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PROVINCE OF QUEBEC

REPORT
OF THE
Investigation Commission
ON THE
COMPENSATION IN LABOR
ACCIDENTS

13 George V — Chap. 38



QUEBEC
PRINTED BY LS. A. PROULX
PRINTER TO HIS MAJESTY THE KING

1925



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REPORT
OF THE
INVESTIGATION COMMISSION
ON THE
Compensation in Labor
Accidents

To the Lieutenant-Governor in Council of the Province of Quebec,

The Commission appointed by the Government of the Province of Quebec to inquire into the conditions of labour in this Province with regard to the system or systems which should be established to fix and determine the indemnities or compensations in case of accidents happening by reason or in the course of their work to workmen, has the honour to submit its report.

The creation of this Commission has been authorized by Act 13, George V, Chapter 38, which stipulated that it would be composed of five (5) persons chosen by the Lieutenant-Governor in Council, one of whom was to be president *ex-officio* representing the Government, two representing the employers and two the employees.

By an Order-in-Council, under date of October 3, 1923, the following persons were appointed:

ERNEST ROY, C.R., president;

J.-A. BOTHWELL, East Angus, Manager of the Brompton Pulp and Paper Company,

E.-G. BROUSSEAU, Contractor, of Quebec, President of the Contractors' Association of Quebec;

Representing the Employers.

GUS. FRANCO, Chairman of the Provincial Executive for Quebec of the Trades and Labor Congress of Canada, Montreal;

PIERRE BEAULE, President of the Confederation of Catholic Workers of Canada, Quebec,

Representing the Employees.

As soon as they were appointed, the Commissioners took up their duties and decided to start their inquiry by sending a Questionnaire to all labor organizations, employers' associations, manufacturers, insurance companies, also to the

College of Doctors and Surgeons of the Province of Quebec, and the different Bars of the Province, working or exercising their industry, business, trade or profession in the Province of Quebec. Furthermore, notices were published, in French and English, in the most important newspapers of the Province, inviting all parties interested in workmen's compensation to communicate the suggestions and information they would think fit to make to the Commissioners or to the Secretary of the Commission.

The bilingual Questionnaire reads as follows:

- 1.—Are you interested in the working of the Act entitled: "The Workmen's Compensation Act of the Province of Quebec"?
- 2.—In what capacity are you so interested?
- 3.—Are you talking in your own behalf or in the name of an Association? If so, which one?
- 4.—Are you of opinion that the present Act gives satisfaction?
- 5.—Are you of opinion that this Act should be amended, and if in the affirmative can you state the nature of the amendments which you desire?
- 6.—Have you any suggestion to offer in connection with the object of bettering the system of compensation for such accidents?
- 7.—Do you wish to appear before the Commission, at one of its public sittings?

Signature:

Address:

Date:

The Questionnaire was accompanied by the following letter:

INVESTIGATION COMMISSION ON COMPENSATION
IN LABOR ACCIDENTS
(13 George V, Chapter 38)

Quebec, December 1, 1923.

Sir:

The Government of the Province of Quebec, under the authority of the Act 13 George V, chapter 38, has recently created a Commission charged with the duty of inquiring into the conditions of labour in this Province with regard to compensation in labour accidents.

The Commissioners have begun their investigation. We have in our statutes, since 1909, an Act regarding labour accidents, the operation of which has permitted to all who take an immediate interest, to acquire considerable experience regarding its efficacy and the gaps which may occur, thus putting them in a position to make useful suggestions to our Commission.

The employers and workmen are naturally the first to be interested in the working of this Act.

The insurance companies, by means of the contracts which they generally have with the employers for the purpose of performing, in their place, the obligations which the law imposes on them, are also greatly interested.

You may have other suggestions to make or opinions to express either as a

workman or employer, or for an insurance company or again under some title which could be otherwise defined. The Commission, which desires to be fully informed, will receive your communication with pleasure.

Although the opinion of individuals have their value, it is nevertheless preferable for the moment, to have the general opinion of organized bodies, representing either the employers or workmen or again other interested parties. These opinions or suggestions, made in writing, will be analyzed and classified by the Commissioners who will afterwards have public meetings for the purpose of hearing those who desire to make any special observations and where they will summon the persons whom they think in a position to complete the informations they deem incomplete. The date and the place where these sittings will be held, will be given later on.

The system of compensation for labour accidents now in force in the Province of Quebec, may not, in the opinion of a certain number, be the best and the Commissioners would be glad to have any suggestions regarding other systems which they might think more preferable to adopt.

The compensation in labour accidents is a question of political and social economy which, since a great many years, has attracted the attention of legislators, manufacturers and workmen. As machinery spreads more and more through all classes of human activity, the importance of professional risk increases to the same extent and the concurrence of all persons of good will is desirable for finding a just and equitable solution to this problem.

We hope that the parties interested will give their concurrence to our Commission to enable it to carry out its inquiry to a good ending and to enable it to furnish the Government of the Province of Quebec with the information and the observations which will enable it to pass the necessary laws.

To facilitate your work, we have prepared a questionnaire which we enclose herewith. The answers need not necessarily be limited to the space mentioned in the questionnaire and they may include all the developments which may be deemed advisable to give them, under form of a report, letter or any other form you may think best.

We have the honour to be, Sir,

Your obedient servants,

THE INVESTIGATION COMMISSION ON COMPENSATION
IN LABOR ACCIDENTS.

per ALFRED CROWE,
Secretary.

Four thousand nine hundred (4900) Questionnaires and copies of above letter were sent to individuals and organizations. The Commission has received a large number of answers, however, most of the manufacturers and insurance companies requested the organization to which they belong to present their views to the Commission on their behalf; the various labor unions and associations were represented through their Central Councils and Federations.

The Commission was soon in possession of very useful and important information, suggestions and expressions of opinion as numerous as diversified. Many of those that answered the Questionnaire expressed the wish to appear personally or through their counsels at the public sittings of the Commission.

It was then decided to hold public sittings in the various industrial centres of the Province.

On the 30th of January, 1924, the President of the Commission was appointed judge of the Superior Court and tendered his resignation as president, which he withdrew afterward, however, at the request of the Government, being initiated to the work already done by the Commission and not wishing to delay the proceedings of the investigation.

In the course of 1924, the Commission held the following public sittings:

- At Quebec, three sittings.
- At Montreal, nine sittings.
- At Three Rivers, two sittings.
- At Sherbrooke, two sittings.
- At Hull, three sittings.
- At Chicoutimi, one sitting.
- At Kénogami, one sitting.

These sittings were followed with deep interest by a large number of people. very interesting communications were made; many testimonials were given and elaborate reports were submitted to the Commission and commented on by the representatives of employers and workers' associations, insurance companies and officials of important industrial firms. Distinguished doctors and lawyers brought to the Commissioners the knowledge and experience they have gained in the operation of the Act through the practice of their profession; they also suggested several modifications that would improve the Act and facilitate its working.

All these reports, suggestions, expressions of opinion and testimonials form part of the records of the Commission and are transmitted with this report.

The Commission's first duty was to inquire if in the opinion of the interested parties the present Workmen's Compensation Act was giving satisfaction or not. In the negative, what were the main complaints and what remedies were suggested for its improvement.

The analysis of all complaints, suggestions and information made or obtained, during the inquiry, permits your Commission to fully resume the opinions of the most interested parties in the working of Workmen's Compensation in the Province of Quebec.

We are giving below successively the expressions of opinion of workers, employers and others on the following question:

DOES THE PRESENT ACT GIVE SATISFACTION?

OPINION OF THE WORKERS

All labor organizations without a single exception: International Unions affiliated to the Trades and Labor Congress of Canada, Catholic Syndicates, National Unions affiliated with the Canadian Federation of Labor, Railway Employees' Brotherhoods, Independent Local Unions, and a great number of workers who have appeared before the Commission, are unanimous in declaring that the present Workmen's Compensation Act does not give satisfaction to the working class and they have substantiated their statements by the following reasons:

1.—The present law makes it difficult to define the industries falling beneath its scope. Several legal contestations and the intervention of the Court of Appeals and even of the Supreme Court were required in many cases to decide whether a certain establishment came under the Act. It is still obscure in many points. Similar work in various shops do not in every case give the right to a victim of an accident to have recourse to the Workmen's Compensation Act; a machinist injured while repairing an automobile in a shop where general repairs are made is protected by the Act while another machinist doing the same work in a chauffeurs' school or in a garage where only running repairs are made, is not protected by the Act

2.—It is also difficult for a workman to determine exactly whether his wages will allow him to come under the Act or not. It is hard for a workman to figure up his annual earnings; he seldom keeps count of the exact money he receives each week and if it happens that his wages approach the limit of \$1,500.00 mentioned in the Act as the maximum salary which entitles him to come under the Act, it is often only after lengthy and costly proceedings that this point is cleared up. The employer is moreover in a better position to know these points as he has only to examine his pay roll sheets.

3.—There is nothing in the law which allows the workman to find out if his employer is in a position to pay him in case of accident or if he is insured by an insurance company.

4.—The workman does not know to whom to apply to obtain his compensation. He knows that the law grants him a compensation in a case of accident but he cannot prepare himself the necessary procedure to obtain this compensation. If he is not used to legal affairs, he will have no idea as to how to proceed to establish his rights; if he knows something of our legal system, in many cases

he will be frightened to consult a lawyer, fearing the costs and the litigious and aggressive form his claim would then take and which would be of nature to antagonize his employer or to hinder his progress in the future or operate against some of his relatives employed at the same plant, such as often occurs in small industrial centres.

5.—The present Act does not compel either the employer or the doctor treating an injured workman to report the case to any organization whatsoever. All this is left to the worker who must pay the initial costs. It would even seem that the majority of employers do not submit to the law requiring that they report to the Factory Inspectors' Department all the accidents which occur in their plants, but only report serious or fatal accidents.

6.—The present Act retards the settlement of claims in cases of accident. The victim does not always receive compensation during the critical period of his illness—that following immediately the accident—and during the time that the victim suffers generally total incapacity. The worker at that time is not in a position to take steps to obtain the compensation which is due. And when the victim is in a position to take such steps—very often it is only at the consolidation of the wound—if the employer is refractory, it is months and sometimes years before the victim can obtain compensation. All these delays make it difficult for the victim to make the necessary proof against an unwilling employer and the proof of the circumstances under which the accident occurred, because the witnesses do not wait to leave the industrial plant where they worked with the victim until the case is settled.

7.—The Act should not allow any case to go to appeal. Such procedure is entirely against the workman who has not the financial means to appeal from the judgment of the court of first instance to a higher tribunal. It forces him to promise division with a lawyer or other persons in order to obtain the necessary funds to carry his case to appeal if he believes he has been wronged; that is a condition which should not be tolerated.

8.—The application of the present law entails too high costs. Justice should be gratis in the application of this law which is of public interest.

9.—Medical and funeral expenses. The sum of \$50 granted in cases of fatal accidents for medical and burial expenses is not enough to correspond with the value of the services which have to be paid.

10.—The Act should define more clearly the term "principal support" of ascendants; as it has brought about too much litigation and ruin to parents whose son was accidentally killed by a labor accident.

11.—The rate of compensation is not high enough in comparison with the

cost of living and the importance of the damages suffered. It does not permit the injured workman to live and bring up a family.

12.—The payment of the capital in case of death or serious and permanent incapacity exposes the victim to many abuses; too many persons urge the victim to invest this capital in more or less sound enterprises; sometimes inexperience in business causes the beneficiaries to squander this capital.

13.—The medical examination to which the injured workman must submit at the request of the employer serves frequently as a pretext for annoyance.

14.—The clause in the Act forbidding employers from docking part of a workman's wages for the purpose of insuring him against accidents or illness caused through his work is frequently violated on the excuse that this amount is used to pay medical and hospital expenses. The right of the workman to claim these deductions within the three months following his discontinuing work is only an illusion since he has to sue in order to recover this money.

15.—Workmen claim that the principle of the law is wrong because it makes of workmen's compensation a question of charity, an aid to the needy, to the person to whom the employer pays small wages instead of making of it a principle of justice, an acquired right; moreover it leads to bargaining and that at a time when the most interested party is weakened by the suffering endured, the fear of misery for him and his own.

16.—The Act, claim the workmen, results in that a portion of the compensation paid by the employer is turned away from its object and is of profit to middlemen and brings against each other two contrary interests, the employer who must pay or the insurance company—which is even worse because the human side of the employer is then lacking—and the workman who must also pay a lawyer to be protected instead of having a disinterested third party to settle the matter without cost to either side.

17.—The workmen claim that the Act has not given the satisfaction expected because it has not been surrounded by facilities for functioning, to bring it within reach of injured workers and because no organism has been created to put it into force, not any more than exists an effective control over the schedule of insurance premiums, nor on the capital to base the annuities; nor a sufficient protection to guarantee the payment of the compensation seeing that this comes only after many other privileges. (See Art. 7340.)

18.—There is nothing in the Act to assimilate industrial diseases to labor accidents; there is nothing also dealing with the means to be taken by employers towards the prevention of accidents.

The workmen did not limit themselves to simply submitting their complaints and troubles but they have also suggested means the application of which would improve the Act considerably.

We wish to state that all labor organizations of the Province of Quebec, without a single exception, are unanimous in their request for a Workmen's Compensation Act based on the principles on which they all have agreed.

GENERAL PRINCIPLES

Here are some of the general principles upon which the labor group wishes to see the Act drawn up :

1.—The determination of the compensation claims, the administration of the accident fund and the payment of the compensation shall be under the administration of a Board of not less than three Commissioners. The cost of administering the Act will be borne by the Province.

2.—a) All the employees coming within the scope of the Act will be under a system of compulsory state insurance under the administration of the Board.

b) The contributions to the insurance fund will be borne exclusively by the employers. To facilitate contributions to the fund, they will be grouped together according to the risk of accident in their respective industries.

3.—All medical, surgical and hospital fees and attention will be included and supplied in case of injury and industrial diseases.

4.—The Board will have power to make rules and regulations for the prevention of accidents, and safety committees, composed of employers and employees, will be established in the various places of employment, and first aid appliances will be installed.

Indemnity in Cases of Death

5.—The following will be the scale of compensation paid in case the accident results in death :

a) Funeral expenses of the deceased not to exceed \$150.

b) When the widow or invalid husband is the sole dependent, monthly payment of \$40 for life, and a lump sum of \$100 inside of thirty days from the date of death.

c) When the dependents are a widow or invalid husband, and one or more children, a monthly payment of \$40, and supplementary monthly payments of \$10 for each child under sixteen years of age, the total amount not to exceed 75 per cent of the wages of the deceased.

d) When children are the only dependents, a monthly payment of \$15 for each child under sixteen years of age, the total not to exceed \$60 per month.

If the widow remarries, the monthly payments cease, but she is to have definite lump sum in lieu thereof equal to two years of her compensation payments, but the monthly compensation continues to be paid to the children.

e) When dependents are other than the above, enumerated in sections b, c and d, a reasonable monthly payment, proportionate to the pecuniary loss caused these dependents by the death of the victim, to be determined by the Board may be paid, but this must not exceed \$60 per month. This compensation, however, will be paid only as long as, in the opinion of the Board, the worker would have contributed to their support had he lived.

Permanent or Temporary Total Incapacity

6.—The compensation for permanent total incapacity will be two-thirds of the weekly wages of the worker, during his life, with a minimum of \$12.50 per week.

The compensation in case of temporary total incapacity, will be the same as for permanent total incapacity, but only so long as the incapacity lasts.

Permanent or Temporary Partial Incapacity

7.—The compensation in case of permanent partial incapacity shall be 66⅔% of the difference between the weekly wages the worker earned before the accident, and that which he can earn after the accident. This compensation is to be paid him during his life time. If the diminution of earning power is not more than ten per cent, the Board may fix a lump sum as compensation which may be paid the worker permanently.

In case of temporary partial incapacity, the same compensation will be paid him but only during the continuance of the incapacity.

8.—Payments for injuries will be computed when three days have elapsed after the disability has been incurred.

9.—All workers will come under the application of the law, with the exception of out workers, domestic servants, farm workers and executive officers.

10.—Occupational diseases shall be considered the same as accidents and the victims to be indemnified under same rates and conditions.

The labor group has supplemented these general principles with a comparative statement which permits them to gauge the operation of the Act as it is today and what it would be if it was amended according to their recommendations:

COMPARATIVE STATEMENT OF THE COMPENSATION ACT

	<i>PRESENT LAW</i>	<i>SYSTEM OF COMPENSATION SUGGESTED BY ORGANIZED LABOR</i>
Administration.	By the Circuit Court for cases of less than \$100; by the Superior Court for cases of more than \$100; but you must first be authorized by a judge before you can sue under the Compensation Act; this must be done by a petition that very few workingmen are able to fill; hence the necessity to apply to a lawyer.	Under the system that we preconise, the Act would be administered by a Commission of not more than five members who will hold office during good behaviour; the commissioners shall hear all cases without any intervention of solicitors or attorneys, except by special authorization of the Board.
Insurance.	Employer is responsible individually.	Collective liability system by group of industries, through a compulsory insurance.
Method of paying compensation.	By employer.	By Board, from the accident fund.
Injuries covered.	Accidents which arise out of and in the course of the employment.	Accidents arising out of and in the course of the employment and a fortuitous event.
Reports of accidents by whom given.	Employer to a factory inspector inside of 48 hours of the accident.	Employer must report to Board inside of three days of the accident, under a penalty not exceeding \$500. This notice shall also contain the nature, cause, time and place of the accident.
Nature of notice of accident by workman or dependent.	No notice required.	Notice of the accident must be given the employer by the workman or by someone on his or her behalf, or by a dependent in case of death.
Time limit for claim.	12 months.	12 months.
Members of workman's family entitled to compensation.	Surviving consort, not divorced or separated, legitimate children, natural children acknowledged before the accident, ascendants of whom the workman was the principal support.	Wife, invalid husband, mother, father, grand-parents, step-parents, daughter, son, grand-children, brother, sister, half-brother, half-sister, and a person who stood <i>in loco parentis</i> to the workman.

	<i>PRESENT LAW</i>	<i>SYSTEM OF COMPENSATION SUGGESTED BY ORGANIZED LABOR</i>
Exclusions.	Commercial employees, employees on sailing vessels, farmers, domestic servants, all workers earning over \$1,500 per year and workmen who usually work alone even if they work usually with one or more other workmen.	All workers employed in industry and commerce come within the scope of the Act, except outworkers, farm workers, domestic servants and executive officers, not exposed to any hazard of the industry carried on.
Minimum and maximum amount of compensation to be paid.	Minimum, \$1,500. Maximum, \$3,000.	75% of the workman's average wages, but not less than \$12.50 per week unless wages are less than \$12.50 per week, then the amount of wages.
Maximum amount of wages on which to base compensation.	50% on all wages up to \$1,000 per year, and 25% on all over \$1,000 up to \$1,500. Overtime earned not to be included in the above amounts	All wages earned up to \$2,000, all over that amount not taken into account.
Permanent total disability.	50% of wages earned up to \$1,000 and 25% on the next \$500, maximum to be paid \$3,000 in all.	66 $\frac{2}{3}$ % of workman's average wages payable for life.
Permanent partial disability.	50% of the difference in wages before and after the accident, when \$3,000 maximum is reached, payments cease.	66 $\frac{2}{3}$ % of the difference in earning capacity before and after the accident, payable for life.
Temporary total disability.	50% of wages as long as the disability lasts.	66 $\frac{2}{3}$ % of wages payable as long as the disability lasts.
Temporary partial disability.	No provision.	66 $\frac{2}{3}$ % of difference in earning capacity payable while disability lasts.
Waiting period.	7 days if temporary; 1st day if permanent.	Three days if less than ten days' disability; if ten days or more, then from date of accident.

