INDUSTRY AND INDUSTRIAL LEGISLATION IN MANITOBA

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PART I: Introductory

It is characteristic of the subject of Industrial Legislation that any literature dealing therewith rapidly becomes out of date, and, consequently, loses much of its value from year to year as the various statutes are amended and broader interpretations given to the law. While, generally speaking, laws affecting the relationships between employers and employees come under the jurisdiction of the Provincial Government, there are numerous statutes passed by the Dominion Government which directly relate to the subject. Municipal Bodies also possess certain delegated authority to pass by-laws respecting industrial conditions. While the Courts do not make law, judicial decision moulds the interpretation of the law, and, therefore, may be said to make changes in the law. Then again many Industrial statutes are administered by Commissions or Boards, such as the Workmens' Compensation Board, Minimum Wage Board, etc., and these bodies issue regulations under powers conferred by the governing statute which have the effect of either widening or narrowing the scope of the law. With so many legislative, judicial and quasi - judicial avenues leading to changes in the law, it is apparent that a treatise which might be approximately comprehensive in 1931, would be very much out of date a few years hence.

A great deal has been written about Industrial Legislation during the past fifty years and therefore there

is very little need, in fact very little excuse, for original thought in dealing with the subject. A recital of the legal intricacies surrounding the working of industrial statutes might be interesting, but inasmuch as law is merely one of the vehicles by which economic principles find expression, an attempt will be made to deal with the subject from the economic point of view.

As a country becomes more industrialized the greater is the tendency to interfere with freedom of contract by means of so-called Labour Legislation. When the industrial pursuits of Manitoba were confined to the pounding of pemican and the chipping of arrow-heads there was little need for Eight-Hour Day, or Workmens Compensation legislation. Before manufacturing in Manitoba became firmly established and Agriculture was not only the basic but almost the sole occupation of the people the only law which sought to regulate conditions of labour to any appreciable degree was that part of the Common Law of England which could be applied to this Province, and which became the law of Manitoba on July 15, 1870. Since that time manufacturing has grown to such an extent that in 1929, for the first time, the value of products manufactured in Manitoba exceeded the value of the agricultural production of the Province. Some idea of the rapid development of industry, apart from agriculture, may be gained from a consideration of the fact that, during the past eleven years, the industrial payroll has been doubled.

With such increased industrial activity involving rapid increase in the employment of labour it was only natural that much labour legislation should find its way into

the statute books of the Province. As a result there is such a large volume of statute law dealing with the subject that it is scarcely necessary to give much consideration to the English law, except insofar as it lays down principles which have formed the basis of various Manitoba Acts.

While no attempt will be made in this discussion to exhaust the subject, attention will be drawn to the more important pieces of legislation. The Workmen's Compensation Act undoubtedly is the most important industrial statute in the realm of Manitoba's labour laws, and therefore will receive more detailed analysis than those laws which are more confined in scope.

In appraising the value of the different industrial statutes consideration must be given to the benefits and cost to the employee, to the employer and to the State. If, by the application of this measuring-rod, some of the laws are found to be inadequate and irksome, we must remember that frequently political expediency rather than economic reasoning plays a prominent part in modern democratic institutions.

Before passing on to a more detailed discussion of the subject, it may be well to note the general tendency to extent the field of legislative regulation of industry during the past twenty years. Our economic and industrial system has undergone a radical change. Mass production in large plants with thousands of workmen has taken the place of the small workshop in which employees and employer frequently worked side by side on intimate terms. New methods of finance, mergers and the mechanization of industry have removed, to a large extent, the personal relationship between

the two great partners in industry. During and following the Great War our governments began, as they thuught, to make the World a better place in which to live and Legislation designed to promote social and humanitarian ideals rapidly assumed bulky proportions. Another factor which has contributed to this movement has been the growing strength of labour organizations. In Provincial as well as in Dominion politics the emergence of third and fourth parties has given a small labour representation an enormous bargaining strength. Governments, dependent upon small groups in order to retain political office, have given concessions to workmen in the matter of factory regulation which, under a strong two-party system might have been postponed until a much later date.

Although the Eastern Provinces, particularly Ontario and Quebec, became industrialized at a much earlier date than Manitoba, it is noteworthy that Manitoba advanced much more rapidly in the matter of legislation regulating working conditions in her factories and work-shops. A comparison of the industrial legislation of Manitoba, and that of other Provinces of the Dominion shows that Manitoba employers have treated their employees very liberally indeed.

PART II: Minimum Wage for Women

CHAPTER I Purpose and Scope.

Manitoba has been a pioneer in the field of Minimum Wage legislation, having passed the Minimum Wage Act in 1918 and appointed a Board which held its first meeting in April of the same year. British Columbia followed with the appointment of a Board in July 1918. In 1919 Saskatchewan passed similar legislation and was followed by the somewhat elaborate Act passed by the Ontario Legislature in 1920. The Nova Scotia Act was passed in 1920, but not proclaimed until 1924, and as yet no Board has been set up to administer the Act. The Alberta Act which was passed in 1922 was declared invalid in 1924, and a new Act adopted in 1925, and in the same year Quebec entered the field.

The Minimum Wage Act of Manitoba has been enforced for 13 years, and has not been amended to any appreciable extent. There are two reasons for this. In the first place the original Act emerged as the result of extensive deliberation on the part of employees and employers, and secondly, such wide powers are conferred upon the Board to issue regulations covering modifications, necessary to cope with changing industrial conditions, that extensive amendments to the Act have been found unnecessary.

The Principal provisions of the Act may be divided into the following divisions:

(1) General Purpose.

Section 4 of the Act summarizes the objects of the legislation by setting out that;

"The said Board is hereby authorized and empowered to ascer-

tain and declare, and to make all necessary orders relative to:-

(a) Standards of minimum wages for employees, and what wages are adequate to supply the necessary cost of living to employees, and maintain them in health;

(b) Standards of hours of employment for employees in any occupation within the meaning of this Act;

(c) Standards of conditions of labour for employees, and what surroundings or conditions, sanitary or otherwise, are essential to the health or morals of employees in any such occupation."

(2) Scope of the Act.

The Act applies to employees and the term "employee" is defined to, "mean and include every female worker employed in any mail-order house, office, place of amusement, shop or factory in any city in Manitoba who is in receipt of or is entitled to compensation for labour performed for any such employer."

The definition of the term "shop" excludes domestic servants and employees of a "religious, charitable, political or patriotic institution, or a hospital, nurses' training school or a branch of any municipal or other government."

