that the state would be in every other room of our homes, offices, and businesses.

Tragically, Canada's constitution is a document created by governments for governments. As London West MP

Tom Hockin so clearly illustrated on a September 9 open-line talk show, Canada is a nation not founded on any preamble resembling America's "We the people..." but rather on the concept of "We the provinces..."

Unfortunately, "we the people" just don't matter under the Canadian system of government. As a consequence, it is my belief that the October 26 referendum is simply a smokescreen to disguise this unpleasant fact. By getting us to "participate" in this non-binding referendum, our politicians will be able to claim that they received our consent to continue ruling us without our consent.

So whether we vote 'YES' or 'NO' to the government-initiated referendum, Canadians will continue to be left at the mercy of their various governments, with no protection of "fundamental" freedoms, property rights, or freedom of choice. Without these protections, Canada does not even deserve to be called a "free nation."

The tragic irony is that Prime Minister Brian Mulroney was fully aware of these shortcomings, yet compromised his beliefs by sacrificing them to his political opponents. Today, it is almost impossible to believe that the following words, recorded in the House of Commons debates of April 6, 1989, were his:

"I always thought, Mr. Speaker, very fundamentally, that a Constitution ought to do two things: First, it ought to unite a nation and, secondly, it ought to protect the inalienable nature of individual rights. The Constitution of 1981-82 did neither. The Constitution, which is supposed to bring unity and protect individual rights, was rejected by the National Assembly of the Province of Quebec, Liberals and PQ alike at the time.

"...Mr. Speaker, perhaps no less importantly, if a Constitution does not have the reason of protecting your

*To those who consent, no injustice is done*



individual liberties, those of your family, to freedom of expression, freedom of association, freedom of the press, if all of these rights are not protected and rendered inalienable in the Constitution, what is the Constitution about?

"...A constitution that does not bring Canadians together, that is not accepted by all Canadians, and a

disputes we have been witness to have not been over how to ensure the protection of individual rights. Rather, the prime minister and the premiers have all been fighting over which of them we citizens should be forced to obey.

The entire constitutional debate, subsidized at tremendous cost by those whom its conclusions affect the most, has only been a political tug-of-war, with the winners receiving the privilege of monitoring and restricting languages, industry, taxation, the media and all the many other areas of daily life which should never be intruded upon by governments.

A Canadian constitution that relies on regional or federal standards of obedience with multiple dangerous interpretations left open, guarantees a rocky road ahead. Canadians must have their rights defined uniformly so that no Canadian is required to sacrifice his or her language, work, money, thought, or life to the whim of any government. A Canadian charter must include a limit on taxation at all levels and a prohibition of government deficit financing, censorship, and laws that interfere with personal lifestyles.

As so eloquently expressed by philosopher-novelist Ayn Rand, "it cannot be repeated too often that the Constitution is a limitation on the

government, not on private individuals --- that it does not prescribe the conduct of private individuals, only the conduct of the government --- that it is not a charter for government power, but a charter of the citizens' protection against the government."

Clearly, a constitution can be the cornerstone of a stable, citizen-oriented nation. The only way our politicians can earn their right to govern is by proposing a mandate to which we are all entitled --- a mandate for freedom. Unfortunately, this is not what the August 28 Charlottetown proposals are based upon.

Fundamentally therefore, it does not matter how Canadians will vote in the October 28 referendum since it is not legally binding upon our politicians. However, a 'NO' vote will be the lesser of two evils since Canadians will be telling their politicians that they want a better deal for themselves. Conversely, a 'YES' vote will only prove that politicians can continue to

**"A 'NO' vote will be the lesser of two evils, since Canadians will be telling their politicians that they want a better deal for themselves."**

constitution that does not protect the inalienable and imprescriptible individual rights of individual Canadians is not worth the paper it is written on."

Yet, in 1992, we now find Mulroney completely supportive of an agreement that by his own words, "is not worth the paper it is written on."

Instead of entrenching "inalienable individual rights" --- the only principle capable of both uniting Canada and of guaranteeing our fundamental freedoms --- the proposed constitutional agreement further entrenches the rights and privileges of governments, to the detriment of Canadians everywhere. Canada may continue to be called a "nation" --- but of what value is a nation in which our freedoms may be lost forever?

To be sure, by now most Canadians are sick and tired of watching politicians and special interests fight and squabble over Canada's constitution while the country is falling apart and our economy is in ruin. But the

**"A 'YES' vote will only prove that politicians can continue to fool most of the people most of the time."**

fool most of the people most of the time.

For these and many other reasons, I'm voting 'NO' to the question: "Do you agree that the Constitution of Canada should be renewed on the basis of the agreement reached on August 28, 1992?"

My 'NO' vote will be a vote against the politicians --- and for the people.