COMPARATIVE STATEMENT OF THE COMPENSATION ACT (Continued)

	PRESENT LAW	SYSTEM OF COMPENSATION SUGGESTED BY ORGANIZED LABOR
<i>Compensation in case of death:</i>		
Funeral expenses.	\$50.00 by employer, includes medicine.	Maximum, \$150 for funeral expenses.
Widow or invalid widower without children.	The sum of four years' wages of the deceased workman; minimum, \$1,500, maximum, \$3,000.	\$40.00 per month for life. The widow to receive a lump sum of \$100, within one month after the death of her husband. If widow remarries, payments cease and a lump sum equal to two years' payments is given in lieu thereof.
Widow or invalid widower with children.	No allotment for children having a living parent.	Above their personal allotment, the widow or invalid widower will receive \$10 additional for each child under 16 years of age, but not in the whole exceeding 75% of the deceased workman's yearly wages.
Children only.	The sum of four years' wages of the deceased workman; minimum, \$1,500, maximum, \$3,000.	\$15.00 per month for each child under 16 years of age, but not in the whole to exceed \$60 per month.
Other dependents.	To direct ascendants. If the deceased workman was the principal support at the time of accident four years' wages. Maximum \$3,000; minimum, \$1,500.	A sum determined by the Board to be reasonable and proportionate to the pecuniary loss, but not to exceed \$30.00 per month to each of the dependents, and not exceeding in the whole \$60.00 per month.
Deduction of wages of workman by employer.	The employer shall not deduct any part of the workman's wages even with the consent of the workman to reimburse himself for the compensation allowed the workman, but the employer may deduct from the amount of the indemnity any sum due him by the workman at the time of the accident.	No employer can either directly or indirectly deduct from an employee's wages, any part of any sum which the employer is or may become liable to pay to the workman as compensation, nor can any workman in any manner, contribute to his employer for his liability to pay compensation.
When compensation not payable.	When the power used is that of men or animals, or by means of sails; or if the disability lasts only seven days; or if the accident was brought about intentionally by the person injured; or if a foreign workman or his representatives, at the time of the accident, do not reside in Canada, nor after he or they cease to reside in Canada; or if the workman earns over \$1,500.00 per year; or if the workman refuses to submit to a medical examination or opposes same in any way.	For the first three days of disability; or if the injury (unless it results in death or serious and permanent disablement) is attributable solely to the serious and wilful misconduct of the workman; or if the workman in the case of an industrial disease misrepresented his condition in writing on entering the employment; or if the workman fails to present himself for medical examination, or a surgical operation when ordered by the Board; or if the workman persists in unsanitary or injurious practices which tend to retard or imperil his recovery.

	<i>PRESENT LAW</i>	<i>SYSTEM OF COMPENSATION SUGGESTED BY ORGANIZED LABOR</i>
Compensation payable for injuries received while working in another province when workman is resident in the province.	No provision.	No compensation is payable when the accident happens outside of Quebec, except in a case where the accident happens on a steamboat, ship or vessel, or on a railway, and the workman is a resident of Quebec and the service is performed both within and outside of Quebec.
Compensation payable when dependents are not resident in the province.	A foreign workman or his representatives shall not be entitled to compensation provided unless at the time of accident he or they reside in Canada. If he or they cease to reside in Canada, then no further compensation will be paid in respect of the accident	Non-resident dependents are not entitled to compensation unless the law of the country in which they reside would give compensation to residents in Quebec, but the Board may, notwithstanding, award compensation to a non-resident dependent in any case where it deems proper.
Compensation how payable.	Monthly, or in case of temporary incapacity is payable at the same time as the wages of the other employees, but in no case to exceed 16 days between payments.	Payment shall be made periodically at such times and in such manner and form as the Board may deem advisable, but in no case to exceed 16 days between payments.
Medical aid benefits.	\$50 paid by employer, this also to include funeral expenses.	Full expenses taken from accident fund, paid by the Board.
First aid appliances.	No provision.	Board may order employer to install First Aid Appliances approved by the Board.
Re-examination of injured workman and readjustment of compensation.	Employer may demand an examination by his doctor, but if the injured workman objects, then a doctor chosen by the workman shall be present at the examination. After four years, no examinations allowed.	Board may require workman to submit to a medical examination, and from time to time review, diminish, increase or discontinue compensation at the discretion of the Board.
Compensation for industrial diseases.	No provision in the law.	An industrial disease is treated as the happening of an accident, and compensation is payable in the same manner as for an accident.

OPINION OF THE EMPLOYERS

The group of employers represented by the Quebec Division of the Canadian Manufacturers' Association, was represented at each of the public sittings of the Commission. This association presented a list of recommendations in memo form and a draft of the Act incorporating the amendments proposed by them.

These recommendations are summed up as follows:

1.—It is suggested that the present Act apply to lumbering and pulpwood industries in all their branches in addition to the industries at present covered.

2.—That the Act shall not apply to accidents happening outside the Province of Quebec unless the workman was engaged in the Province of Quebec, and is not entitled to compensation under the laws of the Province where he was working at the time of the accident.

3.—That the Act apply not only to municipal corporations but also to provincial and federal governments when these governments execute work which would come under the Act if carried out by private concerns.

4.—That the wage limit coming within the scope of the Act be raised from \$1,500 to \$2,000.00.

5.—That the compensation be paid as a pension instead of in a capital lump sum unless the annual pension be less than \$50.00.

6.—That the grant for funeral expenses be increased to \$100.

7.—That all the medical, surgical and hospital treatment shall be borne by the employer for a period not exceeding six months, providing the workman accepts the choice of doctors, surgeons and hospital as made by the employer.

8.—That in cases of fatal accidents the compensation be paid to dependents in the form of a pension created by a capital representing four times the victim's annual salary; this capital not to be less than \$2,000 nor more than \$4,000.

PROCEDURE

9.—a) Whenever a workman is injured by an accident to which this Act applies, he or his representative shall, within two weeks from the date of such accident, deliver a written notice to his employer. In default of such notice being given within the said delay no claim shall lie in respect to such accident, whether under this Act or under the common law, unless the claimant prove that such default was due to irresistible force or other reasons deemed valid by the judge.

b) Should the employer and the claimant fail to agree as to the amount of

compensation, either party may bring the case before the judge by means of a written notice to the prothonotary of the judicial district in which the accident occurred.

c) The prothonotary shall then fix a date for the investigation of the case by the judge for the time being assigned to such cases, not later than three weeks from the day upon which the notice was received. Upon the day so fixed the parties shall appear either in person or by attorney, with such record and witnesses as may be necessary before the judge, who shall then use such means as he may deem advisable to bring the parties to a settlement. If such a settlement is arrived at the judge shall give immediate effect thereto by a formal judgment rendered after trial of the issues. In no case, however, shall the judge so ratify any settlement unless he has seen the injured workman or in the case of fatal accident one or more of his dependents or a representative on his or their behalf.

d) If there be no settlement, the judge shall forthwith determine, after hearing such witnesses as may be necessary, the applicability of the Act, the wages upon which the compensation, both for total temporary and for permanent disability should be based, and such other points as may be necessary save the existence and duration of total temporary incapacity and the degree of permanent incapacity adjourning the case if necessary, for a period of not more than one week.

e) The decision of the judge, upon all points other than incapacity, shall be susceptible of appeal to the Court of King's Bench within a delay of fifteen days. If the Court of King's Bench finds that the Act does not apply, it shall render judgment dismissing the claim, which judgment shall be final. Otherwise, the Court of King's Bench shall adjudicate upon all the questions raised in appeal, and shall return the record to the judge who first heard the claim. The latter shall then, in due course, render judgment in accordance with the rulings of the Court of King's Bench and the findings of the Medical Board. Such latter judgment shall be final, unless the judge has failed to follow the rulings of the Court of the King's Bench, in which case an appeal shall lie to such Court, as a Court of last resort, but only upon the allowance granted by a judge of such Court upon a petition which must be presented within fifteen days from the date judgment was appealed.

f) If there be no agreement between the parties as to the duration of the total temporary incapacity and the degree of permanent incapacity, and the judge decided that the Act applies, he shall forthwith appoint a Medical Board for the examination of the injured workman, composed of three physicians or surgeons, one nominated by each party and one, who shall act as chairman, by the judge himself, unless both parties agree upon a sole medical referee. The Medical Board shall report upon the probable duration of the temporary incapacity and the degree of permanent disability.

g) The majority decision of the Board as to the existence of total temporary disability shall be final, and so soon as such a report is received by the judge, he shall order the employer to pay to the injured workman the compensation provided for by the Act, unless the employer has appealed against the decision of the judge as to the applicability of the Act, in which case no such compensation shall be payable unless and until the Court of King's Bench renders judgment ruling that the Act does apply. If the employer be ordered to pay such compensation, he shall be entitled to have the injured workman re-examined by the Board at intervals of not less than one month, and his liability to continue such payments shall depend upon the majority report of the Board, which shall be forthwith transmitted to the judge, a copy being sent to each party.

h) If the Board has reported that it was impossible to determine, at the first examination, the degree of permanent disability, the judge or the prothonotary shall order the injured man to attend for a second examination, and shall send a copy of such order, by registered mail, to the employer and to each member of the Board. The Board at the second examination shall fix as precisely as may be the degree of permanent incapacity, and the chairman shall send a report to the judge, with a copy to each party.

i) The unanimous decision of the Board as to the degree of permanent incapacity shall in all cases be final, and the judge shall render judgment in accordance therewith. If the decision of the Board be not unanimous, the judge may, upon the notice of either party and after due consideration of the circumstances of the case and the nature of the injuries, order an examination by the nearest branch of the Central Medical Board. The majority decision of the Central Medical Board as to the degree of permanent incapacity shall be final, and the judge shall render judgment in accordance therewith.

The costs of transportation of the injured workman, which shall be fixed by the judge's order, shall be advanced by the employer, but shall be borne ultimately by the party against whose contentions such Board decides.

j) The physician or surgeon nominated to the first mentioned Board by the employer shall be remunerated by the latter, and the fee of the other members of the Board and of the Central Medical Board shall be fixed by the judge in accordance with the tariff established by the Lieutenant Governor in Council. Such fees shall form part of the costs of the case. The Central Medical Board shall consist of two branches, one in the City of Quebec and one in the City of Montreal.

k) Should any injured workman refuse or neglect to submit to any examination as ordered by the judge, or to any test ordered by the chairman of the Medical Board, his claim shall be dismissed by the judge.

l) All proceedings under this Act shall be instituted by means of a simple written notice to the prothonotary of the judicial district in which the accident occurred.

m) All notices to parties or witnesses shall be sent by registered letter by the prothonotary and notice so sent shall have the full force and effect of a subpoena duly issued and served.

n) No formal pleadings shall be necessary before the judge, but all evidence given before him shall be taken down by an official stenographer, unless claim is made only with respect to total temporary incapacity.

o) In appeals to the Court of King's Bench the usual procedure shall be followed. All appeals with respect to claims under this Act shall be heard by three judges only.

p) All claims in virtue of this Act shall be prescribed by one year from the date of the accident, save the action to revise.

q) Any contract or agreement in contravention of the provisions of this Act shall be null and void; provided that the parties to any claim may, by simple application to the judge, obtain judicial ratification of any settlement arrived at between them. A judgment ratifying any such settlement shall have the same force and effect as a final judgment after trial of the issues.

r) At any time before the lapse of four years from the date of the accident, the case may be reopened on the ground of alleged aggravation or diminution of the disability of the injured person.

The injured workman or the employer may so reopen the case by sending a written notice of his desire to do so to the prothonotary of the judicial district in which the claim was originally disposed of, accompanied by affidavit of a licensed and practicing physician or surgeon of this Province, setting forth that he has examined the claimant, and that in his opinion there has been a diminution or aggravation of the incapacity of at least 10% since the date of the last examination ordered by the judge or since the date of the judgment ratifying a settlement, as the case may be, provided that the employer may, in case the workman has refused to submit to a medical examination, file in lieu of such affidavit, an affidavit setting forth such refusal and the fact that the deponent has reasonable grounds for belief that there has been a diminution of incapacity as aforesaid.

As soon as the prothonotary has received such notice accompanied by the required affidavit, the case shall proceed in the same manner as the original claim.

s) A printed copy in the French and English languages of Articles 18 to 25 inclusive of this Act shall be posted by every employer or workmen subject to this Act, in the general office, in the pay office and in every department of his establishment.

t) Nothing contained in this Act shall be interpreted as doing away with any of the common law rights of action belonging to any person who cannot avail themselves of this Act. The prescriptive period for such common law rights

of action shall, with respect to any accident for which a claim to compensation made under this Act, has been dismissed on the ground that this Act does not apply thereto, commence from the date of the final judgment dismissing such claim.

SECURITY OF THE CLAIM

10.—a) Every employer not holding a permit as provided for in paragraph (b) hereof, who has in his employ workmen subject to the provisions of this Act shall, within sixty days after the same has come into force, effect insurance with an insurance company licensed to carry on the business of liability insurance in this Province, covering his liability under this Act with respect to all workmen in his employ, and shall maintain, increase or vary his insurance in such manner as may be necessary to keep all such workmen so covered at all times. Failure to comply with the provisions of this paragraph shall render the employer liable to a penalty of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00).

b) The Minister of Public Works and Labor or his representatives shall issue to every employer, who deposits with the Provincial Treasurer a surety bond or securities approved by the latter, a permit relieving him from compliance with paragraph 10a.

c) Every insurance policy covering employers' liability for accidents to which this Act applies shall contain provisions to the following effect:

1. That, as between the employee and the insurer, notice to or knowledge of the accident on the part of the employer shall be deemed notice to or knowledge of the insurer; and

2. That the insurer shall be jointly and severally liable with the employer for the amount of any judgment for compensation under this Act with respect to any accident happening during the life of such policy. If any such policy does not contain such provisions it shall be construed with respect to any such accident happening sixty days or more after this Act has come into force, as if such provisions were therein contained.

d) Whenever any employer, who has undertaken as general contractor any contract or operation, engages a sub-contractor to replace or assist him in the execution of such contract or operation or any part thereof, he shall ascertain that such sub-contractor has complied with the provisions of the Act. In default of so doing, he shall, in the case of an accident, be liable jointly and severally with such sub-contractor for any compensation to which such employee may be entitled under this Act.

INDUSTRIAL DISEASES

They do not consider that the present conditions in the Province of Quebec require that these diseases come beneath the Act, but they ask that if the Com-

mission sees fit, to recommend compensation for industrial diseases on the same plan as that of workmen's accidents that it be based on the French law of October 25, 1919.

Summary of Amendments Recommended by the C. M. A.

1.—Extend the application of the Act to the pulp and lumber industries in all their branches and to the public works executed by provincial or federal governments.

2.—That all medical, surgical and hospital expenses for a period of six months from the date of the accident be borne by the employer.

3.—To increase the grant for funeral expenses to \$100.

4.—To pay the compensation in cases of fatal accidents in annuities instead of in a lump sum, the capital fixing these annuities not to be less than \$2,000 nor more than \$4,000.

5.—To increase the maximum wage coming under the application of the Act from \$1,500 to \$2,000.

6.—The creation of a new procedure system handled by prothonotaries; ratifications of agreements and judgments to be made by a judge with right to appeal to the Court of King's Bench.

7.—The creation of a Medical Board of three members, one appointed by the employer, the second by the injured workman and the third by the judge to decide upon the degree of incapacity.

8.—The creation of two Central Medical Boards to decide in last resort in cases of disagreement of the first Medical Board.

9.—Establishment of compulsory insurance for all employers excepting those who obtain permits to insure themselves after having deposited a guarantee bond in the hands of the Provincial Treasurer.

10.—To make the general contractor jointly and severally responsible with all sub-contractors in cases of labor accidents.

The memorandum presented by the Canadian Manufacturers' Association as well as its draft of an Amended Compensation Act are annexed to the present report.

JOINT CONFERENCE

Despite the wide difference of opinion between employers and workmen which seems to exist at first sight, your Commission realized that both sides had pointed out gaps in the Act. On many points, both sides agreed as to the desired aim but it was on the manner of proceeding and overcoming the difficulties that they disagreed and therefore at the suggestion of Commissioner Gus. Francq, efforts were made to have a Joint Conference outside of the Commission so that both sides might be able to reach an agreement on some main points or at least discover means which might be taken to fill the gaps of which both the employers and the employees complain.

While this Conference did not give all the results expected of it, it at least showed beyond doubt that the Act could be considerably improved. In order to facilitate the work of this Conference, your Commission thought it well to present them a questionnaire with sixteen questions all dealing with a fundamental principle on which there had been either differences of opinion or disagreement or which were open for betterment.

The questionnaire follows:

- 1.—Who should come under the Workmen's Compensation Act? What are the exceptions that should be made?
- 2.—What industries should be excepted if any?
- 3.—Who should give notice of accidents?
- 4.—What should be the rate of compensation?
 - a) In cases of temporary incapacity,
 - b) In cases of partial permanent incapacity,
 - c) In cases of total permanent incapacity,
 - d) In cases of death.
- 5.—Should these compensations be paid in a lump sum or in pension form? In what cases? To what amount? And to whom?
- 6.—Funeral expenses.—What should be the grant for funeral expenses?
- 7.—Medical and hospital expenses.—Who should pay them and to what amount if there is need to fix one?
- 8.—Should selection of hospital, doctor or surgeon be made by the employer or the injured workman or the two jointly?
- 9.—What should be the waiting period?
- 10.—What should be the delay allowed for claiming indemnity?
- 11.—What do you suggest to do away with litigation?
- 12.—Do you think that a Board or organism of some kind should be created to look after the operation of the Act and the settlement of cases of accident?
- 13.—Will insurance be compulsory for all industrial and commercial firms coming under the Act?

14.—If so, in what way?

- a) By an exclusive State fund,
- b) By a State fund and by insurance companies or mutual societies,
- c) By a State fund and by insurance companies, mutual societies or a self-insurance system with a guarantee given to the government or to the organism created for this purpose.

15.—Would it be necessary to create a Board of Control of insurance?

16.—What guarantee should be given the injured workman?

Here is the report of this conference:

REPORT OF THE JOINT CONFERENCE

*To His Honor Judge Roy, Chairman,
and the Members of the Royal Commission on Workmen's Compensation
Legislation, Province of Quebec.*

Sirs:

As requested by your Honour and members of the Royal Commission on Workmen's Compensation Legislation in the Province of Quebec, a Joint Committee, composed of five representatives of Labor and five representatives of Employers of the Province has met on three occasions to discuss and deliberate upon the sixteen questions submitted by your Honourable body to us.

Three meetings were held, the first on November 11th and the second on November 14th while the third was held on November 19th. On each occasion lengthy discussions took place concerning the different questions submitted by your Commission. These discussions were of the most agreeable nature, the representatives earnestly striving to work together towards the improvement of the law of Workmen's Compensation in the Province of Quebec, while at the same time maintaining certain fundamental principles of their respective briefs already submitted to your Honourable body.

It was unanimously agreed by all the representatives that certain improvements in the Act could be effected and were advisable in order that this legislation might be kept abreast of changing conditions in the industrial and economic life of the Province and that features of the Act now open to certain abuses should be so changed as to give both the employer and the employee the fullest possible measure of protection and fair treatment. Consequently several important principles were agreed upon.

That a large number of men should be brought within the scope of the Act was agreed, so far as the broad principle was concerned, but in the application of this principle there was division of opinion. The representatives of the employer held that this should be achieved by a definite increase of the qualifying wage limit as suggested in their brief, insisting that the operation of the Act should not be withdrawn from the judiciary.

On the other hand it was held by the representatives of Labor that the application of the Act to a larger number of employees should be by the admission to the privileges of the Act of all those who are exposed to the hazard of the industries which should come under its operation.

Guarantee of compensation.—That each and every injured employee coming within the scope of the Act and having a *bona fide* claim under this legislation, should be, as far as possible, guaranteed his compensation, was agreed to by the representatives of both sides.

Representatives of the employers in discussing this question pointed out that in their brief submitted to your Honourable body they had provided for this in their proposal that the Act be so amended as to provide for compulsory insurance, with the option of self insurance, should the employer desiring to carry same provided the government with suitable guarantees of his ability to maintain and carry out insurance within his own organization. Agreeing that compensation should be guaranteed as far as possible under the Act the representatives of the employers held that to the suggestion contained in their brief the Commission should adhere.

The Labor representatives, while admitting that the principle of employers carrying their own insurance under proper guarantee is acceptable to them and joining with representatives of the employers on the broad principle of guarantee of compensation awards, were unanimous in their opinion that a Commission be formed to administer the Act and guarantee under some form of State Insurance the payment of all claims for compensation coming within the scope of the Act. Again in principle the respective representatives agreed but in the application they deferred and adhered to their recommendations to your Commission.