If conditions of labour, wages and hours of work of female workers prior to the passage of the Act were such as to render regulation necessary it does seem odd that the above exemption should be made. In the case of hospitals there may

be ample cause for leaving female workers engaged in nursing outside the scope of the Act since emergencies may render long hours of work necessary. Even admitting this to be the case it would be a simple matter to cover standards of working conditions, wages and hours for nurses by special regulations sufficiently elastic to allow for any emergencies that might arise. There can be little excuse however, for excluding maids, assistants, cooks, charwomen etc. engaged in hospitals from the benefits of the Act.

If it is a good thing to compel owners of factories or mail order houses to place their female workers under standards set up by the Minimum Wage Board, surely the same should apply to political institutions as well. Equally inconsistent is the exclusion of female domestic servants from the operation of the Act. If it is necessary to pay a female worker engaged in one line of endeavour, a wage "adequate to supply the necessary cost of living and maintain her in health" for hours of labour that are "reasonable" under conditions "essential to the health and morals of the employee" then the same should be necessary in all cases. One of the strongest arguments advanced in favour of Minimum Wage Legislation in Manitoba was that female workers must not find it necessary to supplement their regular wages by resorting to immoral practices. With this point of view no respectable person can take exception, but it is difficult to understand the basis for the distinction between females engaged in shops and factories and those engaged in vocations to which the Act does not apply.

Manifestly the morals of a domestic servant, whose duties touch the welfare of the home, are as important, both to herself as well as to her employer, as those of a female worker engaged in making overalls or wrapping parcels.

On the other hand it may be argued that a Minimum wage for female workers is unnecessary in the case of the exempted employees because the conditions of labour, wages and hours of work are satisfactory. In most cases this is true, but if a wage of $12.00 per week is the minimum out of which an overall operator can maintain herself then how can a domestic servant or a girl engaged by a "political institution" live respectably on a lesser wage? The food costs presumably would be similar and the clothing costs higher for the domestic or"political" worker since she must dress more expensively. It may be said that the latter type receive more than the minimum wage established under the Act. This may have been the case in 1918 when the Act was passed, but it does not apply today. It is not uncommon to find maids working 12 hours a day for 5 days and six hours for 2 days every week at a wage of from $10.00 to $15.00 per month. True they receive their board but many of them sleep out in their own rooms. This is 20 hours per week longer than any girl is permitted to work under the Act and is not equivalent to the lowest weekly wage ($11.00) allowed by the regulations for experienced help. Recently two ladies advertised for domestic help. Forty-seven girls responded in one case and fifty-five in the other and all expressed a willingness to accept $15.00 a month and sleep out.

While the Act gives the Board power to extend the application of the Regulation to "any portion of Manitoba, not in any City" the Board has not exercised the power extensively. The result is that female workers outside of Winnipeg and Brandon do not enjoy the benefits of the legislation, except to a very limited extent.

In discussing Industrial Legislation it may appear irrelevant to consider the conditions of labour in pursuits which are not industrial. The scope of the Minimum Wage Act is fairly consistently confined to industrial female workers. The exemptions from the operation of the Act are discussed solely to show that employers of industrial female labour are forced to pay higher wages for shorter hours, than any other class of employer. In other words female workers in non-industrial vocations have not received the protection afforded those engaged in industry. That this is discrimination cannot be doubted. Whether or not it is unfair discrimination is another question.

It is suggested that there are three causes for this differential treatment of female workers. The first reason complies, to a large extent, with the principles of sound economics. It is claimed that factory and shop work is more tiring and irksome than work in those occupations to which the Act does not apply. In most cases this is true, although many female workers prefer employment in factories to housework, and in most cases city employment is taken in preference to that offered in towns to which the Act does not apply. This economic reason, however, does not answer the objection that all female workers, regardless of where they may be engaged, require stan-

dards "essential to their health and morals" and wages adequate for their maintenance. The second reason illustrates the effectiveness of labour organizations. In Cities, where it is easy to organize workers, the Act applies. Domestic help knows little about labour movements and the Act excludes it from regulation. Then there is the political cause, which is often camouflaged as the "practical" reason for confining the Act to female industrial workers. If the Act covered employment in a "private house, apartment or room used as a dwelling, or for the purposes of a religious, charitable, political or patriotic institution, or a hospital, nurses training school or a branch of any municipal or other government," it is safe to say that such opposition would be met in attempting to enforce compliance therewith that it would only be a matter of a short time before the Act would be repealed. In other words, we find one law for employers of industrial female help where freedom of contract is prohibited, and another law for the conduct of employment in industries not covered by the Act where freedom of contract is allowed almost to an unlimited extent.

Chapter II Administration

For the purposes of carrying out the provisions of the Act a Minimum Wage Board has been appointed. This Board consists of five persons. The Act stipulates that "two representatives of employers, one of whom shall be a female, two representatives of employees, one of whom shall be a female, and one disinterested person who shall not be directly or indirectly connected with employers or employees and who shall act as Chairman" shall be the members of the Board.

Appointments are made by the Lieutenant-Governor-in-Council upon the recommendation of the Minister in charge. In practice the Minister asks for recommendations from organizations of employees or employers as to appointments, and as a general rule acts upon such recommendations. Members of the Board receive $10.00 per meeting and there are on the average 18 meetings per year.

While the Board is not confined to the data supplied by the Bureau of Labour as to conditions of labour, wages and hours of work, it generally contents itself with the investigations carried on by the Bureau of Labour. Inspections of shops and factories are made by the inspectors and inspectresses of the Bureau of Labour.

The Board has for the purpose of its investigations under the Act, all the powers, rights and privileges of the Court of King's Bench or of a judge thereof in civil cases, including the power of enforcing the attendance of witnesses

and examining them upon oath. It may compel the production of such documents as are pertinent to the subjedt matter of its inquiries, and may punish persons guilty of contempt of the Board. The Board or any member may issue a summons or a subpoena to compel the attendance of witnesses or the production of documents. The powers of the Board are so wide as to include the arrest of persons disobeying its summons or subpoena.

The practice of the Board is to examine the reports of its inspectresses. If such reports reveal failure of an employer to pay the minimum wage, or to comply with the maximum hours of labour or otherwise to violate the provisions of the Act or the regulations of the Board, the Board will write the employer requesting him to remedy the condition upon which the complaint is based. Within a short time another inspection is made and if the employer has complied with the request of the Board the incident is at an end. If the employer feels aggrieved he is invited to attend the next meeting of the Board and outline his objections to its request when the matter is discussed and, in most cases, an agreement is reached. In some instances members of the Board visit the place of business of the employer and discuss grievances with him after viewing the prevailing working conditions.