ROBOTMAN - BY JIM MEDDICK





# RECONCILIATION

## Economics and the Environment

-Dr. Walter Block

*(Following is the fifth and final installment of Dr. Block's presentation on environmental issues to Freedom Party attendees at a Sunday morning brunch in Toronto on Oct. 29, 1989. Speaking as senior economist with the Vancouver-based Fraser Institute, Dr. Block's speech has been reprinted verbatim from taped transcripts. The entire presentation is available on video and/or audio tapes through Freedom Party. Inquiries welcome.)*

**Part 1 - The Tragedy of the Commons** (the principle of private property vs the principle of the commons) and **Part 2 - Common Ownership, Common Problems** (Pollution and Acid Rain) appeared in **Consent #13** and **#14** respectively. **Part 3 - Privatize Everything!** (Species Extinction) appeared in **Consent #15**. Last issue's **Part 4 - The Third Drawer** dealt with oil spills, recycling, and hazardous wastes. Back-issues are available through Freedom Party.)

## Part 5 - Final Reconciliation

What about the **greenhouse effect** case against the market? Well, what is the greenhouse effect?

The greenhouse effect very briefly, from a non-scientific layman point of view, is that there are certain chemicals --- carbon monoxide, carbon dioxide, and carbon something-ide --- get into the air, and (keep the heat in on the earth's surface).

It's the same phenomenon as if on a very cold day --- a cold but sunny day --- and you're in a car and you feel a lot warmer because the sun gets in and the heat doesn't get out. (In the same way) carbons keep the heat in and so it makes it warmer. The problem is that if the earth gets warmer it'll melt the polar ice caps and we'll be up to our ears in water and, you know, if you're not good at treading water, you'll be in trouble.

The only problem with this is that there's no evidence for it, or at least (within) the scientific community, the majority of opinion does not support the fact that we have a greenhouse effect. They look back on temperatures for the last hundred years and they see some ups and some downs and they see no pattern that is consistent with more carbon being in the air and more heat. Some things get hotter, some things get colder, but this has been occurring for many years.

So, there really is no greenhouse effect.

By the way, a lot of the people who say there's a greenhouse effect are the same people that said we're going to run out of oil, we're going to run out of wood and all these other ecological disasters that never came true

and now they're doing it again. So they lack a little credibility.

As against that, they only have to be right once. So we have to be careful, be cautious. As against that, we have a basis in Western law that you're innocent until proven guilty. If there's no evidence that you're doing anything wrong, you can hardly force people to do something on the grounds that they're trespassing if there's no evidence that they're trespassing.

Then the whole greenhouse effect (issue) is complicated by the forestry situation and the forestry situation is a lot clearer than the greenhouse effect situation.

It is maintained by scientists --- and I'm not competent to know whether this is true or not --- that the greenery, the trees, serve as the lungs of the earth. They take in carbon dioxide and they (release) oxygen. We'll stipulate that that's true.

Did you hear the joke about the economist, the chemist, the physicist, and the engineer? They were stuck on this desert island and had a whole bunch of canned goods --- and no can opener. So the physicist and the chemist and the engineer are huddling and calculating equations, (designing) pulleys, (and asking whether they should) throw the can against a rock, and then they turn to the economist and ask "How can you contribute to our deliberations?" And the economist says, "Well, *assume* we have a can opener."

Well, let's assume that we have a greenhouse effect.

**"The man who damns money has obtained it dishonorably; the man who respects it has earned it." ---Ayn Rand**



One of the saving graces of the forests is that they will help solve the greenhouse effect. The only problem is that the forests are disappearing. And there's a little story as to why the forests are disappearing and I'll give you one guess as to whose fault that is: It's the government's fault.

The reason again is the *tragedy of the commons*. What happens is that

**"In the U.S., the government owns about 60% of the land. In Canada, the government owns about 90%"**

these forests are not privately owned. The U.S. is a little better than Canada in the sense that the government only owns about 60% of the land in the U.S. In Canada, the government owns about 90% and if you forget about the Northwest Territories and the Yukon, it's about 85%. I've got the (accurate) statistics in (my) book.

The problem is that what they do is they don't allow the private companies to own the forests where they would treat (the forests) as if they owned them and would protect them. If they clearcut, they would replant, because if they wouldn't replant after clearcutting, the value of their land would dissipate.

But rather, what (governments) do is they say "Look, we'll give you a lease. Six months. Do what you will with this land for six months." And that's their time horizon. So what they do is they level it and they don't replant and the government tries to get them to replant (unsuccessfully) and when the governments run out of money the first thing they stop is replanting because welfare rights are more important than replanting.

So we've got a lot of dissipation of the forests.

In addition, what the government

does in the few places of private ownership in the U.S. is build logging roads, thus making accessible to cutting, trees that would never be accessible to cutting without their subsidization of the cutting through these logging roads.

In Brazil they subsidize private farmers to go in and cut down the trees to start cattle farming because they've got this perverted idea that they can't import beef from Argentina, God forbid, because Brazilian cultural nationalism will be ruined by beef from some other country. Does that sound familiar?