On the question as to whom should the law apply as to compensation and what exceptions should be made, the Labor delegates expressed the wish that all persons exposed to the hazard of the industrial and commercial establishments should be brought under the Act irrespective of the amount of their remunerations. The representatives of the employers expressed the view that no workman engaged in industries or establishments not covered by Article 1 of the Act should be included, and that those workmen engaged in the industries covered who earn more than \$2,000 per annum should be excluded as being in a position to protect themselves by accident insurance.

Again a difference of opinion was expressed between those representing the employers and those representing labor with respect to the question as to what industries should be excluded from the operation of the Act, if any. The representatives of Labor held that all should be included except six classes, viz., farm laborers, employers' family, commercial travellers, domestic workers, outworkers and executive officers. As the representatives of the employers held to the view expressed in answer to the question concerning the application of the law, no agreement could be reached on this point.

By whom should notice of accident be given? — All the representatives were agreed that notice of accident should be signed by both the employer and the employee, or by representatives of both parties and forwarded as soon as possible after the accident to such governmental department as may be determined by the Act.

What should be the rate of indemnity? — No agreement could be arrived at, each party adhering to their briefs submitted to the Commission.

Should the indemnity be paid in a lump sum or in the form of a rent? — In what cases? — Up to what amount? — And to whom? — In discussing this group of questions the representatives of both employers and labor agreed that in the case of death, total or partial disability, where the amount of compensation is greater than \$500 it would be advisable to pay the compensation in the form of a rent. Where the amount of the compensation is less than \$500 such compensation should be paid in a lump sum. In case of temporary incapacity the compensation should be paid weekly or fortnightly.

Funeral expenses. — *What should be the rate?* — All parties agreed that the present allowance of \$50 is not adequate. Labor representatives urged for an allowance of \$150. Employers maintained that \$100 was sufficiently liberal for this purpose under the Act. No agreement was reached.

Medical and hospital expenses. — Contingent upon their choosing the attending physician and hospital, the employer representatives agreed that the medical and hospital expenses resulting from an accident should, for a period of six months, be borne by the employer. The labor representatives, however, felt that so far as possible the employee's opinion should be respected regarding this matter. The labor representatives held that injured workmen should not be required to pay any medical or hospital charges attached to an accident by reason of his employment. The same should be a charge on the industry or employer.

What should be the period of waiting after any accident before compensation is paid? — Both representatives of labor and employers agreed that the present provisions of the Act regarding the period of waiting, should be retained.

What should be the delay allowed before claiming indemnity? — It was agreed both by the labor and the employer representatives that the present provision of one year under the Act, as now provided, be retained.

Diminution of litigation. — There was hearty agreement between representatives of labor and employer representatives that something should be done to amend the present Act as to diminish to the greatest possible degree the cost of litigation. All agreed that costs should be reduced to a minimum in order to insure that the injured men should receive the maximum of compensation to the minimum cost to himself and to the community.

Again however, differences of opinion, that were clear cut and which would not permit of agreement, arose as to the methods to be used to prevent litigation. The representatives of the employers held that their suggested form of procedure would clarify the situation and reduce litigation and legal expenses to a minimum, without doing away with the common law right of both parties.

Representatives of labor held, however, as in the matter of guarantee of compensation that the Act should be brought under the administration of a Commission. No agreement on this point could be reached. The representatives to the conference speaking for the employers insisted that the Act should not be withdrawn from the administration of the judiciary.

Is there any necessity to form a Board of Control of Insurance? — The representatives of the conference not fully understanding the meaning of this question felt that if the provisions which the labor representatives have suggested to the Government on their part regarding the formation of a Commission, or the provisions which the employer representatives have suggested regarding amendments to the law and guarantees regarding insurance which either were accepted by the Government, that the necessity for a separate Board of Control of Insurance, would be eliminated.

It will be noticed in the foregoing that on several points of fundamental importance the representatives of the employers and of labor were able to agree but that in the matter of methods of application differences of opinion arose which could not be bridged.

The joint committee in its deliberations have kept always in view the desire

of assisting your Honourable body in the compilation of its report and desires to express the unanimous hope that what has taken place in these deliberations will prove of assistance and in some measure fulfil the functions for which the Commission was formed.

The above memorandum is submitted to your Honourable body as representations of the Joint Committee representing Labor and Employer representatives to this Conference, and to which they have affixed their respective signatures.

Representing the employers:

JULIAN-C. SMITH,
H.-M. JAQUAYS,
J.-A.-S. ATWOOD,
P.-E. JOUBERT,
JAMES-N. DOYLE,
JOHN-K. LEONARD.

Representing the employees:

J.-T. FOSTER,
JOE. WALL,
J.-L. LABRECHE,
DAVID GIROUX,
THOMAS POULIN.

R.-W. GOULD,
Secretary, Joint Committee.

Suggestions from the College of Physicians and Surgeons of the Province of Quebec

The Commission has received from the College of Physicians and Surgeons of the Province of Quebec, the following report:

Amendments suggested by the College Executive.

In sequence to many meetings for special study of the proposed revision of the Workmen's Compensation Act of the Province of Quebec, the executive of the College of Physicians and Surgeons of the Province of Quebec has the honor to submit to the Commission appointed by the Provincial Government to study the amendments to the Workmen's Compensation Act, the following suggestions:

I

a) The employer should pay the medical and hospital expenses. This obligation exists in all the principal countries of Europe and America, and in all the Provinces of Canada, except the Province of Quebec.

b) It would be just that the employer know relatively what would be the amount of these obligations for the medical and hospital expenses.

To this end a schedule (workmen's tariff) could be annexed to the Act of the Province of Quebec as already exists in the French law which was used as the basis of the Province of Quebec Workmen's Compensation Act.

We annex a schedule which met the approval of all the medical profession in the Province of Quebec. (*This schedule is annexed to the report*).

II

a) The court, in case of dispute between employer and employee, could sit as a conciliatory board.

b) If there is litigation, the court should summon obligatory expert board and its conclusions alone would be considered as proof in court.

- c) The expert board should have three members.
- d) These experts may be selected by the court, in case of need, from a list of experts appointed by the government and near the county seat.
- e) In order to avoid criticism from a strictly political point of view, we suggest that the government consult the universities and the College of Physicians and Surgeons of the Province of Quebec as to the selection of these experts.

The executive recommends, moreover, the submitting to the government commission the following amendments adopted by the Quebec Medical Society, by various other medical societies of the Province and by the Conference of French Speaking Doctors of North America (1922). These amendments are entitled:

Medical Tariff and Hospital Expenses.

Amendments to paragraph B of article 7323. Replace this paragraph by the following:

“The employer bears in addition the medical expenses, drug store, hospital and funeral costs. The latter are set at the sum of \$25.00.

The victim has always the right to select his doctor. In this case, the employer can be held responsible for the medical expenses only up to the amount set in conformity with a tariff which shall be established by a decree of the Minister of Labor, recommended by a special Commission including representatives of doctors, labor unions, employers' associations, insurance companies against labor accidents, and which can be modified only every two years.

If the doctor attending, be he selected by the employer or the employee, deems it necessary to send the patient to an hospital, these expenses shall be borne by the employer.

The medical and drug store expenses will also be paid by the employer. Doctors or hospitals can directly sue the employer.”

STUDY OF VARIOUS SYSTEMS OF WORKMEN'S COMPENSATION

Though it may be claimed that what is being done elsewhere is of little or no interest to us, it is nevertheless true that a study of Workmen's Compensation Acts in other countries is interesting and even useful because it shows what has been accomplished and the manner in which this problem, which is about the same everywhere, is being treated.

The following memorandum has been prepared by Commissioner Francq, who has gathered his information at their very source:

SKETCHES OF WORKMEN'S COMPENSATION ACTS IN FRANCE

This law was passed in 1898 and modified in 1902, 1905, 1906, 1917, 1919, 1920, 1921, 1922 and 1923.

1.—**Accidents covered.**—Those, even casual, happening by reason of or in the course of work and during working hours, that is from the moment the workman is at the disposal of his employer until such time as he regains the liberty of his person.

2.—**Beneficiaries under the Act.**—All wage earners of industrial and commercial enterprises (except office employees), of forestry and agricultural exploitations, servants and house attendants (law of August, 1923) no matter what their wages are. But in the case of those earning more than 4,500 francs the compensation is the annuity deriving from that sum and for the surplus up to 15,000 francs, the benefit is then a quarter of these annuities and above 15,000 francs the benefit is one-eighth unless there are other provisions.

3.—**Is insurance compulsory?**—No, but compensation is. However, employers have to pay to a guarantee fund a supplementary tax which is added to the principal of the tax on patents (about 4 francs a thousand and this tax varies); those who are not insured must pay an additional surtax and in case of accident they have to pay to the "Caisse de Consignation" the full amount of the capital to guarantee the pension. Generally all the employers are insured.

4.—**Who pays the insurance premiums?**—The employer exclusively without taking a penny from the employee. The latter, however, has the right to take out a policy himself and pay the premiums if he is of the opinion that the indemnities fixed by the Act are not high enough, but this in no way relieves the responsibility of the employer.

5.—**Rates of indemnities.**—For absolute and permanent disability a pension for life equals to two-thirds of the yearly basic earnings.

For partial and permanent disability an annuity equal to half the reduction in salary that the accident caused.

In cases of temporary disability a daily indemnity is paid equal to half of the daily earnings at the time of the accident, no matter what the wages are or in what way they are paid in money or otherwise. This compensation must be paid even for Sundays and holidays. The indemnity is due from the first day if the disability lasts more than ten days but if it lasts less than ten days the indemnity is due only from the fifth day on. It is payable on the regular pay days and at the usual pay offices of the industry and that until the consolidation of the wound or until the day the incapacity has been declared permanent.

In cases of death.—A life annuity equal to twenty per cent of the basic annual earnings is paid to the surviving consort with an additional annuity of fifteen per cent if there is one child; twenty-five per cent if there are two children; thirty-five per cent if there are three children and forty per cent if there are four or more. To orphans a pension of twenty per cent is paid to each. Maximum of the annuities is forty and sixty per cent.

If there is no surviving consort or children each of the dependents and relatives of the victim who are supported by him receive a pension of ten per cent of the annual basic earnings; the maximum of this pension is thirty per cent in all.

A foreign worker, victim of an accident, or his dependents who no longer reside in French territory receive as indemnity a lump sum equal to three times the allowed annual pension.

Funeral expenses are paid by the employers and the maximum set for this is 200 francs.

Medical, drug and hospital expenses are paid by the employer but the victim can make his own choice and these persons can sue the employer directly for payment.

6.—**Notice of accidents.**—*Duties of the employer.*—All accidents bringing about incapacity for work must be reported by the employer or his representatives within the forty-eight hours to the mayor of the locality who acknowledges it and draws up an official report. If in the four days following the accident the victim has been unable to resume his work, the employer must deposit at the mayor's office a medical certificate giving the victim's condition, the probable results of the accident and when it will be possible to know exactly the definite results.

The injured workman or his representatives can make the same declaration of accident under the same conditions within a year after the accident.

Duties of the mayor.—In the twenty-four hours following the deposit of

the medical certificate, and at the latest, in the five days following the declaration of the accident, the mayor must, under penalty of a fine, make to the justice of the peace of the district either a report of the accident or give him a copy of the certificate or make a report that the certificate has not been produced. He must also give notice of the accident in the decreed form to the factory inspector of the district.

Duties and jurisdiction of the Justice of the Peace.—When, according to the medical certificate given him by the mayor or coming from the victim, it seems that the injury is likely to result in death or in permanent disability either total or partial, the justice of the peace must, within the twenty-four hours, hold an investigation in an effort to establish: 1.—The cause, the nature and the circumstances of the accident; 2.—the victims and their whereabouts; 3.—the nature of the injuries; 4.—the rightful claimants who eventually could make a claim; 5.—the daily and annual wages of the victim; 6.—the insurance company or mutual society with which the employer is insured or the guarantee syndicate covering the insurers.

He must visit the victim of the accident if the latter is unable to attend the investigation; he may appoint an expert to assist him in the investigation and also a doctor to examine the victim if the first certificate does not seem satisfactory. The investigation must be closed at the latest within the ten days following the accident. He must notify by registered letter the interested parties of the closing of the inquest and of the deposit of the report at the clerk of the Court. The interested parties have five days in which to review the records and to ask for copies; at the end of this delay the record of the investigation is sent to the judge of the District Civil Court.

The justice of the peace is competent in all cases of half wages, that is in all cases of temporary incapacity until such time as the incapacity becomes permanent. There is no appeal from his decision regarding the setting of temporary indemnity. One of the interested parties can appeal to the Civil Court but only to contest the applicability of the law. The justice of the peace has also jurisdiction in settling disagreements pertaining to funeral, medical, drug store or hospital expenses and his decision is final. His decisions regarding the daily indemnity must be carried out despite opposition, subject to appeal only in cases where the law itself is attacked.

If one of the parties interested maintains, supported by a medical certificate, that the disability is permanent, the justice of the peace must then declare that he is incompetent and transmit this decision to the Civil Court within three days, fixing at the same time, however, the daily indemnity which is paid to the workman until a definite decision is returned by the Civil Court.

7.—Jurisdiction of the Civil Court of the District.—Cases of permanent incapacity or death come under the jurisdiction of this Court, subject to appeal,

according to the rules of common law but the Court must act within a month of the appeal. The interested parties can lodge an appeal.

The president of the District Court, in the five days after receiving the records, shall summon before him the victim or the victim's claimants and the employer, though the latter, if he be insured, can be represented by those who insured him. In cases of agreement the Court shall fix the basic earnings of the victim and the reduction in earnings caused by the accident. In cases of disagreement, the parties are called upon to sue before the Court which decides as in all summary matters. Provision is made for the execution of the judgment. If there is insurance, the ordinance of the president or the decision of the Court in fixing the amount allotted as pension stipulates that the insurer substitutes for the employer. A petition for revision of the indemnity can be made during three years.

8.—**Delays for claims.**—One year is allowed in cases of temporary incapacity and three years in cases of permanent incapacity.

9.—**Legal assistance.**—The benefit of legal assistance is freely given to the victim of an accident or to his claimants before the president of the Court, the Appeal Court and during the proceedings before the justice of the peace and to all the acts of moveable or immovable executions and to all contestations incidental to the execution of judicial decisions.

In order to obtain legal assistance the victim or his claimants have but to inquire of the clerk of the justice of the peace of the district where the accident occurred. The clerk will appoint a bailiff who will draw up the necessary acts and who will furnish all required information.

10.—**Can the workman lose his pension or his half salary indemnity?**—What is due to the victim or claimants relative to the medical, drug and funeral costs as well as the indemnities for temporary disability, that is the half salary, is guaranteed by privilege of the Civil Code.

The payment of indemnities for permanent disability or in cases of death is guaranteed by "La Caisse Nationale des Retraites pour la vieillesse", through a special guarantee fund, should the employer, the insurance companies, mutual societies, or guarantee syndicates fail to meet their obligations.

In case of non-payment by the parties mentioned, all that the victim or his claimants have to do is to go to the mayor of their municipality and present the proof of the credence. They are then given an order on the National Pension Fund.

In case of non-payment of the daily indemnity or of other expenses the worker has but to go to the bailiff assigned to him by the justice of the peace and request him to prosecute the debtor. Satisfaction is always obtained. If through extraordinary circumstances the bailiff fails to act promptly the work-

man has but to make a written complaint, postage free, to the Department controlling the insurance of labor accidents, which department will do the needful at once.

11.—**Guarantee Fund, insurances.**—This guarantee fund is made up by the payment of centimes added to the contributions on letters patent of all the industrial and commercial firms covered by the Workmen's Compensation Act. The National Pension Fund has recourse against the employers and insurance companies whose debts it has paid.

Insurance against labor accidents is obtained through stock insurance companies with fixed premiums, mutual insurance societies or guarantee syndicates. These three forms of insurance are regulated by a consulting committee on workmen's compensation composed of twenty-four members. The manner of their appointment and of the selection of the chairman, the vice-chairman and the secretary are fixed by a special decree. The general expenses are covered by contributions proportionate to the reserve fund of each insurance company or society and fixed yearly for each one.

These three forms of insurance are supervised and controlled by the State and they are compelled to have a reserve fund determined by public administration regulations. A simple decree of the ministry in power can stop their operations if their financial standing does not warrant sufficient guarantee of their solvency.

12.—**Industrial Diseases.**—The workman's compensation act covers all cases of lead and mercury intoxication, serious or chronic under the same terms as labor accidents. The last employer is held responsible to the victim or his dependents with recourse against former employers.

* * *

Labor organizations in France claim 100 per cent compensation, borne by the employer exclusively, they also complain that certain firms refuse to engage workmen who have been victims of accidents and also of the decisions of judges which are often arbitrary. There will be a revision of the Act shortly and the tendency is towards State control for workmen's compensation.

IN BELGIUM

The Workmen's Compensation Act in Belgium is almost identical with that of France. It covers all industrial and commercial concerns and agricultural and forestry exploitations. The insurance is made through insurance companies with fixed premiums, mutual societies and guarantee syndicates. The operation of the Act is under the direction and control of a Labor Accident Commission, its duties being:

- a) to give advice as to the application of the Act;
- b) on the fixing the rate for the computation of life annuities;

- c) on the contributions to the guarantee fund;
- d) on the admission of the concerns to the pension service;
- e) on the admission of common funds of insurance against accidents created by employers and of insurance companies with fixed premiums;
- f) on the fixing of the contributions to be paid for the guarantee fund;
- g) on all questions brought to it regarding compensation of damages suffered through labor accidents.

There is also a fund guaranteeing against the insolvency of the employer, to which contribute all industrial concerns. The amount of this contribution is fixed by the Labor Accidents Commisison.

IN SWITZERLAND

Victims of accidents receive an indemnity of 100 per cent but workmen pay half of the premiums. Insurance is compulsory and covers professional and non professional risks.

IN GREAT BRITAIN

Now that a summary of the French Act has been given, and it is undoubtedly the most effective in existence under the system of individual responsibility and judicial decision due to the mechanism with which it is surrounded and the guarantee through the State fund, let us see what happens in England.

The English Act is based upon the individual responsibility of the employer; insurance is not compulsory though this was recommended by the Gregory Report in 1920; the Act dates back from 1906 and has been revised several times since; while insurance is not compulsory in the full sense of the word, the inspectors or "registrars" bring pressure to bear on the employers to advise them to join an employers' mutual society or a strong stock insurance company.

Rate of indemnities.—In cases of death the widow or dependents of the victim are entitled to 156 times his weekly earnings; if there are children under fifteen years of age, they have right to an additional sum calculated as follows: the average of the father's earnings per week are multiplied by the number of weeks between the date of the accident and the fifteenth birthday of the child; fifteen per cent of this total is the amount allowed the child. If the victim earned less than a pound a week it is considered that his earnings are one pound; if the earnings are over two pounds, it is considered that the earnings are two pounds. The total compensation must not be over 600 pounds.

An example.—Earnings of the deceased father, 30 shillings a week; there are a widow and two children, one of 7 years and one of 14 years.

One child will be 15 in eight years, being	416 weeks
The other child will be 15 in one year, being	52 “
	468 weeks
468 x 30sh.=£702, 15 per cent of £702	£105.6sh.
The widow gets 156 x 30sh., being	£234
Or a total sum in all of	£339.6sh.

The minimum indemnity for the widow is £200; maximum, £300; total maximum for dependents and children, £600.

For total incapacity.—The indemnity is half salary for all workmen earning 50sh. a week or more; for workmen earning less than 50sh. a week the indemnity increases progressively till 75 per cent has been reached following a fairly complicated schedule which has been established.

For partial incapacity.—The same progressive increase is followed but applies only to the difference of the earnings before and after the accident.

It is important to note that in all cases where there are dependents the indemnity is not paid directly to them but to the County Court which acts as trustee and invests this money as it deems in the best interests of the dependents and pays them the indemnity in form of pension or periodical instalments.