The Act requires every employer to keep a register of the names and addresses, and the actual earnings of all his employees, and to permit any member or any represantative of the Board to examine the same. About the first step taken by

an inspectress when visiting the employer's place of business is to examine the Register.

Another function of the Board is the collection from the employer of the difference between what an employee receives and the amount she should have received under the regulations. The machinery of the Police Court is used to carry out this function. Under ordinary circumstances a creditor, even though he be an employee having a claim for wages, must himself set the law in motion by the issue of a writ, whereas the wages of female workers whose employment comes within the scope of the Minimum Wage Act, in many cases, are often collected by action instituted by the Board. We often hear of the terrible plight of the "slaves of industry" but in this one regard at least it would seem that the "cruel clutch of the industrial boss" is alleviated by a form of paternalism which is conspicuously absent in the case of female workers whose employment remains outside the remit of the Minimum Wage Board.

Any employer who violates any of the provisions of the Act or of any order, rule or regulation of the Board and is convicted therefor is subject to a fine of not less than $25.00 or more than $100.00. In default of payment such employer is punishable by imprisonment for not less than ten days or more than three months. The Police Magistrate seized with the case may in his discretion impose both the fine and the imprisonment.

(5) Regulation of Female employment by the Board.

The Minimum Wage Act authorizes the Board to "pre-

pare, adopt and promulgate rules and regulations for the carrying into effect of the provisions of the Act." Generally speaking the Board places in one group those industries which have a similarity in type of work and isses one regulation covering the group. In some cases a regulation covering employment in one group may apply in Winnipeg, and another regulation will cover the same group in Brandon. There is a very wide lattitude allowed the Board in making regulations and as a consequence the rules are very flexible.

The normal regulation deals with the following mattems :-

1. Conditions of Labour.

   (1) Cleanliness - the walls, ceiling, floor and fixtures must be maintained in a sanitary condition.

   (2) Drinking Water - fresh water accessible to all workers must be provided. Common drinking cups are prohibited.

   (3) Lighting - window space equal to one-eighth of the floor space is required.

   (4) Wash basins and toilet rooms - one of each must be supplied for every 20 female employees. Individual towels are compulsory.

   (5) Temperature - must vary between 60 and 75 deg. F.

   (6) Health - safety devices, a first-aid kit and a couch or stretcher must be provided.

   (7) Lunnh Room - is required where lunch is eaten on the premises.

2. Hours of Labour

   (1) The hours of labour shall be not more than nine

hours in any one day or more than forty-eight in any one week. Each female employee shall receive one afternoon half-holiday each week. No work shall be done on Sunday.

Different hours are provided for in different types of employment. For example the above hours apply in most manufacturing establishments, although in some cases fifty hours is the maximum set per week. In the case of stores eleven and a half hours may be worked on Saturdays with special exceptions made for the month of December. In restaurants one full day holiday must be allowed each week. In other employments such as in hotels, millinery shops, five, ten and fifteen cent stores other hours are set as a maximum.

(2) Overtime may be worked only where a permit is secured. Strict regulation of overtime is provided. Extra pay must be given and each employee is restricted to a certain number of days overtime in one year. Certain minors are not permitted to work more than the regular hours.

(3) At least one hour shall be allowedfor lunch.

3. Wages.

(1) Method of Payment - wages must be paid weekly, within three days after they are earned.

(2) Notice to be given - after four weeks employment, except in cases of flagrant insubordination on the part of the employee or flagrantly unjust treatment by the employer, one week's notice of

intention to cease work, or of dismissal must be given by the employee or employer respectively.

(3) Minimum Wage - No experienced female employee over 18 years of age shall receive wages at a less rate than (from $10.50 to $12.00) per week. In nearly all cases the minimum is $12.00 but in some instances as low as $10.50 is allowed.

(4) Adult learners - No inexperienced female worker under 18 years of age shall be paid wages at a less rate than $8.00 for the first four months after entering the factory and $9.00 for the second four months, and $10.00 for the third four months, after which period of twelve months she shall be considered an experienced adult and shall receive not less than the minimum wage of $11.00 per week.

The number of learners and minors in any factory shall not exceed 25% of the total experienced female employees. No girl under fifteen years of age shall be employed.

While the wages as set out above do not apply in all cases they are the normal rates of wages provided for in 90% of the industries. The limitation of the number of learners and minors in any factory to 25% of the total experienced female help is for the purpose of preventing an employer from engaging only minors and (or) learners and thereby violating the spirit of the legislation.

4. <u>Board and Lodgings, Etc.</u>

Where lodging is furnished by the employer, there may be deducted from the wage a sum which shall be not more than $2.00 per week and for board not more than $4.50 per week, and for both lodging and board not more than $6.00 per week.

5. Permits of Exemption

The Board may issue a permit upon application therefor to any employer, granting modification of or exemption from these regulations. Such permits will be issued only in cases of exceptional or emergent conditions arising.

6. Posting of Regulations.

Each employer shall keep a copy of the regulations posted in a conspicuous place. From a detailed study of the regulations issued by the Board it would appear that the question of wages and hours has been regarded as of most importance. In dealing with wages three different classifications have been made, namely experienced employees, minors and learners. In some cases minors have been subjected to the same regulations as learners. The period of learning in most cases is limited to two periods of three months each with a higher wage for the second period. In some cases however, where greater dexterity and experience are required as many as four periods of six months each are required, before the learner is promoted to experienced class. Wages for these periods are graduated on a scale of increase of $1.00 per week per period.

In other cases, such as places of amusement, restaurants, etcetera, no provision is made for a learning period.

Respecting the conditions of labour required by the regulations, there is little, if any, objection voiced by either employees or employers. The chief objections to the regulations arise in connection with the hours of labour and the wages provided by the regulations.

CHAPTER III Attitude of Employers

The principle underlying Minimum Wage Legislation is that the state must protect large numbers of unskilled female workers who find themselves at a disadvantage in industrial bargaining because they are unorganized. If they were so organized they could secure congenial conditions of employment without the intervention of the state. This principle presupposes that employees cannot secure a fair minimum wage without governmental interference. It is commonly thought that employers are opposed to Minimum Wage Laws. That this is a mistaken supposition is proved by the fact that the first overtures for such legislation in Manitoba was made by employers.