So these are the reasons that the forests are now being dissipated. Governments in the northern hemisphere are saying that the Brazilians are stupid and evil for not preserving their forests, but this is hypocritical. If they're so worried about the forests, let them preserve their own. Let them privatize.

We get back to this *Environmental Probe* article: "Save the Trees --- Sell Them!" I think that this is a very important case in point.

The **Ozone Layer**: It is alleged that CFCs in aerosols and foam products, air conditioners, and refrigerators act in such a way as to combine with oxygen as to decrease ozone so it has openings in the air where we're not protected by the ozone, and we'll get more skin cancer. Well, one problem with this is that the ozone hole is over Antarctica --- and they don't have many refrigerators down there --- so it's strange why the ozone hole would be there. Also,

the scientific community is again not of the overwhelming opinion that there is any ozone hole problem.

Another interesting point is that the people behind this ozone stuff are mainly *Dupont Dupont* is in favour of prohibiting freons and CFCs and things like that, and it's also an interesting point which I'm sure is completely coincidental, that *Dupont* holds patents for the substitutes for freon. Now I want the jury to just not consider this as at all relevant, but it might be of interest to someone to know the background here.

But let's suppose there really is a problem. You know, the economist will assume that there is a can opener. Let's assume a problem. Let's assume that *Dupont* is innocent, because it could be; it's not a logical contradiction, I suppose, that there is a problem.

Well, then we get back to the old stomping grounds of *pollution*. If it really is true that if you use an aerosol can, an air conditioner, or a refrigerator

**"Dupont is in favour of prohibiting CFCs because it holds patents for freon substitutes."**

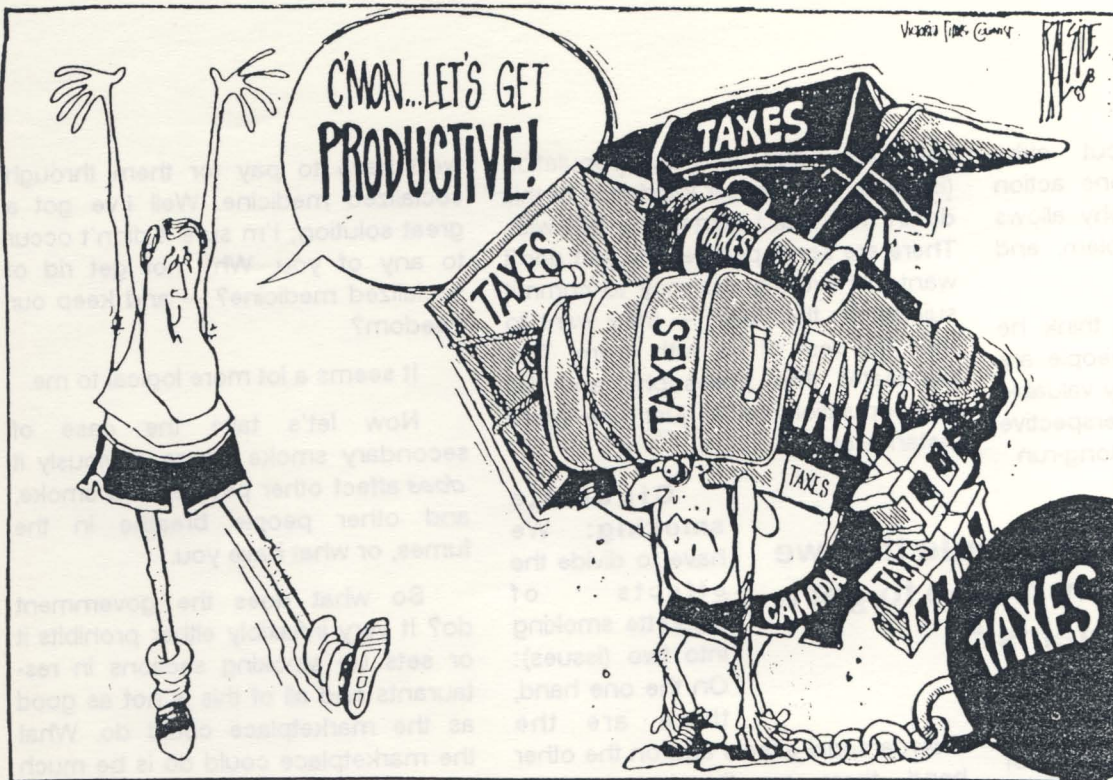
tor under present technology (that it will) dissipate the ozone layer and increase skin cancer, it seems to me that this is a *prima facie* case of violation of property rights.

Now, it's true that it's hard to see who's going to "own the air", but we don't have to "own" the air. We just have to own the right not to be aggressed against and I think that it's not too much of an extension of rights violations to assume that if it really did work this way, it would be a rights violation.