Scope of the Act.—The Act covers all manual workers and agricultural laborers no matter what their salary. It also covers non manual workers earning not more than £350 a year. Recently the Act has taken in taxicab chauffeurs, golf caddies, persons employed on ships and fishermen excepting those who are paid by way of shares in the profits of the catch; aviators are also included under the law.

Accidents covered.—All accidents which occur in the course of employment and also occupational diseases, according to a certificate given by a licensed doctor of the district declaring that the victim suffers from an industrial disease and is unable to earn full wages, are covered by the Act.

Those entitled to receive compensation.—In cases of disability, the victim; in cases of death, his dependents.

Dependents.—All members of the family who are entirely or partly supported by the victim are considered as dependents.

Guarantee of the indemnity.—The company insuring, if there is one, guarantees the indemnity; when there is none, the property, goods and immovables of the employer, with priority over all other debts stand as guarantee.

Procedure followed in cases of accident.—The victim must put in his claim as soon as possible after the accident to his employer and before he has left his employ; this notice can be given in writing or verbally to the employer or his representatives, manager, foreman, etc. The legal delay granted for placing a claim is six months from the date of the accident. An agreement can be made between the employer and the employee and if this occurs a memorandum must be drawn up of the conditions agreed upon and sent to the Registrar of the County Court for ratification. It is the registrar's duty to refuse to register the agreement if he deems that the law has not been properly applied, if the indemnity is not high enough, if there has been undue influence upon the victim or if the latter has been defrauded. He can also reduce the costs to the tariff rates. In a word he must not register the agreement unless he is absolutely convinced that the workman has obtained that to which the Act entitles him.

If there is no agreement, a claim can be settled: 1. by proceedings before the County Court; 2. by arbitration of a private referee appointed and agreed to by both parties; 3. by arbitration before a committee of employers and employees if there is one in the district with powers to settle these matters according to law. Usually these cases go to the County Court.

Setting the degree of incapacity.—This is done by the victim's doctor and the employer's doctor; if there is disagreement between the two, one of the parties can appeal to the registrar of the County Court who refers the question to a medical referee, selected from a list of doctors appointed by the Secretary of State. The decision of the medical referee is final.

Industrial diseases.—Application follows the same rules as for accident cases; the employer by whom the victim was engaged during the last twelve months is held responsible; however, the employer can shift the responsibility upon a previous employer if he can prove that the illness was contracted during employment there or again that the illness was contracted partly during his employ and partly during that of another employer. The responsibility is then distributed according to the degree fixed by the medical referee. There are thirty-two industrial diseases which come under the Act.

IN THE UNITED STATES

It is in April 1911, that the first Workmen's Compensation Act was put in force in the United States; since then the movement has developed to such an extent that today all States with the exception of six have an Act of that character on their Statute Books. Alabama, Alaska, Arizona and Kansas are the only States which do not require in some form or another the employer to secure the payment of compensation either by insurance or by the giving of a bond.

Accident Boards — under various names — are provided in all of the States except Alabama, Alaska, Arizona, Kansas, Louisiana, New Hampshire, New Mexico, Tennessee and Wyoming.

Massachusetts, Nevada, North Dakota, Oregon, Porto Rico, Texas, Washington and Wyoming do not permit employers to carry their own insurance.

Insurance in a mutual association is permitted in most States, including California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia and Wisconsin.

State insurance managed by an Accident Board upon the same principles and subject to the same general requirements as those governing Mutual Insurance Associations, is authorized in California, Colorado, Idaho, Maryland, Michigan, Montana, Nevada, New York, North Dakota, Ohio, Oregon, Pennsylvania, Porto Rico, Tennessee, Utah, Washington, West Virginia and Wyoming.

Exclusive State Insurance is in force in Nevada, North Dakota, Ohio, Oregon, Porto Rico, Washington, West Virginia and Wyoming. According to informations from the Labor Department of Washington sentiment is rapidly developing in favor of Exclusive State Insurance.

Compensations—The rate of compensations varies considerably also the period during which compensation is paid; in States where the form of exclusive State insurance is in force compensation is paid during lifetime or while the disability lasts; in some other States, payments stop after a certain period.

In case of death.—Funeral Expenses.—All the laws except those of Alaska, Arizona, California, Illinois, Kansas, Maine, Maryland, Massachusetts, New Hampshire, Oklahoma, Porto Rico, Rhode Island, South Dakota and Texas provide funeral expenses in all cases of death whether or not there are dependents. The maximum limit is \$200 in Idaho, Maine, Michigan, New York, Rhode Island and Wisconsin, while Alaska, Illinois, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Nebraska, New Jersey, North Dakota, Ohio, South Dakota, Utah, Virginia, Washington and West Virginia allow \$150.

Compensation for widows and children.—The compensation for widow or invalid widower varies from 25 to 35 per cent of the yearly wages until death or remarriage; compensation to children varies from 10 to 15 per cent of the father's wages, payments are made up to the age of 16 to 18.

Compensation for alien non-resident dependents.—In Alabama, Hawaii, New Mexico and South Dakota alone are alien non-resident dependents expressly excluded from compensation; in others, they are expressly included, while in other States they are apparently included in the absence of any reference to them.

Compensation for total disability.—The compensation varies from 50 to 75 per cent, but the average is 66⅔ per cent of the wages, maximum is about \$25 per week and the lowest minimum, \$8 per week.

All the Acts, except those of Washington and Wyoming base disability compensation on a percentage of wages, rather than on a flat rate regardless of the wages.

66% per cent of wages is the rule in the following States: Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon (sliding scale), West Virginia and in the federal law.

65 per cent is paid in California, Illinois, Kentucky, Louisiana and Wisconsin.

60 per cent is provided in Alabama, and Idaho (sliding scale), Hawaii, Iowa, Kansas, Michigan, Nevada, Pennsylvania, Texas and Utah.

55 per cent is the basis in Indiana and South Dakota.

Compensation for total disability is payable during the continuance of the disability in Arizona, California, Colorado, Idaho, Illinois, Maryland, Minnesota, Montana, Nebraska, Nevada, New York, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington and West Virginia. In the other States, the compensation is paid for a fixed period of time.

In case of a second injury Minnesota, New Jersey, New York, Ohio, Oregon, Utah and Wisconsin pay out of a special fund any compensation in excess of that for which the second injury by itself would make the employer liable. Massachusetts and North Dakota have adopted the same principle through somewhat less adequate legislation.

Exemptions.—All manual workers are covered by the law in almost every State; in some, all wage-earners without exception are included. Farm labor, domestic service and casual employees are exempted from the operation of the Act in nearly all States, either expressly or indirectly.

Mode of Procedure.—In most States, accident boards have been established to determine all claims for compensation, even when the system of individual liability under stock companies is in force; in some cases, the Board is simply a sort of conciliation board whose decisions must be ratified by the Court; in other cases, appeals from decisions of the Board can only be taken on points of law or in the determination of the degree of disability; nine States have no Board and Courts there settle compensation cases.

IN CANADA

The following comparative table will permit to review easily and rapidly the various systems of Workmen's Compensation in force in Canada. Six of our provinces: Nova Scotia, New Brunswick, Ontario, Manitoba, Alberta and British Columbia have adopted practically the same system and a somewhat uniform legislation as regards the administration which is done by a Commission, mode of insurance, industries covered, exemptions and scope of the Act.

There is variation in the compensation paid for disability as it varies from 55 per cent to 66% per cent of wages; in cases of death, the amount of annuities is also slightly different.

COMPARATIVE TABLE OF COMPENSATION IN VARIOUS PROVINCES OF CANADA

	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia
1. Death: Funeral . . .	\$75	\$100.00	\$50.00 including medicine.	\$125.00	\$150.00	No provision. .	\$100.00	\$100.00.
Widow	\$30.00 per month	\$30.00 per month.	Minimum \$1,500.	\$40.00 per month.	\$30.00 per month.	Minimum, \$2000.	\$30.00 per month.	\$35.00 per month.
Children	Child \$7.50 each up to 16 years. Maximum \$60.00. per month.	\$7.50 each up to 16 years. Maximum 55% of earnings.	Maximum \$3,000.	\$10 & \$15 each up to 16 years. Maximum, 2-3 of wages.	\$7.50 & \$10 each up to 16 years. Maximum \$60.00. per month.	Maximum \$2,500.	\$7.50 & \$10 up to 16 years. Maximum \$60.00 per month.	\$7.50 up to 16 years. Maximum \$65.00 per month.
2. Permanent total disabili- ty.	55% of wages for life. Maximum 55% of \$1,200.00. Minimum \$5.00 per week.	55% of wages for life. Minimum \$6.00 per week.	50% up to \$1,000 and 25% after up to \$1,500. Minimum, \$4 per week.	66 2-3% for life. \$12.50 minimum per week.	66 2-3% of wages Minimum \$6.00. per week.	Maximum \$2,500.	55% of wages for life.	55% of wages for life maxi- mum based on \$2,000.
3. Permanent partial disabili- ty.	55% of differen- ce of earnings.	Amount deter- mined by Board.	50% difference in earnings.	66 2-3 difference in earnings.	66 2-3% differen- ce in earnings.	Maximum \$2,500.	55% difference of earnings.	55% difference in earnings.
4. Temporary total disabili- ty.	55% of wages as long as dis- ability lasts.	55% of wages Minimum \$6.00 per week.	50% of wages.	66 2-3 of wages.	66 2-3% of wages Minimum \$6.00.	Maximum \$2,500.	55% of wages.	55% of wages. Minimum \$5.00.
5. Temporary partial disabi- lity.	55% of differen- ce in earning power.	55% of differen- ce in earning power.	Not specified.	66 2-3% of diffe- rence in earn- ing power.	66 2-3 of diffe- rence in earn- ings.	Not specified . .	55% of differen- ce in earning power.	55% of differen- ce in earning power.
6. Maximum of wages on which to base com- pensation.	\$1,200 per year.	\$1,500 per year.	\$1,000 & \$1,500.	\$2,000 per year.	\$2,000 per year.	\$2,500 per year.	\$2,000 per year.	\$2,000 per year.
7. Medical aid, Benefits	Full expenses taken from ac- cident fund.	Full expenses taken from ac- cident fund.	None	Full expenses ta- ken from acci- dent fund.	Full expenses ta- ken from acci- dent fund.	None	Full expenses taken from medical aid fund.	Full expenses taken from me- dical aid and accident fund.
8. Contribution to accident fund.	Employer . . .	Employer	None	Employer . . .	Employer . . .		Employer . . .	Employer.
9. Contribution to medical aid fund.	Employer . . .	Employer	None	Employer . . .	Employer—from accident fund.	None	Employee (1c. per day).	Employee and Employer.

	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia
10. Administration.	Board of three.	Board of three...	Circuit and Superior Courts.	Board of three...	Board of three...	District Court.	Board of three.	Board of three.
11. Waiting period.	7 days—if longer pay from date.	7 days—if longer pay from date.	7 days temporary. 1st day permanent.	7 days—if longer pay from date of accident.	3 days	7 days	3 days, if longer than 10 days, pay from date.	3 days.
12. Insurance.	Compulsory State collective.	Compulsory State collective.	Employer individually.	Compulsory State collective.	Compulsory State collective.	Employer individually.	Compulsory State collective.	Compulsory State collective.
13. Election by employer.	Any industry not within scope of Act, unless specifically excluded.	Any industry not within scope of Act, unless specifically excluded.	None	Election only where 6 or less are employed by either employer or employee, unless specifically excluded.	Any industry not within scope of Act.	None	Any industry not within scope of Act. With approval of 50% of employees, unless specifically excluded.	Any industry not within scope of Act, unless specifically excluded.
14. Common law Rights.	None	None	All those not coming under Act.	None	None	Yes, both	None	None.
15. Injuries covered.	Which arise out of and in course of employment.	Which arise out of and in course of employment.	Which arise out of and in course of employment.	Which arise out of and in course of employment, and in fortuitous events.	Which arise out of and in course of employment.	Which arise out of and in course of employment.	Which arise out of and in course of employment.	Which arise out of and in course of employment, and in fortuitous events.
16. Accident prevention.	None	None	None	Regulations made by group of employers, work approved by Board.	None	None	By Board	By Board.
17. Time limit for claim.	12 months	12 months.	12 months	6 months.	12 months.	6 months	3 months.	12 months.
18. Method of payment.	By board	By board	By employer.	By Board.	By Board	By employer, by order of Court.	By Board	By Board.
19. Exemptions.	Travellers, Casual Laborers, Out Workers, Police & Firemen, Farmers, Domestic Servants, Employer's Family.	Travellers Out Workers, Domestic Servants, Farmers, Clerks, Employer's Family, Police & Firemen	Farmers Employees on sailing vessels, All workers, earning more than \$1,500 per year.	Casual workers, Out Workers Domestic Servants, Farmers, Executive Officers.	Casual workers, Out Workers, Farmers, Domestic Servants, Executive Officers.	Farmers, Employees other than those engaged in manual labor earning over \$2,000.	Casual workers, Out Workers, Farmers, Domestic Servants.	Travellers, Casual workers, Farmers, Domestic Servants, Employer's family.
20 Reports.	Employer Doctor, Employee.	Employer Doctor, Employee.	Employer to Factory Inspector.	Employer Doctor, Employee.	Employer Doctor.	Employer to Government.	Employer, Doctor.	Employer, Doctor, Employee.

COMMENTS, SUGGESTIONS AND RECOMMENDATIONS

The investigation held by the Commission has made it possible to ascertain conditions in labor circles throughout the Province of Quebec and form an opinion as to the efficiency of the present system of compensation to workmen injured in labor accidents as well as to the amendments which should be made to better conditions for workmen without placing too heavy a burden on industry.

Before the legislator recognized the theory of industrial risk the workman had to stand usually all the damage of an accident. The employer could not be held responsible unless it were proven that he was at fault. It was the theory of "delictuelle" responsibility through fault. The employer's contribution to the compensation for the workman was imposed upon him as a punishment and consequently humiliated him; therefore there was usually no compensation without a legal fight. Before the accident the employer and the employee could be good friends working together towards the success of the industry that gave them both a living; after the accident, the workman, realizing that he was the only loser, attempted, in some cases, to shift a part of responsibility upon the employer, feeling very often conscious that the accident was not his own fault.

This system—principally because of the intense development of machinery in industry—was the result of so many injustices that the courts attempted to correct its bad effects. It was in common law that the theory of contributory fault was first found and later that of professional or industrial risk.

In some countries, this theory being accepted, care was taken to secure compensation in such a way as to do away with all occasion for legal conflict between the workman and the employer. In Germany, where the first legislation of this kind was adopted, not only the workman and the employer were called upon to contribute, but also the State, that is the entire community. The employer could include in his general expenses this new disbursement; the contribution paid by the employee had the advantage of interesting him in the prevention of accidents and the contribution of the State was an admission of that elementary social principle that damages caused by a labor accident—when there is no fault by either employer or employee—should be paid for not only by the employee and the employer interested but by society for the benefit of which industry exists.

In other countries—the theory of professional or industrial risk being accepted—it was left to the courts to decide what compensation should be paid. This system retained the element of humiliation for the employer and of aggressiveness for the employee that was found in the principle of "delictuelle" responsibility. Little by little attempts were made to efface this element. In

certain places a commission was simply appointed to administer the Act; in others the judiciary administration was provided with powers which made it a more conciliatory administration.

If the principal complaints of the workmen against the present Act are well understood, it is to be noticed that their desire is to prevent the workmen's compensation from setting the employer and the employee against each other; and also to do away with the middleman who takes part of the money paid without profit to either the employer or the employee. The system of a commission to administer the Act as suggested by the labor group has for its main objective to do away with these two evils.

Is it possible to improve our present Act and still keep its character so as to reach this aim? We believe so and it is with this object in view that the commissioners make the following recommendations and suggestions.

However, each commissioner has reserved the right to put before you those suggestions which he thought he should make but which did not meet with the approval of all.

CAUSES OF CONTESTATION

The inquiry has revealed that the application of the Act has given rise to a large number of law suits, which have gone through all the courts of appeal of the country, entailing heavy expenses and lengthy delays in the payment of compensation to the injured workman or his dependents.

Experience acquired since the Act has been in force has shown what are the principal cause of contestation between the interested parties. We mention a few of them and suggest means which would aid in doing away with them.

Does the workman, victim of a labor accident, come under the Act?—It depends upon the industry in which he is employed and on the salary he earns; there is often doubt as to whether the industry is comprised in the list enumerated by the Act and also whether the workman's earnings are really within the limit determined by the Act.

INDUSTRIES COVERED

It would be possible, we believe, to do away with the greatest number of disputes which arise from this doubt, by amending the Act so as to bring all industries and all its branches under its application, and simply enumerating the desired exceptions.

This would also do away with a frequent cause of litigation—that in which an industry or branch of industry is operated through a commercial exploitation.

Among the industries to come under the Act should be included not only those exploited by a municipal corporation but also those exploited by all public and private corporations, factories and school corporations; moreover, the provincial and federal governments should be invited to submit to the application of the Act.

WORKMEN INCLUDED

A more favorable result would also be obtained if the Act stipulated that all employees engaged in an industry or a branch of industry, no matter what their wages, come under the application of the Act but in order to fix the indemnity the wages should be considered only up to a set maximum.

The commissioners unanimously recommend that this maximum be placed at \$2,000.00 a year.

BASIC ANNUAL SALARY

Another cause of legal dispute is the difficulty of determining exactly the annual salary of the employee upon which is based the indemnity which is to be paid.

The Commission suggests the adoption of the following very simple system: to establish the annual salary of the workman which will serve as the basis for the fixing of the indemnity multiply the daily earnings of the workman on the day of the accident by 300 which is an average of the working days during one year. A workman earning \$3.00 a day on the day of the accident would then be considered as earning \$900.00 a year and this amount would serve as the base upon which to estimate the indemnity and so on.

REMOVAL OF DOUBLE CLAIMS

During the inquiry it has come to the notice of the Commission that in certain cases the victim received double indemnity. It happens that an employer established in this province carries out some work in another province and that one of his employees is injured while at work; if this employee is a resident of the Province of Quebec this workman, under the interpretation given to the present Act, can receive compensation for the accident suffered from his employer in Quebec even if he has already obtained an indemnity under the law of the province in which he was injured.

We suggest that the Act be changed so as to prevent this abuse.

JOINT RESPONSIBILITY

We suggest that the Act be changed so as to hold the main employer or the principal contractor jointly and severally responsible with all his sub-contractors for the compensation due in case of a labor accident.

DEGREE OF INCAPACITY

The difficulty of establishing the degree of partial permanent incapacity under the present system is another source of legal dispute.

The law says that the indemnity paid to the workman will be a life annuity equal to half of the reduction that the accident has caused to the victim's earning capacity. What is this reduction of the worker's capacity for work? Neither

the employer nor the employee in nearly every case are in a position to estimate this matter themselves. Doctors are nearly always the only competent judges of this matter and with all the good faith possible they can often arrive at varied and divergent conclusions in a matter which is not always in the exact sphere of science.

The judge is then called upon to turn the scales in favor of one or the other side or to keep a balance between opinions which are often in direct opposition.

In the opinion of the Commissioners the Act should be modified so as to do away with the necessity of a legal dispute to establish the permanent partial incapacity of the victim.

NOTICE OF ACCIDENT

It is desirable in a case of accident, that both the employer and the employee notify the organism stipulated by the Act; this organism could be a branch of the Labor Department or any other department. This organism would then, at the same time as it acknowledges receipt of the notice, send a form to both the employer and the employee and the answers filled in on the forms would enable said organism to establish the nature and circumstances of the accident, the type of industry in which it occurred, if there is insurance or not, the insurance company covering the risk, if there was agreement or not and the settlement reached.

Records of these reports would enable the Department to compile statistics of labor accidents, their causes, the sums paid in compensations. These statistics would also serve as a base for the work of accident prevention and would at the same time enable one to realize the importance of the functioning of the Act from the viewpoint of the economical situation of our Province. It is impossible without statistics to learn what is the burden imposed upon the employers by the Act and to judge of its effectiveness from a point of view of compensating the damages caused by labor accidents.

PAYMENT OF INDEMNITIES

It does not seem to us that the present Act is clear regarding the determining of the manner in which the claim for compensation should be made once the obligation to pay has been established.