In the autumn of 1917 various employers' organizations made a study of Minimum Wage Legislation and on February 19th, 1918, submitted the findings of their investigations together with a draft Act cited as the "Women's Industrial Welfare Act" to the Manitoba Government. Comparison of that draft with the present Minimum Wage Act shows that the latter contains most of the recommendations of the employers as set out at that time.

Leaders in the Labour Movement in Manitoba persistently contend that employers are uncompromisingly wedded to high dividends and sweat-shop conditions of labour and are unscrupulous in their moral obligations to their employees. Perhaps the most effective answer to

this contention would be a recital of the representations made by employers to the Government prior to the passage of the present Minimum Wage Act.

The first statement made by employers at that time was a quotation of the Rev. Father J. A. Ryan, Professor of Ethics and Economics in the St. Paul Seminary, "Wages should be sufficiently high to enable the labourer to live in a manner consistent with the dignity of a human being." One would scarcely expect to find this noble sentiment, framed as a motto, to adorn the walls of a sweat-shop.

The brief submitted by employers, entitled "A Living Wage for Women" is based on the following seven principles and the draft Act appended thereto was designed to carry those principles into effect:-

(1) Living wages must be paid.

"Every experienced woman worker in Manitoba ought to receive for her labour, wages sufficient to provide the necessary cost of living and maintain her in health."

(2) Hours and Conditions of Labour must be considered.

"Fair standards for hours of employment and other conditions of employment of a suitable character should be prescribed for each occupation in which any considerable number of women are employed."

(3) Compulsory orders required.

"Employment at less than the wages so fixed or for longer hours or under less favourable conditions than may be prescribed, should be made illegal."

(4) Wage Boards necessary.

"Adequately to deal with the numerous and complicated factors which enter into the decision of the above matters, requires the appointment of a permanent commission to study conditions, to make investigations into particular occupations and to ascertain the varying cost of living in the several cities, towns, villages and rural communities of the Province, and to make such regulations as are suited to the particular requirements of each occupation and locality."

(5) Dangers Resulting from Flat Minimum Wage.

"The fact that the amount necessary to supply the necessary cost of living and maintain health, is much less in other places than in Manitoba, and that many employers of women in Manitoba are producing or dealing with commodities in competition with employers elsewhere in Canada, is a reason why care should be taken in ascertaining the actual amount which is fair in Manitoba, as one consequence of the law proposed above will certainly be to make it more difficult for many employees in Manitoba to compete with employers elsewhere, and this factor, in combination with others, may make it impossible to employ women in certain occupations in Manitoba."

(6) Employers Wish to be Fair.

"The employers approach the subject from the point

of view of the welfare of the Province as a whole, as depending in a large measure upon the welfare of the women of the Province and will not advocate any proposals which can be shown to have a prejudicial effect upon the welfare of women."

(7) Employers Opposed to Flat Minimum.

"Employers are fundamentally opposed to the rough and ready method of fixing a minimum amount for the whole Province and for all occupations at $10.00 or any other figure, and maintain that justice can only be done by creating a commission and giving it power to deal with particular occupations and localities in which women are employed according to the particular conditions of each. Such a commission can deal with each particular instance in which it is claimed that women are employed under circumstances prejudicial to their welfare."

Several questions arose during the discussions preparatory to the passing of the present Act. One was, "What is the age at which a woman becomes sufficiently mature to perform a standard day's work without injury to her health?" The representatives of employees contended that sixteen years was the age at which standard hours and wages should apply, and that women under sixteen years of age should not be allowed to work. The view of employers was that eighteen years was the proper minimum age, and this view is supported by the fact that most Boards in America have established the minimum limit at that age.

What is a standard day's work? Employees wanted hours to be fixed at a flat maximum while employers held that this should be left to the Board to fix, because standard hours of work vary from occupation to occupation and different regulations would be required for each. A glance at the various regulations issued by the Board will show that the attitude of employers was fair. It was generally agreed that the conditions of labour, i.e. ventilation, light, dressing rooms, etc., should be subject to regulation based on conditions in different occupations and localities.

What wages does an adult woman worker in Manitoba require to provide the necessary cost of living and maintain her in health? This question proved to be the most difficult to answer. It is still a matter of controversy, and it was at this juncture that employees, employers and the government threw economic teachings to the four winds and proceeded upon lines based on principles difficult to understand.

Representatives of employees maintained that a flat minimum wage should be made a provision of the Act. In order to change that minimum it would have been necessary to secure an amendment to the Act, and this could only be done during about two months of the year when the Legislature was in session. The position thus taken by labour is wholly indefensible. It leaves out of account the important distinction between "real wages" and the "money wage."

It ignores the fact that money changes in value and in purchasing power, although the change in the general purchasing power of money may not be the exact measure of the change in its purchasing power over the items that enter into the labourer's standard of living. Furthermore, a flat statutory minimum wage does not make allowance for varieties in the form of payment, other than money, such as board and lodging or payments in kind; opportunities for supplemental earnings, which are very important in the case of certain female employees, e.g. restaurant and hotel workers; and the degree of regularity of employment.

Employers, on the other hand, argued that the sum necessary to enable a woman of eighteen to supply the necessary cost of living and maintain health varies according to the occupation of the woman and the cost of living in the particular locality in which she is employed. It was claimed that the standard at which such a woman should live should not be fixed by herself, but in accordance with what public opinion should consider necessary, having proper regard to the conditions of life in Manitoba.

To the credit of employers it may be said that in expressing the above argument they did so with greater regard for the welfare of employees than for themselves. In fact, employers advocated a system of flexibility that would, over a period of years, prove more advantageous to female employees than the arbitrary flat minimum suggested by the employees themselves.

Employees claimed that $10.00 per week was the minimum wage which an adult woman required to supply the necessary cost of living and to maintain health. They did not however present budgets to support this figure. Instead individual representatives gave their own opinion as to the amount required, and one of them claimed that at least $17.00 per week was necessary. Finally the labour representatives agreed on a $10.00 minimum but no budget was submitted to show that this amount would suffice. For example, they could not say how much of the $10.00 was required for clothing. Finally telephone operators submitted three budgets prepared in May 1917 calling for $10.00, $9.00 and $9.00 a week, respectively. An analysis of these budgets reveals the extent of the differences of opinion entertained by different female operators. One budget made provision for the following clothing: three pairs of shoes at $9.00 per pair and three hats at $6.00 apiece. The second contained the same items, but priced the shoes at $6.00 a pair, two hats at $4.00 and one at $6.00. To add to the variations the third budget included one pair of boots at $6.50, one pair of pumps at $5.00 and two hats at $5.00 each.