Maybe I'm being "impure" in this --- maybe a rights violation is only with

**"I always felt that if you could develop an answer to a need, this was the way to make money. Most people are more anxious to make money than they are to find a need. And without the need, you're working uphill." ---Bill Lear**





You know, we speak of the "teeming masses" of India and all the Indians are poor. But what about the teeming masses of Toronto or the teeming masses of Paris or London or Manhattan? They're "teeming" in there but they're pretty rich. And then we have people who are dying like flies in the desert like Ethiopia where there are hardly any people per square mile.

If you make a table where you put rich and poor and population density, you can fill in all the boxes. That is, you get some poor concentrated

countries, some poor empty countries, some rich concentrated countries and rich empty countries. Poverty has nothing to do with overpopulation; what it's got to do with is the big 'G'. Too much 'G'. That'll get you every time.

I once debated somebody on this

a gun --- but I don't think so. I think that if the allegation were true, we have no embarrassment about it philosophically. We'd just say "Yes, this is a violation of property rights" and we'd stop it. Period.

So again, I don't think there's anything in the environmental challenge that makes us reconsider our philosophy of freedom. Not only is our philosophy of freedom right and just, it is also pragmatic.

Next to last, but not least, is **zero population growth**. People are saying "Well you know there are too many people around here."

In China, they forbid people from having more than one child and it's really disgraceful what happens because people are biased towards having male children and (when) they find they have a female child, they abort. You wonder what's going to happen in twenty years in China when there are all these boys running around and no girls. It'll be a social prostitution and a social disarray.

There are some statistics that might convince you that might con-

vince you that we have no overpopulation problem. One of them is that if we took everybody on the earth --- all six billion of us --- and put them into Ontario in the form of four people to a family (household) where the house is the usual middleclass-sized house with a front yard and a back yard and two stories at 8,200 square feet, *everybody on earth would fit into Ontario*.

That's one instance to (illustrate) how *empty* this planet is.

Another (example) is if you just took all the people, and I think you count them as three cubic feet, if you stuck them all into a cube, the cube would be *one (square) mile* --- a mile up, a mile wide, a mile deep. You could get everybody in it. It would be a little crowded so I'm not advocating that we do this, but it makes the New York subway system (seem) empty. You know how college kids squeeze into a phone booth? Well, it would be something like that.

It's also not true that **poverty** is co-related at all with overpopulation.

## "Poverty has nothing to do with overpopulation; what it has to do with is too much government."

and I used the following argument, and I got roundly booed and hissed. But I'm sure that in this audience I won't. What I said is that "My opponent has it within his power to reduce the population by one. The fact that he's sitting over there waiting to get on this podium shows that he doesn't believe in his own theory. He's a hypocrite." And then I sat down.

And they booed me mercilessly. And then he got up with a sort of sickly grin because it's true. I mean, if

**"The government deficit is the difference between the amount of money the government spends and the amount it has the nerve to collect." ---Sam Ewing**



he's so concerned about extra people, let him take the one action that the libertarian philosophy allows him to deal with this problem, and let's have one less person.

But even him, I don't think he should kill himself. I think people are precious and people are very valuable and I take a very long-run perspective on this problem --- very very long-run.

## **"The more billions of people that we have, the more likely it'll be to get a few Einsteins."**

My long-run perspective is that one day, not soon, but in a couple of billion years, the sun will go out. And by that time, we'd better have technology and enough spaceships or beam-you-up-Scotty machines or whatever it is, to get to the next universe.

"Beaming machines" and technologies of the sort that only science fiction writers can now imagine (are things) that will come about (through) a couple of geniuses --- lots of geniuses, Einsteins. I know that the more billions of people that we have, the more likely it'll be to get a few Einsteins.

So I'd like to see this world with, instead of six billion people, have sixty *trillion* people, and I think we would all fit very happily if we didn't have any zoning laws that (say) you can't build any more than ten-storey buildings. I mean with technology like that in a couple of dozen years (or even now we can build 150-storey buildings) we could build 3000-storey buildings and own the oceans, we could get a lot more people in here without any crowding or anything.

I'm not saying tomorrow, but ultimately. So I don't see any overpopulation problem. I see each person as indescribably precious and

important (while) this overpopulation (issue) is just another incidence of this death wish that I started the talk with. There are some people who just don't want to have the decency to commit suicide on their own --- they want to take the rest of us with them. This permeates their philosophy and the overpopulation-ism is just one more instance of it.

**Cigarette smoking:** We have to divide the effects of cigarette smoking into two (issues): On the one hand, there are the

*intrapersonal* effects and on the other hand, there are the *interpersonal* effects.

Now, our friends on the left, or our friends on the 'G' side, want to deny this distinction. They want to say that *everything* is *interpersonal*: "There is no such thing as smoking that involves only you because we have socialized medicine and if you smoke you get lung cancer and I have to pay for you so I prohibit you from doing it in the first place. There are no *intra-personal* effects. (Others) might think it to be so, but it's not so. It really affects the rest of us and we have a right to tell (you) to stop (smoking)."