While the injured workman is entitled to a temporary indemnity representing 50 per cent of his daily earnings at the time of the accident, should he claim this temporary indemnity before having established that an indemnity for partial permanent incapacity is due him? Should he ask his employer successively for a temporary indemnity and claim indemnity for permanent total or partial incapacity after the consolidation of the wound when he can thus establish it? The manner of proceeding does not seem to be well defined in the present Act.

The workman should be entitled to claim and obtain the temporary indemnity immediately after the accident.

TO WHOM THE INDEMNITIES ARE PAID

According to the present Act the indemnities are payable to the victim if the accident is not fatal, to his widow if death follows, or to his legitimate children, or to the ascendants of whom the victim was the principal support. This term "principal support" has brought about many legal disputes. No doubt the aim of the law was to prevent persons,—whom the victim was obliged to support in virtue of the natural right recognized by Articles 165, 166, 167 and 178 of the Civil Code—from suffering because of the death of the ones on whom they depended.

We suggest that the benefit of the Act include not only the surviving consort and the children, but the parents and the dependents—who should be mentioned—of whom the victim was the support or one of the supports, but only in the proportion of the amount he contributed towards their support at the time of the accident.

MEDICAL, HOSPITAL AND FUNERAL EXPENSES

The medical, surgical and hospital expenses should be borne by the employer until the consolidation of the wound but the Commissioners representing the employers are of the opinion that these expenses should not be paid for a period of more than six months from the date of the accident.

We believe that the choice of the doctor and of the hospital should be made by joint agreement between the employer and the workman but preference should be given to an institution recognized by the government and as much as possible in accordance with the religion and language of the injured workman.

We also recommend that the employer should pay the funeral expenses up to a sum not exceeding \$125.00.

We also suggest that the medical and hospital expenses as well as the funeral expenses should be paid by the employer, in case of accidents having a fatal result, even if there is no surviving consort, children, parents or dependents.

RATE OF INDEMNITIES

The labor group ask earnestly that the rate of the indemnity paid to injured workmen be 66⅔ per cent of the wages; the employers claim that the rate of 50 per cent of the annual wages be retained. However, both agree that the compensation should be fixed upon the real wages, to be considered only up to \$2,000 a year.

GUARANTEE OF THE CREDENCE AND COMPULSORY INSURANCE

Opinion has been expressed that the present Act did not guarantee in an absolute manner the credence of the victim. It has been suggested by a number of interested parties, employers' and employees' associations that compulsory insurance—either under collective, mutual or individual form—would give this guarantee and would effectively protect the victim or his dependents.

We are unanimous in suggesting that something should be done in this direction and that the introduction of a system of compulsory insurance with certain control as regards the fixing of premiums, schedules of the capital forming the annuities, guarantee of the solvency of the insurers, etc., would be of great service to the employer as well as to the employee.

PERIODICAL INSTALMENTS INSTEAD OF A LUMP SUM

The attention of the Commission was drawn to the fact that in certain cases the indemnities paid in form of capital were not always utilized by those who received them in a way to meet their needs in the most effective way as was the intention of the legislator. We suggest that in cases of death or of permanent disability the indemnities be paid in periodical instalments in preference to a lump sum.

Moreover, these indemnities should be paid directly to the injured workman or his dependents and never to an intermediary.

MAXIMUM OF THE CAPITAL

The employers suggest that the maximum of the capital to be considered for the estimation of the compensation in cases of fatal accident be raised from \$3,000 as stipulated by article 7322 of the present Act to the sum of \$4,000.

The workmen, who urge that the widow should get \$40 a month and \$10 additional for each child, express the opinion that a maximum of capital cannot be determined since it should have fluctuations according to the age of the widow and the children; they claim that the Commission system that they recommend would attain this end in a logical and natural way.

INDUSTRIAL DISEASES

The workmen ask that compensation be granted to persons suffering from industrial diseases on the same basis as for accidents.

The employers are of the opinion that the time is not yet ripe to extend the application of the Act to industrial diseases.

Reasons are given in their respective memoranda to support their arguments.

POSTING OF THE ACT

It was established at the inquiry that many persons who come under the Act,—employers as well as employees,—know very little about its workings. It has been suggested by the employers and the Commission supports this that the principal clauses of the law be posted in French and English in a place well in view in all industrial establishments under the scope of the Act, so that knowledge of it can be easily obtained.

At the end of this report will be found the remarks and suggestions which each side on the Commission representing the employer and the employee held they should make.

As has been said before the memoranda produced by the Quebec Section of the Canadian Manufacturers' Association and the joint group of all the different labor organizations in existence in the Province of Quebec and others interested are annexed to the present report.

We attach to this report, but as supplement, all documents—questionnaires and others—that this Commission could obtain during its work; compilation of these documents has been indexed which enables easy study of its contents.

Our work was greatly aided by the co-operation of labor and employers' associations as well as that of many persons who were kind enough to interest themselves in this question.

It will be easy to realize the considerable work which was done by these parties and we desire to thank them cordially.

The whole humbly submitted.

JUDGE ERNEST ROY,
Chairman.

J. A. BOTHWELL,
E. G. BROUSSEAU,
Representing the employers,

GUS. FRANCO,
PIERRE BEAULE,
Representing the employees.

Quebec, January 8, 1925.

SUPPLEMENTARY REPORT

OF

Messrs. BOTHWELL & BROUSSEAU, employers' representatives

PRELIMINARY REMARKS

As the report submitted by the Commission and signed by all the Commissioners indicates that there are certain points on which the representatives from the two groups did not agree, we believe that we should add a supplementary report. We would like to point out first of all that though the present Act has been criticized and that there are some clauses which could be changed for its improvement, it has on the whole given satisfaction; the fundamental principles and the general character of the law are, in our opinion, well founded. The great majority of workmen has been protected by a special law giving them right to compensation for labor accidents, not only when the employer is not at fault but when the workman is at fault himself.

There have been, no doubt, cases where the workman has been ill-treated and where some lawyers have been guilty of unjust treatment to the workman. Nevertheless it is indisputable that the greater number of industrial accidents have been settled to the satisfaction of both sides.

SPECIAL RECOMMENDATIONS

Notice of accidents and the organism which should be in charge.

The Commission's report suggests that the employer and the employee should both give notice of an accident to an organism of some kind determined by law. We have approved this suggestion but we would like to point out that in our opinion it would be useless to create a new organization for this purpose. The reports could be sent to an official of the Labor Department or of any other department. If there happens to be a settlement the employer could then notify this same official so that the statistics could be made.

Compensation to Dependents.

The Commission's report suggests that ascendants of the workman who were not wholly supported by him should receive a compensation in proportion to the amount contributed toward their support before his death. We see no objection to this providing that the law indicates clearly that this compensation be included in the maximum capital of \$4,000. It would be wise, in our opinion, to leave the distribution of the compensation to the judge's discretion.

Medical and Hospital Expenses.

As is indicated in the Commission's report we are of the opinion that these costs should be limited to a period of six months. It would be, we believe, a grave

error to impose upon the employers an indefinite responsibility. The labor representatives suggested that these expenses should be carried by the employer until the consolidation of the wound. It can easily be seen that there would be many cases in which the consolidation of the wound would occur after a very long time of the accident or even that an illness resulting from wounds might last for a number of years. We are, therefore, of the opinion that a limit of six months is not only reasonable, but absolutely necessary from an economical point of view.

Compulsory Insurance.

We have supported on principle that in order to guarantee the payment of compensation to the workman, compulsory insurance be imposed on all employers coming under the Act. There might be some doubts as to the possibility of applying this principle to all employers of this province, but from an ideal point of view, it is certainly desirable that the payment of the compensation be guaranteed. But there is a point upon which we desire to insist.

It is that the Act should allow the great industrial establishments who are financially sufficiently sound to insure themselves or in other words to carry their own risks. As was pointed out in the factum of the Canadian Manufacturers' Association, Quebec Section, there are many large establishments in the Province of Quebec that prefer to take charge themselves of the payment of the workmen's compensation. The advantages of this system have been pointed out in the above mentioned factum, and it is not necessary to repeat them here.

Rate of Compensation.

On this point there is total disagreement between the labor representatives and ourselves. The former ask that the rate be increased to 66% per cent of the weekly salary of the workman; we insist, on the other hand, that the present base of 50 per cent should be maintained; this is the logical base, and it is in accordance with the fundamental principles of Workmen's Compensation Acts. In our opinion, a higher rate would be a crushing burden to industry.

Industrial Diseases.

We do not believe that it is timely to have all industrial diseases come under the application of the law in the same class as accidents and we consider that the means suggested by the workmen to hold the last employer responsible, except for recourse against preceding employers, would be the cause of grave injustice in many cases.

The whole humbly submitted.

J. A. BOTHWELL,
E. G. BROUSSEAU,

Representing the employers.

Signed at Quebec, this eighth day of January, 1925.

SUPPLEMENTARY REPORT

OF

Messrs. P. BEAULÉ & GUS. FRANCO, employees' representatives

To the Lieutenant Governor in Council of the Province of Quebec.

Though in accord on the greater number of recommendations contained in the report of the Commission appointed to study the Workmen's Compensation question, we believe it to be our duty to present to you this supplementary report; first, because it is the labor group,—which we have the honor of representing,—which asked for this inquiry and which made the greater number of complaints, and then because there is such a divergence of opinion as to the operation of the Act and even on many of its fundamental principles, that it seems useful and even necessary that we define clearly the stand we have taken and the reasons which prompted us.

* * *

In Canada, the question of compensation for labor accidents is within the provincial sphere. As long as this system exists there is danger of diversity not only in its application and its operation but equally in its fundamental principles, a state of things likely to create uneasiness and discontent unless there is uniformity of laws. It is, moreover, what the inquiry of the National Industrial Commission of 1920 found and in its report recommended the holding of an Interprovincial Conference in order to study the important subject of uniformity of labor laws, Workmen's Compensation being one of them.

The federal government, recognizing the soundness of this recommendation, asked the various provincial governments to take part in a conference of this kind. It was held in Ottawa in April 1921. The Quebec government was represented by Louis Guyon, deputy minister of Labor; the employers of the province, by John Lowe, of the Montreal Cottons, Limited, of Valleyfield; and the workmen, by Gus. Franco, chairman of the Quebec Executive of the Trades and Labor Congress of Canada.

Concerning the compensation for workmen injured in labor accidents, the Conference adopted the following principles as a base of uniformity:

1.—That all Provinces adopt the idea of exclusive State insurance to be administered by a Board.

2.—That all workmen, not specially exempted under the Act, who work in an industry which comes within the scope of the Act, shall be under the Act, regardless of the amount of their remuneration.

3.—That all employees of Provincial Governments and of Municipalities, including Police and Firemen, be included within the scope of the Act.

4.—That the scope of Compensation Acts be extended as far as practicable to include all industries.

5.—That in all Provinces contributions to the accident fund shall be borne exclusively by the employer.

6.—That all medical, surgical and hospital attention be supplied in cases of injury or industrial diseases.

7.—That in every Province there should be a time limit within which claims for compensation should be filed.

8.—That except in special cases payment of compensation shall be made periodically direct to the claimant by the Board.

9.—That injuries due to disease or accident arising out of and in the course of employment should be considered as coming within the scope of the Act.

10.—That the cost of administration of Workmen's Compensation in each Province be borne by the Government of that Province.

11.—That rules and regulations for prevention of accidents be made by the Board in each Province, and safety committees composed of employers and employees established in the various places of employment, and further that first aid appliances be installed at the various plants; all the foregoing to be under the direction of the Board.

12.—Where under any Compensation Act, the employer has the right to bring his employees under the Act by election, the employees should have the same right where a majority so decide.

13.—That in cases of death or injury all Provinces should adopt a uniform scale of compensation.

Six Provinces in Canada—New Brunswick, Nova Scotia, Ontario, Manitoba, Alberta and British Columbia—practically adopted these recommendations and carried them out; there remain only Prince Edward Island, Saskatchewan and Quebec as exceptions. As far as Saskatchewan and Prince Edward Island are concerned it does not matter a great deal as these provinces are not industrial ones but Quebec is one of if not the most industrial province of the Dominion.

Here, agitation in favor of a Workmen's Compensation Act based upon these principles has continued; started by the International Unions affiliated to the Trades and Labor Congress of Canada, the movement continued gaining adherents, so that today all labor groups without any exception—Catholic Syndicates, National Unions, Canadian and Independent Unions—are urging for this measure. Moreover, they are supported by a certain number of employers—especially among the big contractors and manufacturers who do work or have industrial establishments in other provinces—by professional men and by the majority of economists and social workers. It was this agitation which resulted in the appointment of this Commission of which we have the honor to be members.

In the provinces which adopted the recommendations of the Interprovincial Conference and where workmen's compensation is based upon this system, both employers and employees are quite satisfied according to the information which has reached us; injured workmen and their dependents receive bigger indemnities without having to spend a single penny while the employers pay much lower premiums of insurance than under the system of insurance at fixed premiums

or individual liability. This is easy to verify. One has but to glance at the schedule of premiums charged in those Provinces and compare them to the rates charged by insurance companies in the Province of Quebec on one hand and review the compensation paid to injured workmen or their dependents on the other hand. It is an irrefutable and conclusive argument which the opponents of this system have never attempted to dispute; they have tried to explain it by stating that if this system of insurance costs less it is less effective, but so far that argument has never been proved.

We could cite evidence from many employees and employers of other Provinces in support of our statements, but we will be content with quoting a single one—you will find others in the many memoranda and minutes of the public meetings of the Commission annexed to the report. The testimonial cited here is typical and all the more timely since it was given here, at Quebec, during the fifth annual convention of the "Canadian Building and Construction Industries" from February 6 to 9, 1923, by their president, J. M. Pigott. Here is what this gentleman said concerning the Workmen's Compensation Act:

"... It is not many years ago in Ontario when we carried our own workmen's compensation. We either carried the risks ourselves or we went to an insurance company. Many accidents occurred where the loss was so great as to put the employer out of business, yet it was not his fault. In many instances the injured workmen lost their compensation or got but a small portion of it, yet this was not their fault. Injuries to workmen and compensation itself was one of those things which grew out of the nature of the business. In spite of all precautions, accidents would occur. The Ontario Government rightly decided that there was something that in justice to all should be borne by industry at large. *The Workmen's Compensation Board of Ontario is an accomplished fact, and there is no finer institution in business to-day. We are getting good administration; we are free of risk; the men are sure of proper compensation from the industry as a whole, and the public pays for it.*"

No comment needed. Let us add that we would not be just to those whom we represent, nor consistent to the proof heard during the inquiry—inquiry which showed beyond all doubt that our Workmen's Compensation Act does not give all the satisfaction that we have the right to expect of it—if we feared to recommend the system approved of by the Interprovincial Conference.

It is not only a question of saying that we favor and recommend one system more than another; it is as essential and important that we supplement our statement by reasons and convincing proofs; that is what we will attempt to do as briefly as possible.

* * *

Without going back to the origin of workmen's compensation and of employers' responsibility, it is not out of place to recall that this legislation is still of recent date; it was only during the period between 1890 and 1910 that

legislation was passed to replace the recourse under common law that had a workman, victim of an accident, by special laws making the employer responsible, whether there was negligence on his part or not. Germany was the first country to adopt a measure of this nature in 1884; Switzerland followed closely in 1887; Norway in 1897; France, Denmark and Italy in 1898; England in 1906 and finally all the countries of Europe; the movement spread to the American continent so well that to-day forty-two of the States in our large Republican neighbor and all the Provinces of Canada with the exception of Prince Edward Island, have adopted legislation more or less progressive; even Japan has placed in its Statutes a law of this nature; this means that this legislation, unknown in 1880, has become universal.

These laws can be divided into three groups: the system of collective responsibility by groups of industry based upon a monopolistic State insurance; the competitive system based upon State insurance, mutual societies and stock companies; finally, the system based upon individual employer's responsibility. Two well defined schools of opinion can also be registered: that based upon the operation or working of the Act by an independent Commission or a branch of the Department of Labor; and that of exclusive judiciary administration.

The general tendency throughout the world to-day is undoubtedly towards the system of collective responsibility controlled by the State and administered by an independent Commission, for the simple reason that it does away with the middleman as well as with all ideas of profit or bargaining and reduces the causes of disputes to the minimum. Here in Quebec we have kept the system of employer's individual responsibility with judiciary administration. This system has some adherents but also many opponents.

* * *

The group of adherents to this system was represented by the Quebec Section of the Manufacturers' Association, supported by a majority of the members of the Bar and the insurance companies.

The opponents include all Organized Labor—the working class in general—supported by other persons that we have already mentioned.

In our opinion, employers and employees are the only directly interested parties in this question; one being responsible for the accidents and the other suffering them. The opinions of all others should only be considered from a point of view of information. Exception could be made for medical men, and only to a certain measure, inasmuch as their services are indispensable in all accidents—and incidentally their fees—in addition to the question of humanity and their professional honor.

We cannot, however, admit the claim of the Manufacturers' Association (Quebec Section), that it represents the opinion of the employing class of this Province. According to its own figures, it includes in its membership about a

thousand industrial firms; now, the Commission sent out 4500 questionnaires to employers in this Province and therefore there is a margin. And that is not all; to these 4500 questionnaires, 247 employers thought it well to answer and the answers are classified as follows:

91 declared that they left the matter in the hands of the Manufacturers' Association;

18 answered that as far as they were concerned the present Act gave satisfaction;

6 found that the Act was too much in favor of the workman;

79 stated that they did not know enough about the Act to express an opinion;

41 were of the opinion that the Act has not given satisfaction for various reasons: either because of the excessive lawyer and procedure expenses, because there was no compulsory insurance, because of the lack of a medical board or again because the indemnities paid were not sufficient to keep the victims or their dependents out of the necessity of becoming public charges or because the waiting period is too long or the limit of delay for placing the claim is too extended;

12 answered that they favored an Act similar to that of the other provinces, that is a form of collective insurance administered by a Commission which would remove all their cares and worries once they paid their annual premiums.

There is therefore little unanimity of opinion among the employers. We submit that, outside of the large industries the Manufacturers' Association represents only an infinite minority of the employers of the Province of Quebec, particularly the middle class and the small employers, those precisely who are less likely to withstand the losses caused by labor accidents and less likely to be able to stand the arbitrary decisions of the insurance companies; and it is nevertheless in the service of these employers that workmen are most exposed to accidents and against whom they have the least recourse; it is therefore necessary to effectively aid these employers to guarantee themselves against the frequently disastrous results of accidents which are always possible. What is the system that will protect them best of all and still demand but a minimum of premiums? That is what we will endeavour to demonstrate.

SYSTEM ENDORSED BY THE EMPLOYERS' GROUP, REPRESENTED BY THE QUEBEC SECTION OF THE MANUFACTURERS' ASSOCIATION

(Summary of the suggestions)

While being in favor of the present system, this group admits that our Act is in need of serious amendments if more satisfaction is to be derived. Here are their suggestions:

Extend the scope of the Act to cover a greater number of workmen by including the lumber and pulp industry in all its branches, and also all workmen not earning above \$2,000 a year.

To have the employer pay all the medical and hospital expenses for a period of six months from the date of the accident.

To pay the indemnity in annuities form; the capital forming these annuities not to exceed \$4,000 nor to be less than \$2,000.

Decree compulsory insurance for all employers who come under the Act, under penalty of a fine of from \$100 to \$1,000, but allowing the large companies to carry their own insurance by placing in the hands of the Provincial Treasurer a bond of guarantee.

To leave the functioning of the Act to the prothonotaries of the judicial districts, to a special judge and in cases of appeal to the Court of the King's Bench.

To establish medical boards with appeal to a central medical board; and a few other alterations of minor importance.

This is the continuation of the system of the employers' individual responsibility with judiciary administration; it is an incomplete blending of the French and English systems which retains the evils of both without adopting their wider field of action and mode of operation which corrects the abuses to a certain extent and make these laws more practical than ours.