The regulations issued by the Board discarded the principle of a flat minimum wage and provided for different minima for minors, learners and experienced female workers. The Board then fixed different minima for each of these classes in different occupations.

Discussing the principle of fixing a flat minimum wage by statute, John R. Commons and John B. Andrews, two well known economic writers state, "This method of fixing uniform flat rates prevents the more careful adjustment for various industries and localities which is elsewhere undertaken by Wage Boards, and the method is therefore held by most students of the problem to be disadvantageous."

Chapter IV: Criticism of Act.

While the Board has the power to change the rates of Minimum Wage to harmonize with changes in the purchasing power of money, no real attempt has been made to do so. If a wage of $12.00 was necessary to supply the necessary cost of living of a female worker in 1918 when the Act was passed that amount was obviously insufficient in 1920, due to the increase in cost of living which took place during those two years. Similarly $12.00 is more than sufficient to maintain a woman in 1931 when living costs have been materially reduced, and yet there has been no reduction in minimum wages. The same minima that applied in 1928, when living costs were much higher than they are now, still obtain. This proves that the Board fixes minimum money wages but makes little effort to adjust real wages. In this regard at least the system in vogue in Manitoba cannot be justified from an economic point of view since it fails to distinguish between real wages and money wages.

Our Minimum Wage Act tends to accentuate unemployment. Most employers would prefer to retain as big a staff as possible at a reduced wage rather than dismiss large numbers and maintain higher wages, even although the net result would be more costly. However with minimum wage restrictions employers are compelled to keep their wages up to the minimum. Business conditions, such as existed in the latter part of 1930 and in 1931 forced employers to reduce their wage bill. The result was that in a period of acute unemployment the Minimum Wage Act had the effect of throwing many female employees out of work.

The attitude of labour leaders to this aspect of the problem is very interesting. They contend that it is better to have wages maintained at prosperity levels at all times even if the result is that numbers are thereby thrown out of work. They argue that a half a loaf is not better than none at all because if workers receive nothing in wages they can go on the "bread-line" and get at least the proverbial half-loaf, while their brothers and sisters who retain jobs will not suffer from a reduction in wages which normally follows on over-supply of labour.

Another objection to the operation of the present Act arises in connection with overtime. In many factories, particularly in the needle trades, it is impossible to avoid seasonal slack periods followed by periods of great activity. Climatic conditions and changes in styles in the clothing trade are responsible for these fluctuations. The Minimum Wage Regulations allow female employees to work a certain number of days overtime in each year if their employers secure the necessary permit. Factory managers contend that they seldom know in advance when they will be required to operate overtime at plant capacity, and therefore find it inconvenient and sometimes impossible to secure the required permit in time to fill the rush orders. Very often female workers are kept on the payroll during slack periods doing much less than a standard day's work per day. When rush orders accumulate these employees cannot work overtime and thereby compensate employers for their kindness during slack periods. Furthermore many female workers who have spent two or three weeks killing time during a dull period would enjoy the extra remuneration to be earned during a

busy season. Unless a permit is secured this cannot be done. This is another of the failures of industrial legislation to take into account the practical problems of industry.

Perhaps the greatest difficulty with Minimum Wage Legislation is that it does not allow for the human element. It assumes that all minors commencing work can earn the minimum wage for minors. The same is true of learners. While one girl may become as efficient in one month as another will in six months, the latter must receive her increase in pay in three months, in the same way as the bright girl does.

There are numerous instances of dull girls being dismissed, who could have become efficient if they were given a longer time to learn, because they could not earn the minimum wage set by the regulations. One employer in Manitoba was pleaded with by a representative of a Church to give work to a girl who had just come to Canada from a European country, and who had no experience and could not talk English. In addition to this she was slow by nature and awkward with her hands. She was given a job at less than the minimum wage. Labour leaders objected to the violation of the Minimum Wage Act. The employer had an independent person view the work of the girl in question. It was found that she did 13 units of work per hour to the average 19 units done by the staff of learners. Two units of her work were found to be defective with a consequent waste of material. As a result the employer dismissed the girl. Asked by his Church friend as to the reason for the dismissal, he stated that the Minimum Wage Act compelled him either to dismiss the girl or pay her wages which she could not earn.

If he paid her the increased wages, in fairness to other learners he would be forced to increase their pay. If he increased their pages he could not sell his product without increasing the price to the consumer. If he increased his prices, his competitors would undersell him in which case he could not sell his product. If he could not compete with the rest of the industry he would be forced out of business with the result that all his staff would become unemployed. Naturally he dismissed the girl, not because of any controllable fault of the girl, but because of the levelling of wages by our Minimum Wage regulations. The employer's business went ahead. He did not suffer but the female worker, for whose benefit the Act was passed, was forced to find another job, her spirits lowered and her Church friend a little less enthusiastic about the benefits of our Minimum Wage Act. The girl could have secured a permit to work for less than the regulation wage but did not do so, being unaware that such a permit is available to those mentally or physically deficient. Had she secured such a permit it would scarcely be looked upon by prospective employers as a favourable letter of recommendation.

From the employer's point of view the Act is faulty because it disregards the real cost of labour. While the nominal cost of labour to the employer is indicated by the money wage he pays, the real cost, as J. S. Mill points out, is a function of three variables; (1) the amount of the real reward given to the labourer; (2) the cost to the employer of obtaining that real reward; and (3) the efficiency of labour, which determines what the employer receives in

return. This objection does not hold good in the case of female workers who can, and do, earn more than the Minimum Wage, but it is a very real source of anxiety in the case of female employees whose experience and efficiency do not justify the minima set by regulations.

Important as these objections may be, the Minimum Wage Act avowedly has improved the lot of the female workers generally. While it does make it more difficult for a minor or a learner to get a start in industrial work, because in most cases she cannot earn the minimum set, when she does secure employment she is assured of good working conditions, reasonable hours and a living wage.

In the long view the consuming public pay the cost of this form of industrial legislation. If Manitoba were the only Province having a Minimum Wage law, or if the minima set in Manitoba were higher than elsewhere, employers in general and manufacturers in particular, would be forced through extra-provincial competition to assume a part of the increased wage bill. Generally speaking the minima set in competing jurisdictions is on a level with those of Manitoba and therefore, "ceteris paribus", the additional cost is passed on to the consumer in the form of higher prices. The irksomeness of some of the regulations is, of course, borne by the employers of female labour.