Well, according to that logic, we could make (others) not eat chocolate, make them brush their teeth, make them drink their milk, no hang-gliding, no basketball. You know, you hurt your knee when you go up for a rebound. I mean, there are so many things that we could prohibit people from doing on the grounds that if they do them they'll hurt themselves and

we'll have to pay for them through socialized medicine. Well I've got a great solution; I'm sure it didn't occur to any of you. Why not get rid of socialized medicine? --- and keep our freedom?

It seems a lot more logical to me.

Now let's take the case of secondary smoke where obviously it *does* affect other people. You smoke, and other people breathe in the fumes, or what have you.

So what does the government do? It very inflexibly either prohibits it or sets up smoking sections in restaurants and all of this is not as good as the marketplace could do. What the marketplace could do is be much more flexible. Because remember, what the market is trying to do is please customers. "The customer is always right."

Maybe what you'd have in some restaurants, say, the beer and pizza parlours and the bowling alleys, they'd allow smoking --- or at least some of them would. They'd have all smoking anywhere you want and others would have smoking sections

## **"The environmental issue does not show an inconsistency of free enterprise or liberty, but rather shows that what we need is more liberty, not less."**

and others would have smoke-free and they'd compete. Not only on the part of their beer, pizza and bowling alleys, but also on the ability to cater smoking rules to satisfy the most people. I'm sure that they could do it better than a government edict which says one rule for everybody.

Maybe in health food stores, they'd just have no smoking. Or maybe it would be at different hours at different times; it's hard to know.

**"I went into the business for the money, and the art grew out of it. If people are disillusioned by that remark, I can't help it. It's the truth." ---Charlie Chaplin**



We can't predict the market. All we can say is that if people are allowed to compete, they are more likely to come up with solutions to the problem than a bureaucrat sitting in Ottawa or Toronto or wherever it is, deciding the rest of our lives.

So, to summarize my position, it might seem that from the concentration on the environmental issue, that we have

met a problem for our philosophy. I conclude that we have not met any problem --- that the entire difficulty of the environment and ecology and extinction of species and pollution and all the rest is not in unravelling the market, does not show an inconsistency of free enterprise or liberty, but rather shows that what we need is more liberty, not less. Thank you.

## STRESSED OUT

-Lloyd Walker

(Mr. Walker is Freedom Party's vice-president.)

If the state of the economy has left any employers in Ontario not feeling distressed, they soon will be. If (no, make that *when*) pending changes to the **Worker's Compensation Board (WCB)** practices are made, there will be no way that employers in Ontario will be able to escape the resultant increased costs, obligations and confrontations that our current NDP government has planned for them.

The daily changes brought about by the **Worker's Compensation Appeals Tribunal (WCAT)** and the inevitable inclusion of *stress* as a compensable "injury" will bring increased costs, red tape and chaos to Ontario employers --- not to mention discouraging many new employers from setting up.

Let's take a look at some background and the situation currently facing us:

### Where does the WCB get its money?

From employers. The premiums they pay cover the full cost of the **WCB**. No funds come out of the general tax revenue. When **WCB** expenses go up, **WCB** premiums go up. (**Note**: There is currently a large "unfunded liability" within the **WCB**, but that is a separate issue.)

### How is a decision appealed?

The appeals process for a worker or employer under the **WCB** follows three basic steps. The first appeal goes to the original adjudicator of a claim. If any party is still not satisfied, the second step is to go to the Hearing Board. Both steps one and two occur within the **WCB** itself. The third step is to take the complaint to the **WCAT**. **WCAT** is above the **WCB** --- funded by it, but not part of it. In fact, a **WCAT** appointment is one of those wonderful plumb political appointments that occur so often within our government.

### Who sets the policies for the WCB?

**WCB** policy used to be controlled within the Board itself. However, changes under *Bill 162* (effective January 1990) set up **WCAT** which is now, via its decisions on appeals, telling the **WCB** how to interpret the **Compensation Act**.

An example: A worker was feeling chronic pain at his workplace. This was not pain caused by a workplace accident but by a prior condition that possibly the employee's medication was not controlling. **WCB** ruled that the pain was not work-related and therefore not



"Are we still hiring minorities?"

"Necessity is the mother of taking chances."

---Mark Twain





compensable. **WCAT**, however, ruled that it was sufficient that the worker felt the pain at work and that the employee was to be awarded compensation. On top of that, **WCAT** also told the Board to go back two years and review any similar decisions and take action to award compensation for previously-denied claims.

What is happening is that **WCAT** is widening the definition of the term "accident". So much so, that it appear likely that "Worker's Compensation" will leave the traditional work-related accident field and expand to become another facet of our government's universal social safety net, conveniently paid for by employers.

#### Is stress compensable?

Stress of one kind has always been considered compensable. But consider the case of a truck driver who has an accident and witnesses the death of the riders in the other vehicle. Something within the driver lets go and this incident leads to a demonstrable dysfunction. That would be compensable under the Board rulings.