SYSTEM ENDORSED BY THE ENTIRE LABOR GROUP AND A CERTAIN NUMBER OF EMPLOYERS

(Summary of its principles)

The group opposing the present system are asking for an Act—

That would cover all industrial and commercial establishments, and all workmen and wage earners therein employed regardless of the amount of their remuneration, excepting only a few well defined classes;

That would have industry pay all the medical, chirurgical and hospital expenses;

That would establish compulsory and collective insurance by group of industries under the administration of an independent Commission to which all accident and industrial disease cases would be reported, and which would settle these cases without litigation or appeal; that would decide the degree and duration of the disability based upon the report of its medical board; that would fix the rate of premiums and would collect them; that would pay the indemnities under form of annuities in cases of serious permanent incapacity or during the period of temporary incapacity; that would pay to the widow of the victim of a fatal accident a monthly allowance of \$40 and an additional allowance for each child under sixteen years of age; the Commission would be equally in control and have the direction of accident prevention;

That would place the cost of the administration of this Commission upon the consolidated revenue of the Province.

The scheme contains other changes of minor importance.

WHICH IS MORE ADVANTAGEOUS ?

These are the outlines of the two schemes; which one meets better the needs of the day and which one suits better our industrial development; that which offers better guarantee to the workmen and is the less costly to the employer and to the community; that which gives the bigger percentage of compensation and of which no portion missed its real aim; that which radically and completely removes all sources of litigation because it settles automatically and impartially all cases without pleadings and without interested testimony of medical men whose judgment can be distorted through personal interests (*see in the annex of the report the statement of Dr. Mercier at the public meeting held in Montreal*); that which avoids all delays of settlement and defines in a logical and scientific way the degree and duration of the disability; that which, in a word, does away with personal interest and replaces it with general interest by removing bargaining and compromising which are so often harmful to the injured workman?

We have no hesitation in declaring that this system seems to us to be the most effective, the better and the most likely to give satisfaction not only to the workman but to the employer—particularly to the middle class employers—those who operate small industry, which after all is the most steady, that upon which is built the prosperity of the country, that which must be protected and encouraged if not more than large industries at least as much since it is “home industry” and because it rests on popular savings and on national funds.

We admit that this is a radical change, but it is a necessary one; we are living, moreover, in an age of radical changes and of audacious legislation, as is shown by the large number of new and progressive Commissions inaugurated within the last few years in our Province of Quebec; they have rendered and still render immense services; why would it be otherwise when so important a question as that of the Workmen's Compensation is concerned and should there be any anxiety in confiding to a Commission the administration of the Act? We are convinced that it will be only a question of time, a few months, a few years at the most, before this system is adopted by all progressive countries. In support of our statement, we will say that in every country where this system has been adopted, it has never been given up to retrogression. Is not this a conclusive proof that it is truly the advance of progress? It is the general tendency to-day to compel the State to aid, to replace even, the individual when the latter refuses to assume or assumes poorly the responsibilities which fall upon him.

We are not advocating anything new, we are not attempting to innovate, nor to stir up; our ambition and our desire are to make more harmonious the relations between capital and labor; to solidify the social structure by way of a humanitarian and progressive legislation. It must not be forgotten that what was considered as radicalism only a few years ago is to-day looked upon as simple progress, and that statism is now recognized as a simple intervention of public powers in the general interest. Thus goes the world.

OUR SUGGESTIONS AND RECOMMENDATIONS

COMPULSORY INSURANCE

During the evidence heard at the Commission's inquiry, it was shown without a shadow of a doubt that in many cases the workman did not receive the compensation to which he was entitled or that the greater part of it was spent in all kinds of costs and often in total loss either because the employer was not insured, because the insurance company, wrongly or rightly, refused or made all kinds of excuses not to pay the indemnity or to reduce it as much as possible, or again because the employer was not able to pay the indemnity and that the victim preferred to hold his position rather than ruin his employer or sue him; at other times the workman received nothing because he knew little of his rights. As a remedy to this situation, the employers' group suggests the establishing of compulsory insurance with a penalty of not less than \$100 and not more than \$1,000 to be imposed on all employers who would refuse or neglect to insure his employees or to hold his policy or to increase it in proportion with the number of employees working for him. An exception would be made in favor of the big employers who would be allowed to carry their own insurance after authorization from the Minister of Labor and having placed in the hands of the Provincial Treasurer a guarantee bond.

The Commission, in its report, seems to favor this suggestion but does not mention if this compulsory insurance should be collective, mutual or taken in a stock insurance company nor in what way it shall be taken out and maintained; it is true that the Commission suggests the introduction of some control for the fixing of the premiums, of the schedule of the capital forming the annuities, of the guarantee of the solvency of the insurers, etc.

Is this enough? We do not believe it is and this is why:

Though we are in favor of compulsory insurance we want it to be fair and impartial, that it applies to all equally. If the employers are obliged to insure, under penalty of a fine of \$1,000, which means the ruin of many small employers, who unavoidably will be in default, even at times against their will and without their intention, if, for example, in a small industrial centre an employer has a rush of work and that he induces a few additional hands to work for him for a more or less long period of time, he might forget or neglect to notify the insurance company of the increase in risks that he had assumed; an accident occurs, it is found that he has not maintained his policy in proportion with his pay roll at the time of the accident; the company refuses to pay; law suit not only to recover the compensation but possibility of a fine of \$1,000, result: complete ruin. An infinite number of examples could be cited. The big industrial concern would not risk paying the fine as it carries its own insurance, its guarantee bond protects him. Why not give in return for this obligation, all the necessary protection to the employer? Why not give him the best insurance possible and at

cost price? Why allow insurance companies to make profits of small industry and exempt the large ones? Why expose the employer to pay exorbitant premiums and place him at the mercy of a monopoly or trust of insurance companies? This is always possible,—for if the law compels him to take out insurance, he will have no choice, be it one or another company insuring him, the premiums will be the same as nothing will prevent insurance companies from having an understanding and establishing the rates as they please. Who could stop them?

A Commission controlling the insurance will have to fix the rates not only for industry in general but for each particular case since these would vary according to the risks inherent to each factory, each work shop, according to the preventive measures which are enforced there. How could this Commission do it since it would have neither the supervision of the industrial establishments nor the direction of accident prevention work? If, on the other hand, the Commission is forced to assume these responsibilities and these duties it will then need a large and competent staff. Who will pay the expenses of this service? The Province or the insurance companies, or again the employer and finally the consumer and all that to carry out half the work? Under this system, insurance companies for the most part having their headquarters outside the Province and operating with foreign capital, will get large business. We are surprised that those who recommend this system of compulsory insurance with casualty stock companies did not even think of surrounding it with an organism to allow it to operate, which would prevent possible abuses and would effectively protect the employer.

Moreover, we hold that under this system of compulsory insurance under individual responsibility, the employer will always remain responsible in law in cases of accident and not the insurance company, despite the joint responsibility clause added to it; the employer will be the one sued in cases of dispute or of non-payment of the compensation; the employer will therefore remain exposed to annoying and hazardous litigation with all the courts and procedure costs in addition to the medical and funeral expenses: it is true that there remains his recourse against the insurance company, which means another law suit and more costs. To try to impose compulsory insurance under these conditions, is to attempt to ruin small industry; we do not believe that this is the intention nor the desire of the legislator. And what becomes of the injured workman in all this? Is he better protected than under the present Act? Absolutely no. His position will have been bettered little or not at all. This is moreover the complaint in all countries that had kept the system of individual responsibility; in some places, an attempt is being made to remedy this by developing employers' mutuels and guarantee syndicates, which are by far superior to the stock companies and which get closer to the system of monopolistic collective State insurance, but it is nothing else than a half measure.

We are in favor of compulsory insurance providing it takes the form of collective insurance by industrial groups under the control of a Commission which assumes all risks. Instead of creating a Commission to control the premiums and to establish the schedule of capital and of the annuities and then leave to others the care to continue its work, would it not be more logical, simpler, that this same Commission do all the work itself by collecting the premiums and paying the indemnities without attempting to realize profits or to pay dividends to its shareholders or again to pay its selling and collection agents a commission? It is then not surprising to find that statistices unanimously prove that administration costs under the State compulsory insurance, only amount to about four per cent of the premiums paid; under the competitive system these range from 10.6 to 20 per cent; and finally, under the system of stock companies with fixed premiums, they vary from 30 to 40 per cent and over.

In England, during the Gregory inquiry in 1920, it was shown that an average of 19 per cent of the premiums paid went towards the running expenses of insurance companies; 12 per cent was paid in commission to the companies' agents and 15 per cent went as profit, being 46 per cent which was turned aside from the end for which the premiums were paid. The Gregory report recommended that at least 70 per cent of the premiums be paid in compensation to injured workmen and their dependents; 30 per cent being allowed for the running expenses and profits of the companies who should not pay more than a maximum of 5 per cent in commission to its salesmen.

In Belgium, the controller of insurances declares: "The cost of general expenses of stock companies is frightful; these being estimated at more than 40 per cent of the sum paid in premiums."

In France, one of the members of the Commission controlling insurances, said: "It is a continual fight to prevent stock companies from raising their premiums because of the excessive cost of their general expenses; the most economical and best system would be compulsory mutual insurance or a collective State fund."

"To pay \$35,000,000 benefit to injured workers in Pennsylvania, employers were assessed for \$80,000,000 in premiums which shows that in this State it cost 124 per cent of the sum of benefit for administration expenses, profits and general expenses."—Mr. Hookstadt.

"In Ontario, the administration of the Commission has cost about 4 per cent."—S. Price, Chairman of the Commission.

Now that it is clearly established that the cost of administration under the system of insurance companies with fixed premiums is higher than under any other system, there is no need for us to make much proof to show that the premiums follow the same route; it will be easily understood by comparing the rates paid in Ontario or in any other province and those paid in ours. It must also be recalled that the compensations paid in Ontario are much higher while

employers pay less in premiums. There is therefore something wrong. It is very simple: one system gives insurance at cost price while the other must have profits. It is unnecessary to say more. Why keep up a system which is burdensome and force employers to pay more than is necessary?

There is another point that we wish to emphasize. Under the system that we recommend, the employer, once his assessment is paid according to his pay roll, is entirely and completely free of all litigation and responsibility; the Commission assumes all the risks and pays the compensation from the accident fund; the employer is therefore free from all worry and annoyance and all he had left to do is to notify the Commission of the accident on a special form of report for this purpose; there is no loss of time, no loss of money, in visits to the lawyer, nor to the court; no more bargaining with the victim, no more discussion with the victim's doctor. And all that is obtained at a cheaper rate than under any other compulsory insurance system, no one making money by it.

From the workman's point of view, there are many advantages that can hardly be appreciated; these are enumerated in the memoranda submitted and annexed to this report. Suffice it to say that under this system, the workman is certain of receiving the compensation set by law without any kind of bargaining and without having to pay one single penny to the doctor, the lawyer or any middleman whatsoever; all that he has to do in cases of accident, is to fill in a special blank form sent him by the Commission; a few days later—the average is five days—his case is settled and he receives a cheque regularly from the Commission until his recovery. In cases of fatal accidents, the workman knows that his wife and children will not suffer, that they will not have to go from court to court to obtain compensation, which is paid to them in monthly instalments until the death of the widow or her re-marriage and to the children up to the age of sixteen years.

There is a great difference between the compulsory insurance proposed by the employers and that proposed by the employees; one does not suppress any of the abuses of to-day—on the contrary it aggravates them—while the other radically suppresses them.

SECURITY FOR THE PAYMENT OF COMPENSATION

Under the present law, this security is problematical in many cases, since it only ranks concurrently with the debts mentioned in paragraph 9 of article 1994 of the Civil Code. If the employer is insolvent, the injured workman loses his compensation; there is nothing well defined either in the suggestions of the Manufacturers' Association nor even in the Commission's report to remedy this state of things. It is nevertheless one of the fundamental principles of all Workmen's Compensation Acts to guarantee in an effective way the compensation of the injured workman and this is admitted everywhere.

In France, where the system of insurance is more usually done through

employers' mutuals and guarantee syndicates or again by stock insurance companies, it has seemed necessary to guarantee by a State fund the payment of compensation through the National Pension Fund, taking the money from a guarantee fund to which contribute all employers paying patents; this is an absolute security under a kind of mitigated compulsory State insurance.

We admit that, while keeping the present form of our Act, a compulsory guarantee fund clause like that of the French law could be inserted, and this would be an advance to what is suggested by the employers' representatives to hold the insurer jointly and severally responsible with the employer, though it would be better and more just to hold the insurer legally and directly responsible instead of the employer when the latter had paid his premiums as it is in force in Massachusetts—but even in that State and under their system, it is always the Industrial Board which settles the cases between the insurer and the workman and submits them to the court for ratification in case of disagreement.

But all that does not equal the security that exists under the form of collective compulsory insurance administered by a Commission; the accident fund pays, that is all industry; it is in a way the entire community.

PENSION INSTEAD OF CAPITAL

At first glance everyone seems to agree in recommending that instead of paying the compensation in a lump sum, it be paid as a pension when the indemnity is over \$500.

The Commission recommends that: "the indemnity be paid in periodical instalments in preference to a lump sum."

We support this recommendation under certain reservations. Under the article 7329 of the present Act the victim or his claimants can take their choice of being paid either in a lump sum or in instalments as a pension. It is admitted that the payment of the capital into inexperienced hands exposes it to be wasted by them or to be shamelessly abused by others who take advantage of the confidence or ignorance of the beneficiaries.

To remedy this situation it is suggested that instead of paying the capital to the injured workman or his claimants it be paid to a guarantee company who will pay it out in annuities; we presume that the employers who have obtained the permission to be self insured will also carry out their own pension service through a special reserve fund.

At first sight this seems to be all very well, but in order to be acceptable it is necessary that not only must the payment of this pension be absolutely guaranteed but that the annuities be increased in proportion with the abandon of the capital by the beneficiary. The change, without this, would be all in favor of the insurer.

What is the situation under the payment of the capital to the beneficiary to-day? He receives, let us say the maximum of \$3,000.00 in a lump sum; he

places this money on a mortgage and gets an interest of 6 per cent or 5 per cent if he places it in debentures or some other secure investment; he takes the interest at intervals and keeps the capital intact; if he dies at the end of two years he will have received between \$300 and \$350 in interest, leaving the capital of \$3,000 to his heirs. Under the annuity system in the same case how much will he get in interest and pension? Everything depends upon his age; admitting that he obtained 8 per cent for his \$3,000, being \$480 for the two years preceding his death, his capital will be lost to his heirs and will remain the property of his employer or insurer who will have paid only \$480 instead of the capital of \$3,000.

If this system is adopted it will be necessary to figure it as it is done for the annuities deriving from a capital given up; in cases of fatal accidents when there remains a widow and young children, we are very much afraid that the annuities would be insufficient to meet their needs, particularly in the critical period after the accident, unless the capital be high enough to insure a sufficient pension.

Under the system that we recommend the surviving consort and the children would receive a fixed monthly allowance; this settles the question in a definite and satisfactory manner.

In cases of permanent incapacity up to a certain degree, the indemnity would be paid in monthly instalments or even by bi-monthly instalments during the life time of the workman; there can in these cases, of course, be no question of pension.

In England, an attempt was made to overcome the difficulty by placing the capital of the indemnity in the hands of the County Registrar who makes the best investment possible in the interest of the victim either in the way of pension obtained by giving up the capital or by way of periodical instalments made up of the interest and a portion of the capital. This system brings about much criticism and discontent because it places the workman or his dependents in the same class as minors or irresponsibles.

MAXIMUM OF THE CAPITAL

Owing to the differences of opinion existing between the commissioners on this point, the Commission made no recommendation or suggestion on this question.

The representatives of the employers suggested that the maximum of the capital to determine the annuities, as stipulated in article 7322 of the Act, be raised from \$3,000 to \$4,000.

While recognizing that this increase of \$1,000 in the capital is acceptable, we cannot endorse the principle of setting the maximum of the capital because we consider this unjust and against the very principle of Workmen's Compensation; it can be admitted that a maximum of annuities or monthly or periodical

payments be set but the capital guaranteeing these cannot be uniform; it must be on a sliding scale to meet conditions such as the age and the number of dependents to be looked after.

If the maximum of the capital is of \$4,000, as suggested, in cases of fatal accidents, the pension will be proportionate to the age following the actuary table and is subject to many variations. Thus a widow of 30 years of age with three young children will get a pension much less than a widow of 60 years of age without any young children. If, on the other hand, the annuities are figured at a regular rate without worrying about the age of the surviving consort, in the case of the two widows quoted above, the annuities will be the same though their needs are far from being the same. In both cases there will be injustice; the young widow will be in misery and will have difficulty to bring up her family, while the older widow will live in relative comfort. That, certainly, is not the aim of a Workmen's Compensation Act.

We cannot honestly recommend the payment of the compensation under pension form, in cases of fatal accidents, unless the pension is based upon a system of monthly instalments for life to the widow and an additional sum in proportion to the number of orphans, under 16 years of age, or to the ascendants and dependents and not on a fixed maximum capital.

In Ontario, the widow gets \$40 a month during her life time and \$10 a month per child; the total sum, however, must not be more than two-thirds of the workman's salary; but, the minimum is never less than \$50 a month for a widow and one child no matter what the lowest salary earned by the victim was. What is done in the sister-province can be done here without killing our industry, despite the contentions made by some witnesses during the inquiry. The reason is simple, it is that in Ontario, on every dollar paid by the employer in premium, 96 cents go to the injured workman and his dependents while under the system in force here they do not even receive 70 cents on the dollar.

As regards cases of total and permanent disability or cases of serious partial incapacity, the same argument can be applied with as much strength, a fixed capital being unable to guarantee the payment of equal monthly instalments, it must vary according to the workman's age.

If the French actuary table at the rate of 5% is taken, to guarantee a life annuity of one franc to a workman twenty years of age and who is totally disabled, it will take a capital of 15.17 francs while for a workman sixty years of age, it will only take a capital of 8.15 francs.

According to the United States census life table, 1910, 5% compounded half yearly, it will take a capital of \$198.63 to guarantee a monthly instalment of \$1.00 for life to a workman twenty years of age, while it will only take a capital of \$111.90 to guarantee the same sum to a workman sixty years of age.

These examples will suffice to show that it is impossible to determine a uniform maximum of capital to guarantee an equal pension to injured workmen

of different ages, independently of the salary; the pension must determine the capital and not the capital set the pension. The system that we recommend covers all that because the accident fund guarantees to the workman a monthly payment in proportion with his salary and the incapacity suffered.

RATE OF COMPENSATIONS

The employers' representatives recommend that the rate of compensation remain what it is at present, that is 50 per cent of the salary and to abolish the restriction of article 1326 which decrees: "if the workman's annual earnings are over \$1,000, it is only considered up to this sum, for the surplus up to \$1,500 it entitles him to a quarter of the above mentioned indemnities." By this amendment, if a workman earns \$1,500 he would be entitled to half this sum, and so on up to a maximum of \$1,000 a year for all workmen earning \$2,000 or more.

Though this would be an improvement upon the present Act, we are of the opinion that the rate of compensation should be raised to 66⅔ per cent of the victim's salary in cases of total and permanent incapacity and in proportion to this in cases of partial permanent incapacity according to the degree of incapacity. The same indemnity of 66⅔ per cent should also be paid in cases of temporary total disability until the consolidation of the wound. The cost of living, always high, warrants an increase in the rates of compensation; this moreover is what is paid everywhere to-day as can be seen by a perusal of the various systems included in the report of the Commission.

With the system of insurance that we suggest and the method of administration that we recommend there will be a considerable reduction in expenses that will allow the increasing of the rates of compensation without increasing the premiums.

We wish to point out that the Commission was unanimous in recommending that all workmen come under the Act no matter what their salary is providing they are engaged in an industry or a branch of industry which comes under the Act; there will therefore be no more recourse to common law, another saving for everyone, employers as well as employees. As the maximum of the earnings to be considered is \$2,000, all workmen earning over this amount will be the losers since their compensation will be based only on this amount. Thus an employee earning \$50 a week and suffering total incapacity would receive only the maximum of the compensation, that is \$25.64 a week instead of two-thirds of \$50 which would be \$33.33 and so on. As all the high salaried will come under the Act it is therefore only natural that there be compensation and that the rate of compensation be raised to 66⅔ per cent of the earnings up to a maximum of \$2,000; what small salaried will gain the bigger ones will lose thus establishing a counter-balance and setting an equilibrium for the good of all.