What of the charge that Manitoba employers are unfair in the treatment of labour? The history of Minimum Wage legislation in Manitoba, the representations made by employers and the type of regulations made under the Act should be sufficient to convince any unbiased person that the charge is ill-founded.

Employers, as a class, realize that nominally dear labour is often really cheap because of its high efficienty; while on the other hand the labour of the slave; as Adam Smith says, "Though it costs to his employer only his maintenance, comes in the end to be the dearest of any."

(Note: Since the above was written the Minimum Wage Act has been amended to include within its scope boys under 18 years of age. This amendment is discussed in Appendix I hereto)

PART III: The Workmen's Compensation Act.

Chapter I: Historical

So important are the benefits conferred by the Workmen's Compensation Act that, if given the alternative of having this Act repealed or having all other forms of industrial legislation repealed, workmen would undoubtedly prefer to retain the Workmen's Compensation Act. On the other hand, although the Manitoba Statute greatly increases the Common Law liability of employers, and is a direct interference with freedom of contract, employers, generally speaking endorse the principles which underlie the legislation.

That relief should be provided where injuries arise out of industrial accidents and that such relief should not be contingent upon proof of fault on the part of the employer is the basis of all modern Workmen's Compensation Acts. If a farmer's wagon is overturned by a driver of an automobile and the farmer is injured his relief is directly contingent upon the fault of the driver of the car. If the farmer has been guilty of contributory negligence he has no remedy. In the case of sparks from an emery wheel flying into the eye of a workman while engaged in industry the workman is entitled to compensation, regardless of the question of the negligence of his employer or the contributory negligence of himself. In other words the employer may have had the emery wheel guarded, supplied goggles for the workman and otherwise have provided such safeguards as prudence and regard for human life

and limb dictate. The workman may have shoved the guard out of place and refused to wear the goggles. Regardless of these facts showing care on the part of the employer and carelessness on that of the workman, the latter will receive compensation for the injuries to his eyes and the employer pays all of the cost.

At first thought it might seem that the question of compensating workmen or their dependents for injuries arising out of and in the course of employment is not a problem of sufficient economic importance to justify serious consideration. When it is realized however, that $1,208,451.08 was the amount of money required as compensation for industrial accidents arising in the year 1929, and that the Workmen's Compensation Board actually disbursed $1,068,378.86 in cash during that year, the situation takes on an economic significance worthy of most careful thought and study. During the year 1928 there were 13,416 industrial accidents, or 5.5 per working hour or one every 12 minutes of the working hours of the year. There were 48 fatal accidents in 1928, and at the end of 1929 the Workmen's Compensation Board was paying pensions to 549 dependents of workmen killed in industry during the period from March 1, 1917 to December 31, 1929. When industrial accidents cost the equivalent of an annual tax of nearly two dollars for every man, woman and child living in Manitoba, in addition to the pain and suffering of the injured workmen and their dependents, not to mention the cost to industry occasioned by the loss of the services of skilled workmen who

have been injured, the problem, so far as industry is concerned, is one of outstanding economic importance.

An understanding of Workmen's Compensation Legislation necessitates a short analysis of the principles upon which compensation is payable together with a brief historical review of the development leading up to the evolution of the present system of dealing with industrial accidents. Practically all forms of Workmen's Compensation legislation are based upon the theory that the cost of human wear and tear should be thrown upon the industry in which such wear and tear is incurred. This has been called the principle of "professional risk." The different compensation systems of the world may be classified as the Individual Liability, the Collective Liability and the State Liability methods of applying the theory of professional risk.

(1) Individual Liability

Under this system the obligation to compensate workmen for accidents is thrown upon the individual employer because of the relationship of employer and employee. This principle is illustrated in the English Compensation Acts and in the recently discarded Saskatchewan Act. The employer may insure against the risk, but he is not obliged to do so. In any event he is primarily liable to his employees.

(2) Collective Liability

Under this system liability to compensate the workman is thrown upon employers collectively. Employers are divided into groups according to the hazard of the

industry, and when an accident occurs the workman looks to the group to which his employer belongs for compensation. The group is compelled in most cases to insure against liability or otherwise provide for an accident fund. This principle was first evolved in Germany and has been adopted by many European countries and by a number of the states of United States of America. From the employee's point of view it is preferable to the individual liability system, because it more or less guarantees funds for compensation.

(3) State Fund Insurance

Under the so-called State Fund Method the State passes a law fixing the amounts of compensation to be paid and compels employers to provide the necessary funds by a levy upon their payrolls. The employee does not look to his employer for compensation, but files a claim with the state appointed Compensation Board. Clearly the term"State Fund Compensation" is a misnomer because all the state does is pass the law and appoint the Board. It does not provide any of the funds necessary for the payment of accident claims, and in Manitoba, at least, it does not even pay the expenses of administration.

Of all three forms the Individual Liability System is most objectionable. It does not lead to a reduction in accidents, it is particularly onerous upon small employers, it does not guarantee payment of claims since the employer may be insolvent, it leads to lump sum settlements instead of periodic payments, it necessitates the incurring

of heavy legal expenditures both by employers and employees, and usually engenders ill-will between the injured workman and his employer.

The State Fund system has proved to be the most popular type yet devised. A glance at the various Acts in Canada shows its popularity. After an extensive investigation into the whole field of Workman's Compensation Legislation by Chief Justice Sir William Meredith, Ontario adopted the compulsory State Fund system in 1914. Nova Scotia followed in 1915, British Columbia in 1916, Alberta and New Brunswick in 1918, Manitoba in 1920 and Saskatchewan in 1929. In 1916 Manitoba passed an Act providing for an accident fund maintained by employers through insurance companies and administered by a Commissioner, but so successful had been the experience of the other Provinces, that in 1920 the present state fund method was inaugurated.

The chief advantages of the Compulsory Collective Insurance type is that it guarantees payment of claims up to a limited amount. If the employer is financially responsible it fully guarantees payment. It also compels employers to protect themselves to the extent of the coverage that insurance companies will give. Since it is practically impossible to induce insurance companies to assume sky-high liabilities, the employer is left with the anxiety of liability in excess of that assumed by the insurance company. Even if insurance companies would give unlimited coverage employers would still be unable to estimate the amount of protection they would require. If they insured for less than the amount

of the claims payable they would be required to contribute the difference. If they bought too much coverage they would be paying too much in premiums.