What we are talking about in the **WCAT**'s decision is a worker's claim that (s)he is "stressed out" as a result of work. Make no mistake about it! This is what they are going to make

compensable.

Another example: A person was elected union steward in his workplace. He alleged that the company's attitude toward him changed after this election and that this caused him to become stressed out. **WCAT** upheld that one as well.

#### What sources of stress will be recognized as compensable?

This is yet to be determined. The Board will likely have its own ideas on this topic, but it will probably fall to

**"A suggestion from the *Canadian Auto Workers* and backed by *OPSEU* is that disciplinary action taken by supervisors (verbal and written warnings, suspensions, terminations) cause stress and should be compensable as well."**

individual rulings on each specific case to determine if the case is valid. Don't forget that any ruling may be appealed to **WCAT** and that it will make the final decision as to what is compensable.

However, the Board is getting plenty of advice. For example, the *Canadian Auto Workers* is recommending that stress caused by shift work be compensable. Thus, any worker working on more than one shift (or likely any shift that is claimed to cause stress) would have the opportunity to file an injury claim with the **WCB**.

Another suggestion from the *Canadian Auto Workers* and backed up by *OPSEU* is that disciplinary action taken by supervisors (verbal and written warnings, suspensions, terminations) cause stress and should

be compensable as well.

#### How is the cause of stress determined?

First, there is a concept that must be understood and that is one of the *significant stressor*. This is simply understanding that there are many sources of stress but one must determine the most likely cause of stress or the most significant source of stress. It is the significant stressor that will likely be the key to compensation.

The determination of the significant stressor is perhaps the most subjective part of the entire process and a procedure has not yet been determined. What follows are a few

ideas that have been put before the **WCB** to help it make its decision on the causes of stress:

The *CAW* has suggested that the only person to determine the cause of stress is the employee and his or her word should be the sole criteria when determining the cause. *OPSEU* is in agreement with the *CAW* on this point as well.

Experts have claimed that supervisors can be trained in only four hours to recognize the signs of stress so that they can act prior to any major problems. All that's needed is a

**"Reform always comes from below. No man with four aces asks for a new deal."**

---The Irish Digest



twenty-point checklist for them to determine if an employee is suffering from stress. Then all that remains is for them to determine the cause of the stress and to take steps to eliminate the cause(s).

It seems that the Board will likely involve the employee's physician. The job of determining the significant

hearings have dragged out every unpleasant point about the employee's life that can be found.

There's no need to even guess at the possibilities, but you can imagine that an employee claiming stress prior to the hearing is going to be highly stressed by the sight of his private business being dragged out and picked apart in a hearing. The avoidance of this situation is the basis of the *CAW* proposal that the employee's opinion of the source of stress be the only information needed for a valid claim.

offering this benefit is that it is tantamount to admitting that stress is a problem in that employer's workplace. Offering this benefit has been used as a point in favour of employee claims in California and has been well-noted throughout industry.

One problem with discontinuing the benefit is that the *Occupational Health and Safety Act* says that employers must do everything reasonable to safeguard their employees. One question sure to be asked is whether or not an employer discontinuing counselling services is then showing that he is not interested in the welfare of his employees and thus guilty of violating the *OHSA*. In short, if you do nothing you're guilty and if you try to help ahead of time, you're admitting guilt.

**"In some areas that already have stress covered by their *WCB* equivalent, employers have hired investigators to examine everything they can about the employee's lifestyle outside the workplace."**

stressor will fall to the employee's doctor. The doctor will, by default (being unaware of the workplace environment), have to use the employee's opinions and statements as a basis of determining the cause of stress.

**Can an employer dispute the cause(s) of stress?**

Any employer can appeal the decision of the *WCB* and given the increased penalties and costs of *WCB*, he would be wise to do just that. There can be little doubt that the largest part of any dispute will be over the significant stressor. The employee will claim that the workplace is the major cause and the employer will have no choice but to try to prove that the significant stressor was anything but the workplace.

In some areas that already have stress covered by their *WCB* equivalent, the following situation has arisen: Employers, trying to prove that the workplace is not the source of the employee's complaint, have hired investigators to examine everything they can about the employee's lifestyle outside the workplace. The resulting

**Can employers protect themselves from claims?**

It's a no-win situation. The logistics in identifying that an employee is suffering from stress are difficult enough. Once identified, the employer will have to deal with the issue through an as yet unknown method. A lot of this will depend on what is considered compensable stress. It's unlikely that employers would stop expecting employees to follow the plant rules even if stress from discipline was considered compensable. What they would do in that case is anybody's guess.

One practice, currently used by some employers, is the offer of employee counselling as part of a benefit package. This offers the employee access to services that will help him deal with situations in his life, work included. The problem with

**What will the final outcome be?**

There is no question that the situation will be incredibly expensive and unwieldy. Areas such as California (a favourite example for those proposing that stress be compensable), are trying to back-pedal away from the monster they have created.