The minimum of the indemnity should not be less than \$12.50 a week and if the salary is less than \$12.50 a week, then the full salary should be allowed as compensation.

INDUSTRIAL DISEASES

There is no reason why industrial diseases should not be compensated in the same way as accidents. The representatives of the employers' group are of the opinion that the time is not yet ripe. Can it be deduced from this that they admit the necessity of including these in the Act but that they want to procrastinate as long as possible, since they have brought no argument against the principle itself?

We are of the opinion and we recommend that industrial diseases come under the Act like accidents under the same head. However, we suggest as a compromise, that for the time being only serious or chronic troubles be considered as industrial diseases when they attack workmen usually employed in corresponding industries. Among others: illness caused by lead and its compounds and mercury and its compounds. A list of employments bringing about lead or mercury intoxication should be attached to the Act.

INDUSTRIES COVERED

While supporting the recommendations contained in the report of the Commission, concerning the scope of the Act, and the industries and branches of industries to be covered, we believe that there would be less danger of disputes and that the interpretation would be easier and clearer if instead of being content to say: "when an industry or a branch of industry is carried on in a commercial exploitation, it comes under the law," article 7321 of the Act were amended as follows:

"Accidents happening by reason of or in the course of their work to workmen, employees, apprentices, wage earners of all kinds and of all trades, engaged under no matter what system, paid by the year, by the month, by the week, by the day, by the hour, by the piece, in trade, occupied in commercial and industrial establishments or in their branches, no matter what nature, public or private, even if they have a character of professional or social teaching, with the exception of outworkers, personal domestics, farm hands, executive officers and commercial travellers, shall entitle the person injured or his dependents to an indemnity ascertained in accordance with the provisions of the Act."

A clause of this nature would do away at once with all sources of litigation concerning the scope of the Act and would give its protection to everyone. As, in certain cases, commerce for example, the risks would be infinitesimal so would be the insurance premiums, there would therefore be no burdensome load for anyone.

PAYMENTS TO FOREIGN WORKMEN AND THEIR DEPENDENTS

Concerning foreign workmen, victims of an accident in Quebec, as well as their dependents, we recommend that they receive the same treatment that our

own countrymen would receive if they were victims of accidents in the latter's country—that is reciprocally.

As a large number of the Workmen's Compensation Acts in the United States contain a clause of this nature and that there are quite a certain number of our countrymen employed in the neighboring Republic, we believe that this clause would be beneficial to them.

ADMINISTRATION AND OPERATION

The employers' group suggests some fairly radical changes in the functioning of the law (see memorandum produced by the Canadian Manufacturers' Association); in opposition, the labor group asks for a complete and absolute change (see memorandum produced by the various labor groups and the summary of the suggestions made).

The Commission speaks of these wishes and recommendations but offers no suggestions, having been unable to reach an agreement on these points.

We are more convinced than ever that the most rational and most simple manner to obtain from a Workmen's Compensation Act the same acme of results, without unfairness and friction, is to hand its operation to a Commission appointed during good pleasure by the government.

This Commission would fix the rates of insurance in proportion to the risks of each industrial group, would collect the premiums, would pay the compensation, would establish the degree of incapacity according to the report of its medical board, the decisions of which would be without appeal with the exception of those dealing with the duration or the degree of the disability; an appeal could be made of these decisions before a central board of medical and surgical experts, but the final decision to remain in the hands of the Commission.

If this system was adopted in our Province, it would do away with all litigation, would guarantee to the workman and his dependents an adequate compensation without delay, while still assuring employers insurance rates much lower than those that they are paying to-day under the stock insurance companies' system; these companies having considerable expenses, dividends to pay and many risks to cover because of the ambiguity of the present Act.

ARGUMENTS AGAINST THE SYSTEM THAT WE RECOMMEND

The only argument brought against this system of a Commission, is that its decisions are sometimes arbitrary and that the workman has no recourse to appeal if he is not satisfied with the way in which he was treated.

In answer to the allegation concerning arbitrary decision we wish to refer you to the memorandum of Mr. Price, president of the Ontario Commission, annexed to the supplement of the report. It answers in so decisive a manner to the allegations and complaints that have been made during the public sittings of the Commission, that no further comment is necessary.

Concerning the allegation that under a Commission system the injured workman has no right to appeal, we answer that this argument was pointed out only by a few lawyers, but as they do not come under the Workmen's Compensation Act they are not personally interested. While thanking them for the interest that they show to the workers, we allow ourselves to recall to them that the latter are in a better position to know what they need to protect themselves than other classes of society and when they are unanimous in their requests it behooves little to others to come and tell them what they need or do not need. As a matter of fact, it is the excessiveness of the litigation costs and the many abuses of which the injured workmen and their dependents have suffered that have created and brought about this unanimity of expression in favor of a radical change in the Workmen's Compensation Act.

TESTIMONY IN FAVOR OF THE SYSTEM THAT WE RECOMMEND

We are, moreover, not the only ones to hold this opinion; amongst those who are called upon to apply the law and to settle the disputes—who therefore know better than many others its qualities and its faults, being in a position to personally judge its more or less degree of efficiency—there are many who from the Bench have declared themselves in favor of the system that we recommend.

We cite in support of this affirmation a few quotations from eminent judges and well known men—we could quote hundreds of others from every country in the world—but these are sufficient, we believe, to prove that this system of administration by a Commission instead of by the Courts is not asked for by only a few labor agitators as seems to be the belief in some quarters.

LATE SIR WILLIAM R. MEREDITH, *Chief Justice of Ontario*: "One of the justifications for this law is to get rid of the nuisance of litigation, and I think even if injustice is done in a few cases it is better to have it done and have swift justice meted out to the great body of the men." (At page 511 of his Report).

MR. JUSTICE DUFF, *of Supreme Court of Canada*: "One at least of the more obvious advantages of this very practical method of dealing with the subject of compensation for industrial accidents is that the waste of energy and expense in legal proceedings and a canon of interpretation governed in its application of refinement upon refinement leading to uncertainty and perplexity in the application of the Act are avoided." (In the case of *Constanza v. Dominion Cannery, Limited*, December 19, 1922).

MR. JUSTICE IDINGTON, *of Supreme Court of Canada*: "It (referring to the Workmen's Compensation Board) is not a court where counsel is heard. The aim of the whole Act is to eliminate the litigious struggle and strife and the judicial peculiarities in mode of thought and applying the law. * * * It was to get away from such life forms and methods and all implied therein that the statute was enacted." (In the case of *Costanza v. Dominion Cannery, Limited*, December 19, 1922).

JUSTICE GREENSHIELDS, *Appeal Court of three judges*, in the case of Victor Borden v. Canada Car & Foundry Company, Montreal, October 24, 1922: "I cannot leave the consideration of this case without suggesting that something ought to be done by our legislators to remedy the evils which constantly appear in the administration of the Workmen's Compensation Act. The present case is a good illustration. This man met with an accident in February, 1919. There is no doubt of the company's liability. It is admitted. Nearly three years have elapsed before final determination of the quantum of the compensation to which the plaintiff is entitled. In the meantime he is condemned to pay the costs on two appeals. Therefore, there are standing at his debit, four bills of costs as taxed under the present existing tariff. He is allowed \$165 rent per annum. I should not be surprised if six or eight years of that annual rent would be absorbed in the payment of the costs to which he is condemned. It may be that the rent cannot be seized for those costs, but his future earnings are liable to the extent of the portion seizable. I do not know whether the various boards in the other provinces, who administer the Workmen's Compensation Acts, are men of great wisdom or not, but I do know that they adjust the workmen's claims expeditiously, and that without one cent of expense to the workmen. The fund established to compensate the workmen does not disappear, and there are no heavy law costs incurred."

In the case of the Workmen's Compensation Board of New Brunswick v. The Bathurst Company, before the Supreme Court of Canada; present: Sir Louis Davis, Chief Justice, and Idington, Duff, Mignault and Malouin, J.J. (See Canada Law Reports, April 30, 1924, page 219).—This Company claimed that it was not bound to pay the premiums under Part I of the Workmen's Compensation Act and that it has a right of election under Part II, consequently, having done so, it claims that their workmen could only sue under common law or under special clauses enacted in Part II of the Act in case of labor accidents. Justice Idington stated:

"That of course would restore all the evils of costly and worrying litigation, which would impose a burden upon suffering workmen that they cannot bear, and enable their masters to give them only such inadequate compensation as to each seemed fit. I cannot conceive that any Canadian Provincial Legislature in recent years could have had any such purpose in view in enacting a statute such as now presented for serious consideration. I submit that such evils as this statute was clearly enacted to remedy were those arising from such causes as I have just mentioned.

"To nullify such an attempt at reform on the part of the Legislature seems, I respectfully submit, the entire object of this litigation..."

MR. JOHN B. DAWSON, of the *Charity Organization Society*, Montreal, said:

At the present time a very large percentage of employees who are incapacitated by industrial accidents or diseases are forced to resort to litigation to enable them to obtain their basic rights, and by the time a settlement is arrived at, there is little or nothing left of said settlement, after disbursements in connection with litigation and medical fees have been paid. If matters were handled in an expeditious manner, from date of accident, by a Workmen's Compensation Board, so that payment of compensation would go directly into the hands of the injured workmen or their dependents, these families would not have to resort, first to litigation and secondly to ask relief in the form of charity. We have on

fyle many cases that are still pending in some instances for months and others for years..."

THE FEDERAL ASBESTOS CO., Robertson, P. Q.: "We agree in general with the principles as outlined in the Ontario Workmen's Compensation Act."

DOMINION OILCLOTH & LINOLEUM CO., LIMITED, Montreal: "We have studied the Ontario Act and as a whole think well of it; we are convinced that with some amendments it would prove beneficial in this Province. Costly litigation would be reduced to a minimum and a better feeling would be established between employers and employees if the Workmen's Compensation Act were administered by the Government."

A. T. BYERS & COMPANY, LIMITED, Montreal: "We think the law as practised and applied in the Province of Ontario is better for all parties. The Ontario law removes the commercial aspect of compensation."

F. W. DAKIN, Montreal: "The administration should be taken out of the hands of the Courts and handled by a Commission to settle disputes. The Act should apply to all with the exception of domestic servants."

THE CANADIAN BAG COMPANY, LIMITED, Montreal: "From our experience, as we have factories scattered all over the Dominion, we find the system in Ontario is the most satisfactory. Instead of paying large sums annually to the shareholders of accident insurance companies, we simply pay the Ontario Government a certain sum each year, and very often we receive rebates at the end of the year. The cost is really less than what we are paying the insurance companies down here for premiums, and the great advantage is that when an accident happens in Ontario whatever the award is, the money goes to the unfortunate employee who is hurt, and is not all gobbled up by lawyers. Our opinion is that we should adopt some scheme similar to Ontario."

THE ATLAS CONSTRUCTION COMPANY, LIMITED, Montreal: "We would suggest an Act somewhat similar to the one in force in Ontario."

ANGLIN-NORCROSS, LIMITED, Montreal: "We would like to see the Act amended so as to be the same as in the Province of Ontario and other Provinces, to make insurance compulsory. Many workmen in our industries in Quebec are not protected because some contractors do not insure and are insolvent."

J. P. DUPUIS, LIMITED, Montreal: "In case of a change in the present Act, I would favor a Workmen's Compensation Commission as it exists in other Provinces."

JEFFRY & KIRBY, Montreal: "Suggest the Government handling all compensations. The party hurt would draw a stated amount for accident and it would do away with all legal fees."

LA CIE CARRIERE & FRERE, Montreal: "We are in favor of an Act similar in character and principles to the one of Ontario."

THE PONTIAC LUMBER & PULP CO., St-Tite, Co. Champlain: "We believe it would be in the interest of both employer and employee that the Workmen's Compensation Act be under the control of the Government."

We could keep on quoting other evidences from industrials and economists in favor of the administration of the Workmen's Compensation Act by a Commission; we believe we have said enough and made our humble effort effective towards the solution of this important question. The future will show whether we have been able to convince our legislators of the urgent necessity of changing our law in this way.

It is not only in the Province of Quebec that this question is causing agitation and that it is being realized that the time has come to adopt legislation in conformity with the advance of progress and the intense development of industrial machinery; the International Labor Conference, realizing the importance of this social legislation, has just sent to all the countries signatory to the treaty of Versailles a questionnaire, the answers of which will enable it to elaborate a Code as perfect as possible in its broad principles and simple in its application; this subject will be on the order of the day at its next Conference to be held at Geneva in May of this year.

And while still remaining within the scope of our attributions, may we be permitted to express the hope that the Province of Quebec will be represented officially at this Conference, so that we will be able to take advantage of the experience so obtained and inscribe in our Statutes a model Workmen's Compensation Act.

The whole respectfully submitted,

PIERRE BEAULE,

GUS. FRANCO,

Representing the employees.

Quebec, January 8, 1925.

LIST OF WITNESSES

Whose Evidence was taken before the Investigation Commission

MEETING AT QUEBEC

Held the 26th and 27th February, 1924 (4 sittings)

- J. POLYCARPE GUERARD: Spoke on behalf of the Harbor Employees of Quebec and the National Central Council.
- THOMAS POULIN: Submitted a memorandum in the name of the National Central Council and spoke on behalf of the Secretariat of Catholic Syndicates.
- GEORGES BLAIS, Employer of Montmagny: Spoke on his own behalf.
- JEAN LABERGE, Secretary-Treasurer of the Harbor Employees of Quebec.
- J. L. LABRECHE: Submitted a memorandum in the name of Railroad Trainmen.
- OMER FLEURY: Submitted a memorandum in the name of the Federated Trades and Labor Council of Quebec and Levis.
- J. HENRI BEAULIEU: Spoke on behalf of Local 604, International Ass. of Machinists.
- M. ROEBLING: Spoke on behalf of International Alliance of Hotel and Restaurant Employees.
- WILFRID GOSSELIN, Carpenter: Spoke on his own behalf.
- JOS. MATTE: Spoke on behalf of Local 283, Railway Carmen of America.
- JOS. LEGARE: Spoke on behalf of Local 730, United Brotherhood of Carpenters and Joiners.
- REV. MAXIME FORTIN, Priest: Spoke on behalf of the Confederation of Catholic Workers of Canada.
- D. LALIBERTE: Spoke on behalf of the Syndicate of Retail Store Employees, of which he is the president.
- ALD. BEAULE: Spoke on behalf of International Union of Boilermakers.
- ALPH. RENAUD, Boilermaker: Spoke on his own behalf.
- MOISE CARRIER: Spoke on behalf of Local 1037, International Brotherhood of Painters.
- ED. BERNIER: Spoke on behalf on Local 302, International Typographical Union.
- ALF. MARTIN: Spoke on behalf of the National Union of Carpenters and Joiners and the National Central Council.
- PHILIAS PATRY: Spoke on behalf of the National Union of Firemen of Quebec, of which he is the president.
- DAVID ROY: Spoke on behalf of the National Union of Firemen of Quebec.

MEETING AT HULL

Held the 4th March, 1924 (2 sittings)

- WILFRID MICHAUD: Submitted a memorandum in the name of the United Brotherhood of Carpenters and Joiners, of Hull, of which he is the president.
- T. A. P. HAYDON: Spoke on behalf of the International Union of Paper, Pulp and Sulphite Workers, and other international organizations, affiliated with the Trades and Labor Congress of Canada.
- ACHILLE MORIN: Representing the Trades and Labor National Central Council of Hull and suburbs.
- RAOUL JACQUES, Employer, Painter: Spoke on his own behalf.
- J. A. DAOUST: Spoke on behalf of the International Union of Papermakers, Local 34.
- PAT GREEN: Spoke on behalf of the United Brotherhood of Carpenters and Joiners of America, of which he is the general representative.
- B. RENE DE COTRET: Spoke on behalf of the Catholic Syndicate of Office Employees.
- CHS. DUBUC, Carpenter: Spoke on his own behalf.
- B. SAVARD: Spoke on behalf of Local 35, International Union of Papermakers.

- ART. DAGENAIS: Spoke on behalf of Local 1168, United Brotherhood of Carpenters and Joiners of America.
- H. LAFRAMBOISE: Spoke on behalf of Local 174, International Union of Firefighters, of Hull.
- H. VILLENEUVE: Spoke on behalf of Local 1169, (Hull), United Brotherhood of Carpenters and Joiners of America.
- M. MORIN, Bricklayer: Spoke on his own behalf.

MEETING AT MONTREAL

Held the 6th, 7th and 8th March, 1924 (9 sittings)

- J. T. FOSTER: Spoke on behalf of the Trades and Labor Congress of Canada, Montreal, of which he is general vice-president.
- H. A. SPENCE: Submitted a memorandum in the name of the Montreal Trades and Labor Council.
- FRANK GRIFFARD: Submitted a memorandum in the name of the Building Trades Council, of which he is the president.
- JOS. PIQUETTE, Carpenter: Spoke on his own behalf.
- OMER ST-AUBIN: Spoke on behalf of the International Union of Stone Cutters.
- D. PETELLE: Spoke on behalf of Lodge 606, Brotherhood of Railway Carmen.
- ED. FORTIER: Spoke on behalf of Local 2098, United Brotherhood of Carpenters and Joiners of America.
- A. LONGTIN: Spoke on behalf of Local 1360, United Brotherhood of Carpenters and Joiners of America.
- E. ELLIS: Spoke on behalf of Local 1244, United Brotherhood of Carpenters and Joiners of America.
- T. J. COUGHLIN: Submitted a memorandum in the name of the International Brotherhood of Railroad Trainmen, of which he is the general representative.
- P. J. TEES, M.D.: Submitted a memorandum in the name of a Committee representing the hospitals.
- O. S. MERCIER, M.D.: Spoke on behalf of the same committee as Dr. Tees.
- JOS. CHARBONNEAU, Tinsmith and Roofer: Spoke on his own behalf.
- H. SPENCE: Gave evidence in the name of Mr. Gibb, C.N.R. employee.
- ALLEN WENBOURNE, C.N.R. employee: Spoke on his own behalf.
- ART. TREMBLAY, Carpenter and Joiner: Spoke on his own behalf.
- G. McDONOUGH, Electrical Worker: Spoke on his own behalf.
- D. G. WALLACE, Telegrapher: Spoke on behalf of the Order of Railroad Telegraphers.
- D. BROPHY: Spoke on behalf of International Union of Structural Iron Workers.
- JOS. SCHUBERT: Spoke on behalf of International Unions of Garment Workers.
- GERARD TREMBLAY: Spoke on behalf of the Catholic Syndicates of Montreal, of which he is the secretary.
- O. FILION: Spoke on behalf of the Executive Committee of the National Catholic Syndicates of Montreal.
- JOS. DAOUST, Manufacturer: Spoke on his own behalf and on behalf of the Canadian manufacturers.
- H. M. JAQUAYS: Submitted a memorandum in the name of the Canadian Manufacturers' Association.
- JOHN LOW: Spoke on behalf of the Canadian Manufacturers' Association.
- D. K. CHURCH: Spoke on behalf of the Montreal Builders' Exchange.
- T. ROBERTSON JONES: Submitted a memorandum in the name of the Insurance Brokers' Association.
- A. CHASE CASGRAIN: Spoke on behalf of the Montreal Bar.
- ERNEST BERTRAND: Spoke on behalf of the Montreal Junior Bar.
- GUSTAVE MONET, Barrister: Spoke on his own behalf.
- DAVID GIROUX: Spoke on behalf of the Canadian Federation of Labor.
- JOE. WALL: Representing the Canadian Brotherhood of Railroad Employees.
- C. S. OGDEN: Spoke on behalf of the Steel Company and of the Canada Car & Foundry Co.

- PAUL RANGER, Barrister: Spoke on his own behalf.
 F. LAZELL: Spoke on behalf of the International Union of Lithographers of Canada.
 W. N. DIXON: Spoke on behalf of the International Union of Pattern Makers of North America.
 A. C. TAGGE: Representing the Canada Cement Company.
 W. BEST: Submitted a memorandum in the name of the Canadian Legislative Bureau of the International Brotherhood of Locomotive Firemen and Enginemen.
 YVES TESSIER LAVIGNE: Submitted a memorandum in the name of the "Association des Anciens Elèves de l'Ecole des Sciences sociales, économiques et politiques de l'Université de Montréal".