The State Fund system, on the other hand, levies an amount of premium income from an industrial group of employers actuarially calculated. Under this system the employee is not required to finance law-suits, he is assured of his compensation and his job is not endangered by litigation between himself and his employer. Furthermore, the State Fund system is less costly than the Employers Collective Liability scheme since the former is operated at cost whereas the latter involves profits for insurance companies. Commissioners of Workmen's Compensation Boards receive a salary and their efficiency is not estimated by dividend sheets, but by a comparison of the amount of premiums collected from employers with the amount of compensation benefits paid injured workmen and their dependents. It is their endeavour to keep premiums as low and compensation benefits as high as possible. The aim of insurance companies, who assume risks under a Collective Liability system, is to receive as much in premiums as the traffic will bear and pay as few claims for as small amounts as possible.

At Common Law in England an employer was only liable for accidents to his employees if he was guilty of negligence and it was necessary for the workman to prove that the injuries suffered were in consequence of that negligence. The employer had an absolute defence if he could prove:-

(a) Contributory negligence, or

(b) Assumption of risk by the employee, or

(c) That the injury was caused by a fellow employee.

This state of affairs simply meant that workmen had no remedy for injuries beyond that provided by the ordinary Common Law for cases of injury caused by persons who were not his employers. With the expansion of industry came the development of the Factory system in which slightly greater rights were given workmen.

In 1877 a Committee of the House of Commons in England was appointed to investigate into the subject, and in 1880 the "Employers' Liability Act" was passed and in 1897 the Workmen's Compensation Act came into effect. Commenting on these measures, Ruegg, the recognized English authority on the subject says, "The employer was for the first time made liable to compensate his workmen for injuries irrespective of whether or not he, or anyone else for whose act he was in law liable, had committed any breahh of his duty to which the injury was attributed. The Act made him an insurer of his workmen against the loss caused by injury which might happen to them while engaged in work. This insurance it is true was limited in extent, but so long as the injury arose out of and in the course of employment was quite irrespective of cause".

The next stage in the development is the modern Workmen's Compensation Act. Although it is impossible to find two Acts that are identical there is one principle upon which all are based, viz., that a workman who is injured while at his work is entitled to receive compensation regard-

less of the question of fault. His own negligence and that of his employer are quite immaterial.So long as the accident giving rise to the injury arose out of and in the course of the employment it is deemed to be the result of the inherent hazard incidental to the industry.

Chapter II: What Manitoba Employers Do For Their Injured Workmen.

Politicians frequently refer to the benefits provided by the State for injured workmen thus leaving the impression that compensation for industrial accidents is paid by the Government. Nothing could be further from the truth. While the Manitoba Workmen's Compensation Act is called a State Fund system, the term is a complete misnomer. Not one cent of the cost of workmen's compensation is provided out of state funds. All of the cost is paid by the employers of labour. Even the expenses of administration, including the cost of auditing the accounts, is paid by the employers. If any credit is due for the benefits conferred upon Manitoba's injured workmen that credit is due the employers of labour. It may be argued that employers pass on the expenses of Workmen's Compensation to consumers, and so far as this is possible the arguement is sound. Where, however, Manitoba employers meet competition from outside commodities produced in jurisdictions where compensation costs are lower than those in Manitoba, it is not possible either in theory or in practice to pass on the difference in cost to consumers.

Generally speaking when an accident happens in an industry one or more of six situations may arise. The injury may not disable the employee for more than three days, it may result in his death, it may cause permanent total disability, permanent partial disability, temporary total disability or temporary partial disability. The Manitoba Workmen's Com-

pensation Act sets out the benefits to be paid in case any of these six situations occur.

Where death results from any injury arising out of and in the course of an employment under the Act the amount of compensation payable is:-

(1) The necessary costs of burial of the workman, not exceeding $150.00.

(2) Where the widow or an invalid widower is the sole dependent, a monthly payment of $40.00 for life. If she remarries the monthly payments cease, but she is entitled to receive a lump sum equal to the monthly payments for two years.

(3) Where the dependents are a widow or invalid widower and a child or children, the same payment as in (2) above plus monthly payments of:-

(a) $12.00 for the first child

(b) $10.00 for the second child

(c) $ 9.00 for the third child

(d) $ 8.00 for each of the remaining children.

Payments to dependents are limited to 66 2-3 per-cent of the deceased parent's monthly wage. When a child attains the age of 16 years payments cease, except where it appears advisable to continue the education of the child the Board may continue payments for such purpose up to the age of 18 years.

Where there is a widow and one child there is a minimum of $12.50 applied to the workman's earnings per week, and if the dependents consist of a widow

and two children the minimum is set at $15.00 per week.

(4) Where the dependents are orphan children a monthly payment of $15.00 is made in respect of each child. Such payments cease when the child attains the age of 16 years except where such child is an invalid when payments cease when the child dies or ceases to be an invalid.

(5) Payments up to $20.00 per month are made to a dependent other than those mentioned above, limited to $40.00 per month where such dependents number two or more.

Where permanent total disability results from an industrial accident the amount of the compensation is fixed at periodical payments during the life of the workman at 66 2/3 percent of the workman's average earnings. The Act stipulates, however, that such compensation shall not be less than $15.00 per week.

Where a workman suffers permanent partial disability the compensation he will receive is 66 2/3 percent of the difference between the average earnings of the workman before the accident and the average amount which he earns or is able to earn after the accident. Such payments are made periodically and continue during the lifetime of the workman. Even where a workman is able to earn substantially the same amount after an accident as before it, he may nevertheless be entitled to a lump sum settlement for permanent disfiguration.

Where temporary total disability results from the injury periodic payments of 66 2/3 percent of the workman's

average wages are made so long as the disability lasts.

Where the disability is temporary and partial 66 2/3 percent of the difference between the average earnings of the workman before the accident, and that which he earns or is able to earn after the accident is paid. These payments cease when the disability is at an end.

In addition to the compensation provided by the Act the Workmen's Compensation Board provides for the injured workman such medical, surgical and hospital treatment, transportation, nursing, medicine, crutches and apparatus, including artificial members as may be considered reasonably necessary. Where surgical operations are required the cost is paid by the Board. During the first three days of disability no compensation is paid, but medical aid is supplied even for this waiting period.

The Act applies to all employees exposed to the hazard of the industries set out in Schedule I of the Act, but does not apply to a person engaged in purely clerical work, or to an out-worker. An out worker is one who washes, cleans, alters, repairs, or ornaments articles or materials in his own home or on premises not under the control of the person who entrusts him with this type of work. The Act also excludes casual workers, farm labourers and domestic or menial servants.