**"The estimated cost of Ontario recognizing stress as an injury is \$350-600 million. The range is caused by one of *WCAT*'s favourite tricks: making its decisions retroactive."**

The estimated cost of Ontario recognizing stress as an injury is \$350-600 million. The range is caused by concern over one of *WCAT*'s favourite tricks: that of making its decisions retroactive. The high number is an estimate of the result of back-dating the decision to March 1989. That number will, of course,

**"The worst crime against working people is a company which fails to operate at a profit."  
—Samuel Gompers**



increase in large steps in the early years as workers discover this new outlet to "free" money. For example, claims in California increased 500% in the first two years.

All of the money spent is lost to employers. No productive effort will have been made to earn this money and there will be no new product to sell to recoup any of these new costs. The money will have to come from the profit or be covered through increased selling prices on every product and service in Ontario. The province's businesses will become less competitive in the world market. The fact that these situations exist will injure our existing businesses and discourage new investment in the province.

Expect also claims of human rights violations when employers start investigating an employee's home life in preparation for their defence.

There can be no doubt that all of this will lead to more dissension between employers and employees. That problem will raise its head in productivity and quality problems, not to mention increased possibilities of strikes if workers feel violated.

Once again, the NDP government is determined to ensure that business bears the brunt of its socialistic give-away programs.

It's enough to stress out anyone.

## WHEN SEEING ISN'T BELIEVING

-Murray Hopper

*(Mr. Hopper is a founding member of Freedom Party, now in charge of Special Projects. The following article was completed on August 5/92 and was written in reaction to the media's appalling treatment of an incident it claimed was "racially motivated" and which purportedly led to the largest riots in the history of Los Angeles. Says Hopper: "I still cannot believe that the information contained in this essay is not public knowledge, but that does seem to be the case." We leave it to the reader to evaluate the media's reasons for failing to give the public the facts.)*

### The Truth About the Rodney King Verdict

My first reaction to the acquittal of the four police officers charged in the Rodney King beating was the same as everyone else's: shock, disbelief, and a feeling that justice had not been done. However, as the days and weeks passed, I began to modify that view.

I recalled that on a TV voice-over, at the time of the riots, one of the jurors had stated that defence analysis of the video tape (which included slow-motion replays) had given her a different perspective on the case. I remember wondering at the time why there was no media follow-up on this.

Later, I developed the premise that the jury, having seen the tape we all saw, must have been in a mood to convict when the trial began. To explain their reversal of that position, I needed to know what information they had (which we did not) that caused them to change their minds. By a stroke of luck, I now have that information.

My subscription to The American Spectator began in May. In the July 1992 issue, an article by Terry Eastland referred to an account by Roy Parloff of American Lawyer in the June issue of that magazine as "a unique and important piece on the King case."

Eastland then went on to tell the Parloff story, which comes in four parts: (1) the high-speed police chase, which ended when King stopped the car; (2) the period from the time King got out of the car until the video taping began; (3) the first (shorter) part of the 81-second tape, which was seen by the jury but few others; and (4) the second (longer) part of the tape, which we all saw.

Parloff began at the beginning, with King failing to pull over after California Highway Patrol officers observed him speeding. They chased him for 8 miles on the freeway at almost 100 mph and, when King left the freeway, radioed the LAPD for assistance. King then raced through L.A. streets at speeds of 60 to 80 mph, running red lights and stop sign. Finally, with many police cars on his tail and a helicopter hovering overhead, King stopped his car and got out, as did his two black passengers.

All the above was verified by the testimony of prosecution witnesses, but despite that, these facts were either understated by the media (April 30 New York Times) or not mentioned at all (Time Magazine and TV reports). Parloff also faulted the media for describing King simply as a "motorist", which was the term of choice in most press accounts.

**"Individuality is acquiring a particular quality by acting in a particular way." ---Aristotle**



King's two companions did not resist arrest, but assumed the prone position, whereupon they were searched, handcuffed, and later released. By contrast, King did not obey police commands.

According to both prosecution

Again, all of the above was verified by both defence and prosecution witnesses. Curiously, the New York Times story made no mention of the Taser episode.

It was at this point that the camera began rolling. During the first few seconds, despite the Taser darts, King jumped up, wheeled around and lunged at defendant Laurence Powell, who retaliated by striking King down with his baton. Powell then hit King about ten times, with the tape showing King trying to get up.

Again, the New York Times failed to report this attack on Powell. The jury saw this part of the tape --- the general public did not. Also, the jury heard the prosecution expert on excessive force refuse to fault Powell for his response to King's assault. This fact also was not known to the public.

It was only during the second part of the tape (which we all saw) that this expert found the level of force used (in blows 11 to 56) to be excessive. However, most blows struck King on his arms and legs; none struck him on the head. This was important, because L.A.P.D. policy forbids (as potentially lethal force) blows to the head, neck, spine, or groin.