MEETING AT THREE RIVERS

Held the 14th March, 1924 (2 sittings)

- W. G. E. AIRD: Submitted a memorandum in the name of the Canadian Manufacturers' Association, Section of Three Rivers.
 GEORGES LOUHOOD: Submitted a memorandum in the name of the Three Rivers Trades and Labor Council.
 J. L. LABRECHE: Submitted a memorandum in the name of the Railroad Employees, *in lieu* of M. Haince.
 J. G. BOLDUC: Submitted a memorandum in the name of the Central Council of the National Catholic Syndicates of Three Rivers.
 G. PRATTE: Spoke on behalf of the United Brotherhood of Carpenters and Joiners of Grand'Mere.
 PHILIPPE BIGUE, Barrister: Spoke on his own behalf.
 ISAAC WEINER, Employed by the Wabasso Company: Spoke on his own behalf.
 FRANÇOIS LAJOIE, Barrister: Spoke on his own behalf.
 NARCISSE ARCAND: Spoke on behalf of the United Brotherhood of Carpenters and Joiners of America, of which he is the organizer for the Province of Quebec.
 W. BEST: Spoke on behalf of the Legislative Bureau of the International Brotherhood of Locomotive Firemen and Enginemen.

MEETING AT SHERBROOKE

Held the 18th March, 1924 (3 sittings)

- ART. BRULE: Spoke on behalf of the "Cercle d'Etudes Benoit XV", National Catholic Syndicates of Sherbrooke.
 P. TROYMAN: Spoke on behalf of the Sherbrooke Trades and Labor Council, and submitted a memorandum.
 JOS. C. MORIN: Spoke on behalf of the International Brotherhood of Railroad Trainmen, of Sherbrooke Local, of which he is the secretary, and submitted a memorandum.
 G. R. BRUNET: Spoke on behalf of the Allied Printing Trades Council.
 A. SANGSTER: Submitted a memorandum in the name of the Canadian Manufacturers' Association, Section of Sherbrooke.
 C. A. JOSLIN: Spoke on behalf of the Canadian Manufacturers' Association, Section of Sherbrooke.
 P. DRAPEAU, Journeyman: Spoke on his own behalf.
 ARMAND LAVERGNE, Carpenter and Joiner: Spoke on his own behalf.
 W. WARK: Submitted a memorandum in the name of the International Brotherhood of Firemen and Enginemen.
 NAP. BRETON, Miner: Spoke on his own behalf.
 L. LEMIEUX, Carpenter and Joiner: Spoke on his own behalf.
 A. BASTIEN: General organizer of international organized workers of the Province of Quebec.

MEETING AT CHICOUTIMI

Held the 23rd June, 1924 (1 sitting)

- R. GIRARD: Spoke on behalf of Local No. 2, Pulp Mill Employees, and submitted a memorandum.
- J. MENARD: Spoke on behalf of Pulp Mill Employees.
- J. L. LABRECHE: Spoke on behalf of the Brotherhood of Railway Employees; and submitted a memorandum.

MEETING AT JONQUIERES

Held the 23rd June, 1924 (1 sitting)

- M. GIRARD: Spoke on behalf of the Jonquieres Trades and Labor Council, of which he is the president.
- H. HUARD: Spoke on behalf of Local 1338, Jonquieres, United Brotherhood of Carpenters and Joiners of America.
- P. T. PARENT: Spoke on behalf of International Brotherhood of Electrical Workers.
- ART. MARTEL, Carpenter: Spoke on his own behalf.
- PHILIPPE LEBLANC:, Journeyman: Spoke on his own behalf.
- P. VOYER, Journeyman: Spoke on his own behalf.
- LS. VILLENEUVE, Worker: Spoke on his own behalf.
- S. FLINT: Controller for the Price Brothers Company.

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In addition to the evidence collected and memoranda submitted during the public meetings, the Commission has also received the following memoranda:

MEMORANDUM and draft of a Compensation Act submitted by the Quebec Section of the Canadian Manufacturers' Association.

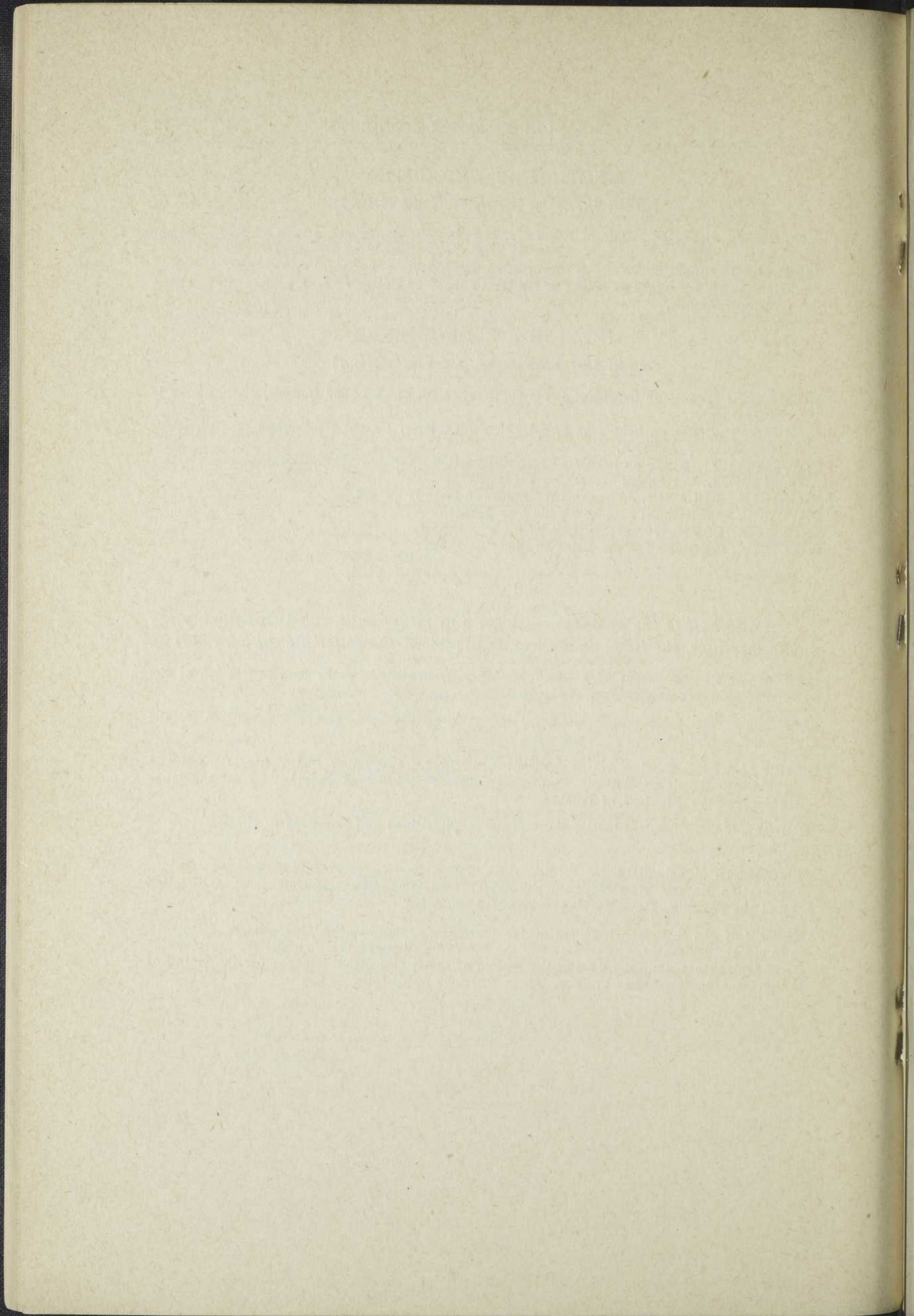
ANSWER of the Joint Labor Group to the memorandum and draft bill submitted by the Canadian Manufacturers' Association.

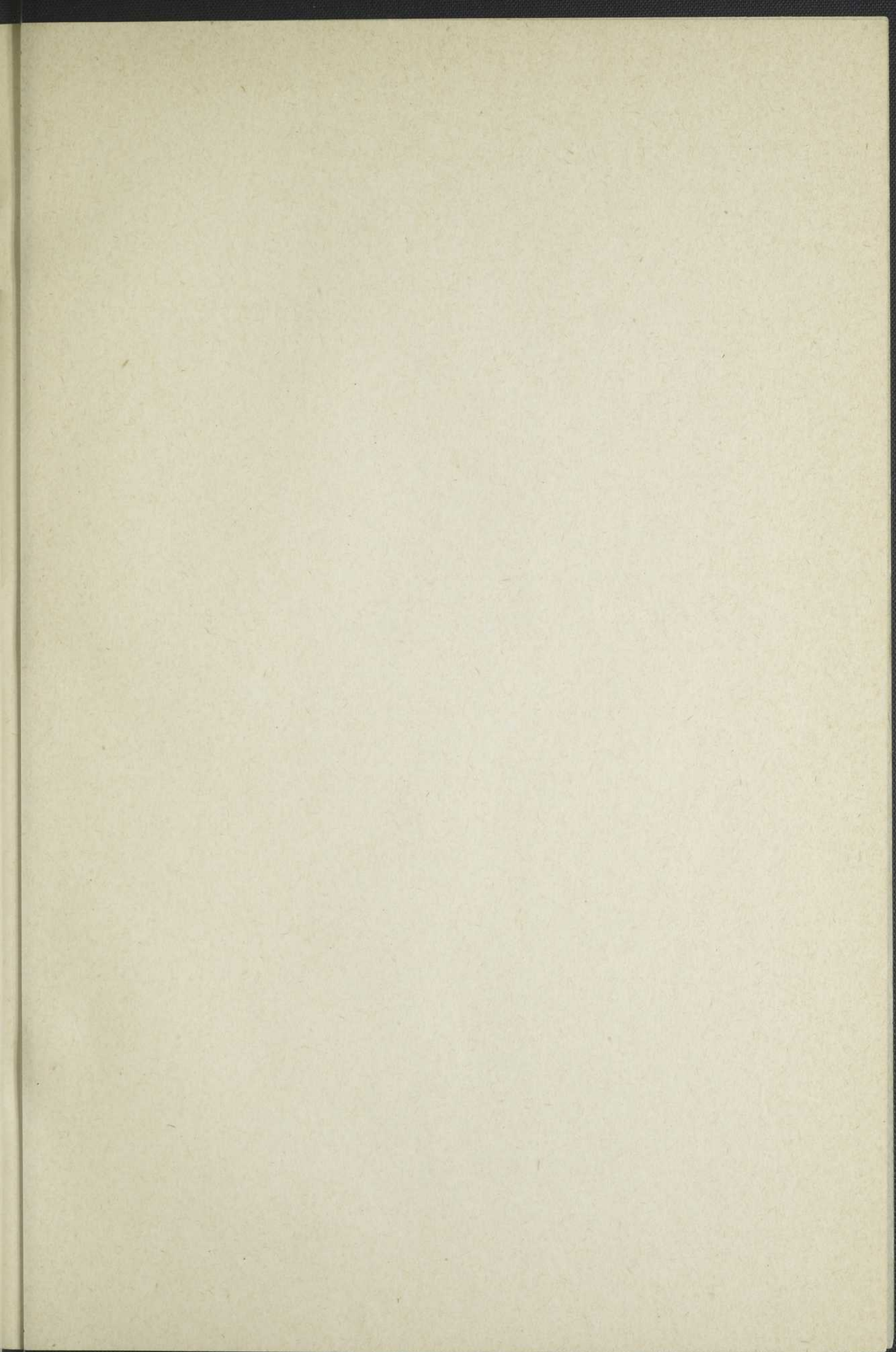
DRAFT of a Compensation Act submitted by the Trades and Labor Congress of Canada and the Brotherhoods of Railway Employees; this draft bill was endorsed by all the labor unions of the Province of Quebec.

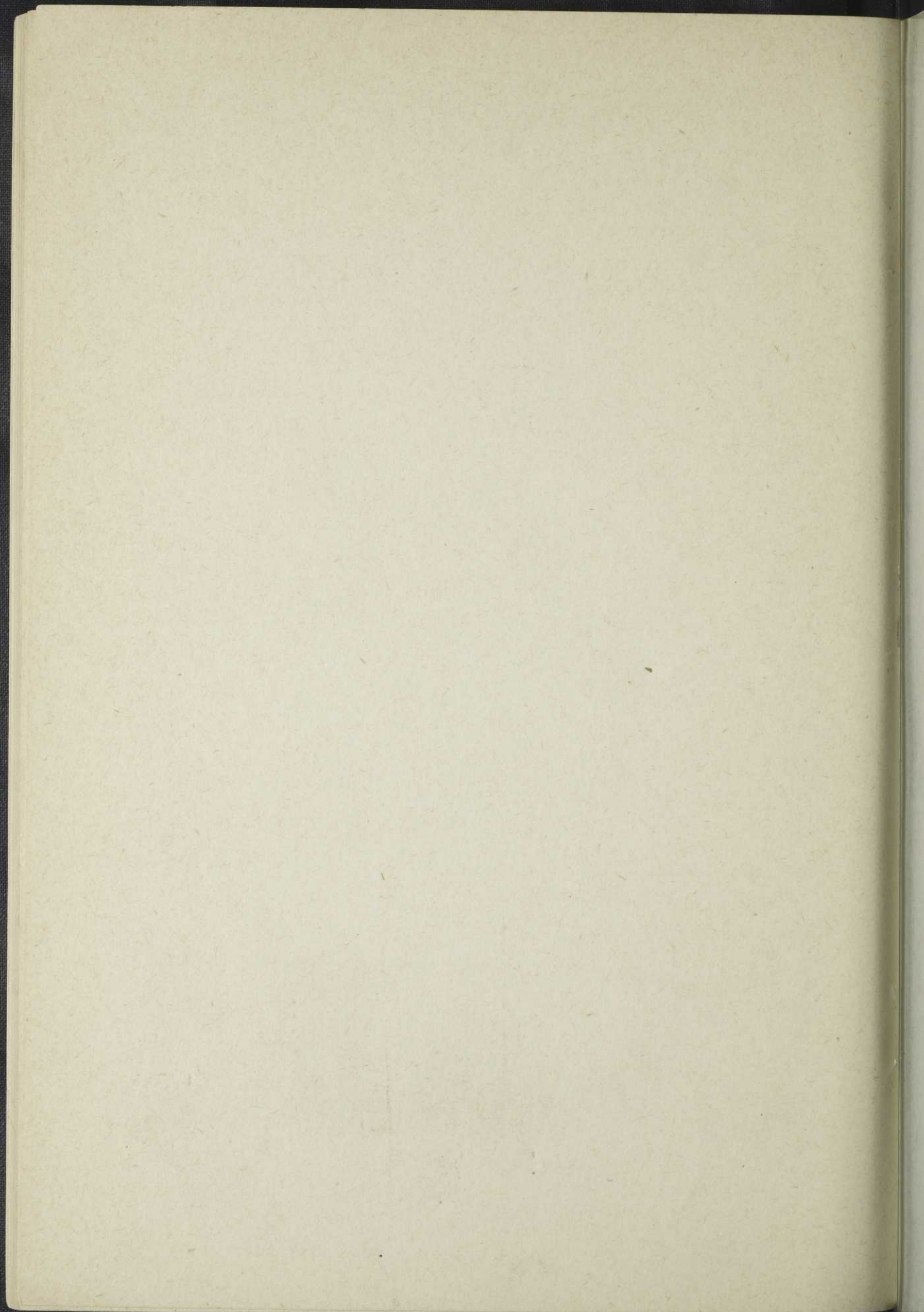
MEDICAL TARIFF submitted by the College of Physicians and Surgeons of the Province of Quebec.

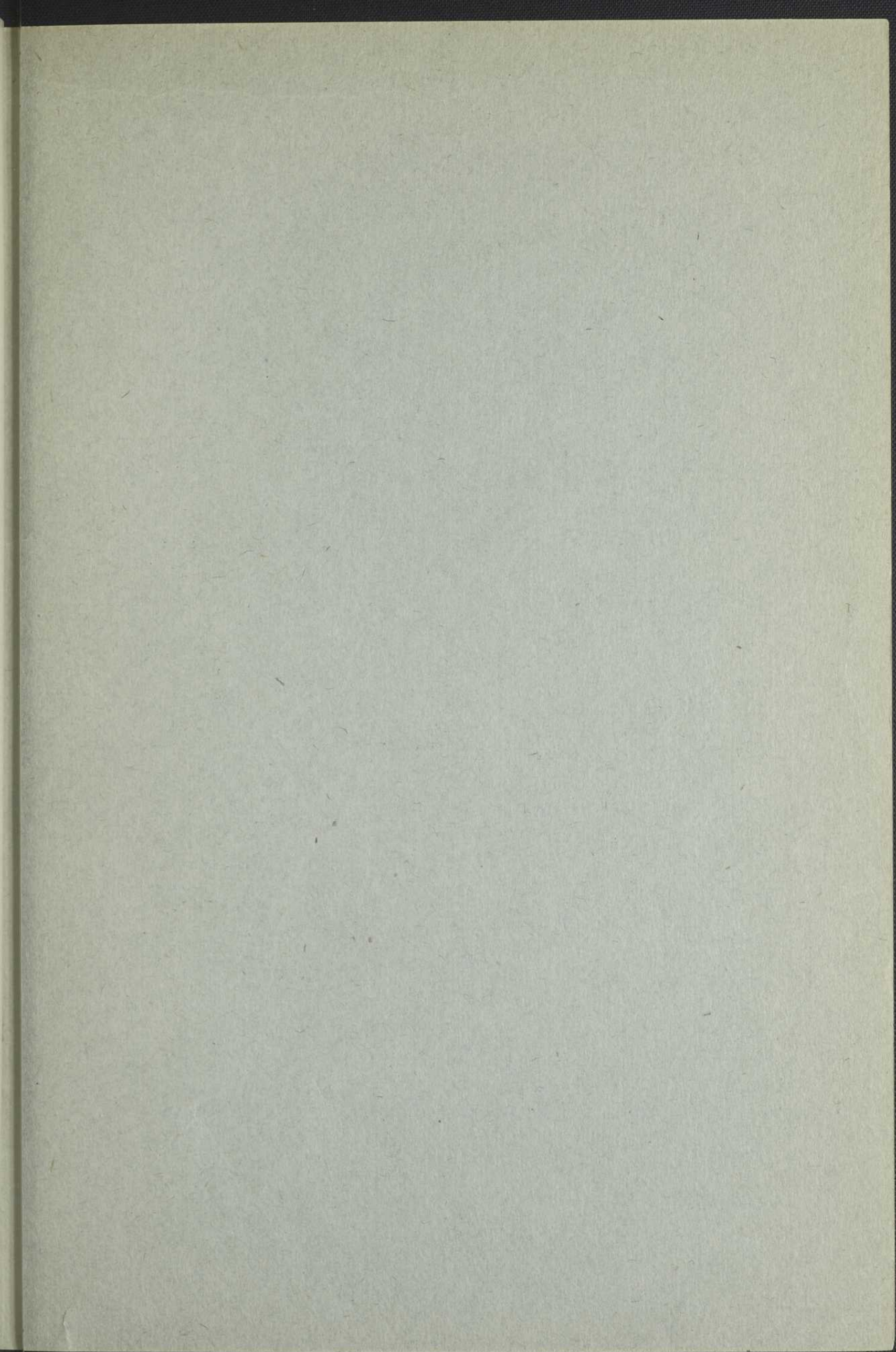
MEMORANDUM submitted by F. Robertson Jones, Secretary-Treasurer, Workmen's Compensation Bureau, New York, in the name of the Canadian Manufacturers' Association and the Canadian Casualty Underwriters' Association.

ANSWER of Mr. S. Price, President of the Workmen's Compensation Commission of Ontario, to certain declarations uttered during the public meetings of the Commission, accompanied by explanatory notes concerning the system of merit and demerit marks for the fixing of the insurance premiums in force in the Province of Ontario.









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