There were other extenuating cir-

cumstances. Officers Powell and Wind often paused to observe King's behavior. At one point, when King reached for his waistband, the officers thought he might have been going for a weapon, since they had been unable to search him.

Clearly, Parloff (who watched most of the seven-week trial on TV) was able to get inside the minds of the jurors in ways that other journalists were not. His condemnation of media failure to report the magnitude of King's resistance is entirely justified. The public's ignorance of all these important facts may well have contributed to the explosion that followed the announcement of the verdict.

In any event, the conclusion that racism was a major factor in the case, and that the jury was wrong must be re-examined. My own view is that, on

## "The public's ignorance of all these important facts may have contributed to the explosion that followed the announced verdict."

and defense witnesses, King, who at 6'3" and 230 pounds was much bigger than any of the arresting officers and highly intoxicated, would not assume the prone position although he did eventually get down on all fours. However, since the police could not get the cuffs on him in that position, King was able to shake them off and stand up.

At this point, Sgt. Stacey Koon (one of the defendants) ordered his men to fall back in order that he might use the next level of approved force --- a Taser gun. This is a weapon which fires a dart containing an electric shock so powerful that a single shot usually is enough to subdue an offender.

However, when Koon ordered King to get down or get shot, King did not obey, but advanced on Koon, who fired a first dart. Since King was still standing, Koon again ordered him to get down or take another dart. When King refused, Koon fired again and King fell.

## "How come we didn't know about all this months ago?"

the evidence, the jury was justified in its verdict.

One last question: How come we didn't know about all this months ago?

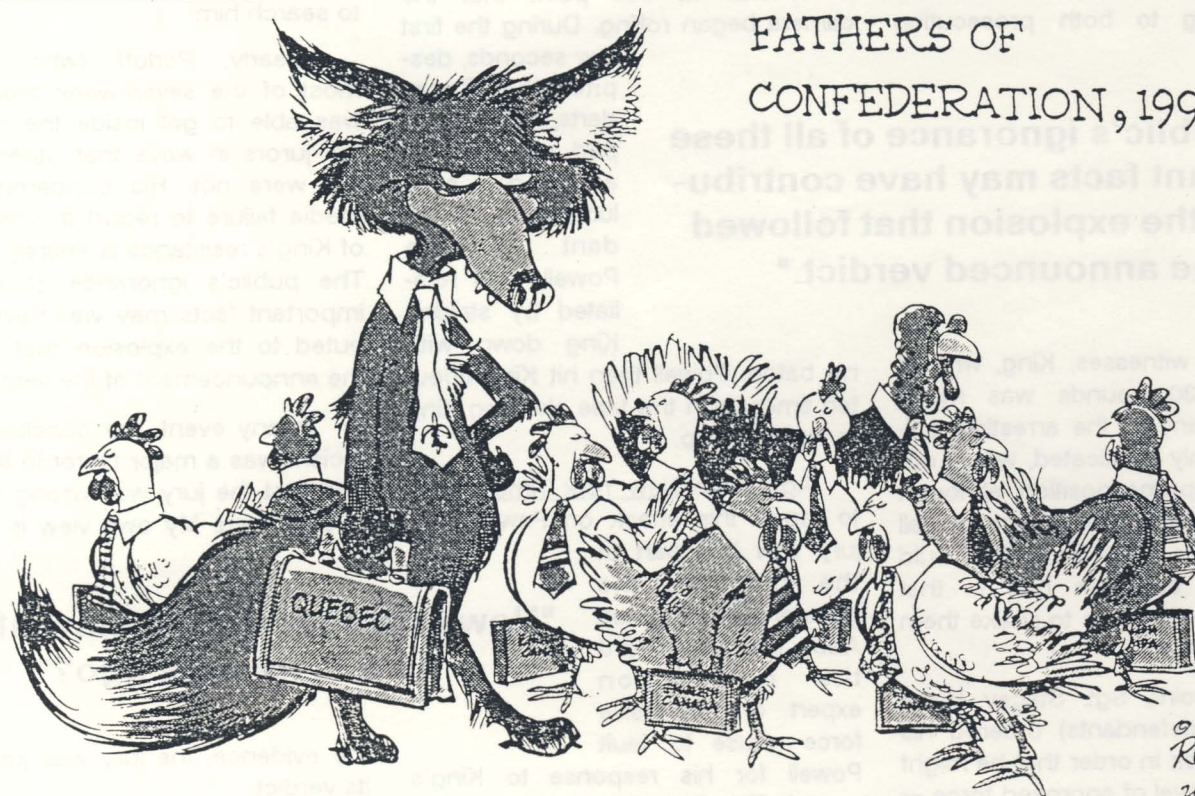
**Author's Note:** Two days after I finished this manuscript, federal civil rights charges were initiated against the four officers involved in the King affair. The indictment specifically excluded any consideration of racial motivation. I did not change my original text.

## CALVIN AND HOBBS — BY BILL WATTERSON





## POLITICAL GAMES



## FATHERS OF CONFEDERATION, 1992...

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