Space will not permit a discussion of the procedure by which claims are paid. Suffice it to say that the procedure is very simple. The workman files a claim with the Board, an inspector investigates the claim and obtains a report from the employer and if there is no doubt as to the

validity of the claim compensation is paid at once. Where some doubt exists as to whether the injury was due to an accident arising out of and in the course of the employment, the Board hears additional evidence before deciding upon the payment of compensation. In all cases medical aid is provided at the first opportunity.

It must be apparent that Manitoba employers treat their injured workmen generously. There is not a class of people in Manitoba, which in case of accident, receives one-tenth of the benefits that are conferred upon industrial workers, without contributing towards the cost.

The Act is administered by "The Workmen's Compensation Board" which consists of a Commissioner and two Directors, appointed by the Lieutenant-Governor-in-Council. The Commissioner devotes the whole of his time to the discharge of his duties and the Directors are appointed on a part time basis. There is a strong movement in favour of all members of the Board being full time administrators, and, since the administration of the Old Age Pension Act has been placed in the hands of the Board it is thought likely that in the near future the whole time of the Directors will be required. Salaries are paid out of the Accident Fund provided by employers. Members of the Board hold office during good behaviour but their appointment terminates when the age of 75 years is attained.

The Government always appoints one Director as the representative of employees and the other as representative of employers. The Act requires the Board to sit at least once a week, but in practice the Board meets more

frequently. Members of the Board must not be interested directly or indirectly in any industry to which the Act applies. They are forbidden to hold any bonds or securities of any pe rson or corporation owning such industry. Such officers as Secretary to the Board, Chief Medical Officer, accountants, investigators, stenographers, etc. are appointed by the Board.

Since different industries exhibit different degrees of hazard the Board divides employers into different classes according to hazard, and the rates of premium charged varies from the lowest rate in the least hazardous group to the highest rate in the most hazardous group.

At the beginning of each year every employer under the Act is required to file with the Board an estimate of what his payroll will be for the ensuing year and an assessment is made upon that estimate. When it is possible for employers to give the exact amount of their payrolls they are required to do so, and if this amount is higher than the estimate given at the commencement of the year an additional levy is made. If the original estimate exceeded the exact payroll, the Board refunds the amount of the levy which has been overpaid.

The Board collects sufficient funds to meet all amounts payable from the Accident fund during the year, and to provide a reserve fund for extraordinary disasters. In addition to this the Board capitalizes reserves sufficient

to meet the periodical payments of compensation accruing in future years in respect of all accidents which occur during the year. For example suppose a workman employed by the "I Will Arise Yeast Company" suffers a permanent total disability in 1931 at the age of 28 years. Under the Act he is entitled to receive for life 66 2/3 percent of his average earnings in periodical payments. The Board arrives at his life expectancy by actuarial calculations, and sets up a pension reserve sufficient to pay him compensation during the expectancy period. This is done in 1931 and under the Act no further levy can be made in respect of this claim regardless of how long the pensioner lives. Some employers contend that a refund should be made in cases where the workman dies before reaching life expectancy, and that where he survives beyond the life expectancy a further levy should be made.

This contention cannot be justified either in theory or in practice. Suppose the workman lives five years beyond the life expectancy and the "I Will Arise Yeast Company" ceases operations and surrenders its charter ten or fifteen years prior to the time at which the workman, by actuarial computation, was supposed to die. Under such circumstances upon whom would the proposed additional levy be made? Clearly it would be unfair to make the levy upon employers in 1940 or 1950 to provide funds for compensation for a disabled employee of the defunct Yeast Company since there will be many employers in 1940 or 1950 who are not in business at the present time. In any case of this kind a certain amount

of unfairness is certain to arise, but the present method of capitalization used by the Board is the most practicable and just system yet devised.

CHAPTER III

Is the Manitoba Act Sufficiently Generous in Benefits to Employees?

Comparing the benefits under the Manitoba Workmen's Compensation Act with those under the Acts of the other Canadian Provinces it will be found that the Manitoba Act is the most generous in its provisions for compensating disabled workmen and their dependents. It must be borne in mind also, that the scale of Compensation benefits under Canadian legislation is much more generous than the scale provided by the Acts of the United States which in turn grants greater benefits than is done in European countries. In other words, the Manitoba Act is perhaps the most generous to employees of any legislation in the world.

In making comparisons it is necessary to take into account all of the benefits of the Acts compared. An example of the folly of comparing individual clauses was afforded by the representations of Counsel for the Trades and Labour Council before the Legislative Committee of the Manitoba Legislature investigating the subject in 1929. At that time the Manitoba Act provided for monthly payments of $30.00 to widows, $12.00 to the first child, $10.00 to the second, $9,00 to the third and $8.00 to each succeeding child under 16 years of age, of workmen killed in industry. No maximum was fixed. Ontario paid $40.00 to widows and $10.00 to each child under 16 years, with a maximum set at 66 2/3% of the workman's earnings. Manitoba

paid $150.00 funeral expenses, while Ontario paid only $125.00.

The labour representative urged the committee to raise widows payments to $40.00 a month as was paid in Ontario. Finally the committee agreed to adopt the Ontario rate and also the Ontario maximum of 66 2/3% of the workman's earnings, without opposition from Labour. The result is interesting. It is true that for a widow, or perhaps a widow and one child, the labour proposal increased benefits, but where the bereaved household consisted of a widow and a large number of children, benefits were decreased.

Take the case of a man working 44 hours a week at 40¢ an hour. He will earn $76.31 a month in either Province. If he is killed the following were the benefits payable in both Provinces:

	Manitoba	Ontario
Funeral benefits	$150.00	$125.00
Widow received	30.00	40.00
Widow and 1 child received	42.00	50.00
Widow and 2 children "	52.00	50.86
Widow and 3 children "	61.00	50.86
Widow and 4 children "	69.00	50.86
Widow and 5 children "	77.00	50.86
Widow and 6 children "	85.00	50.86

In other words, although Ontario benefits appeared higher than those of Manitoba, the limitation of 66 2/3% of the workman's average earnings had the effect of offsetting the apparent advantage. After the Labour representative obtained what he advocated the comparison is as follows:

Manitoba	Before	After
Funeral benefits	$150.00	$150.00
Widow receives	30.00	40.00
Widow and 1 child receives	42.00	50.86
Widow and 2 children "	52.00	50.86
Widow and 3 children "	61.00	50.86
Widow and 4 children "	69.00	50.86
Widow and 5 children "	77.00	50.86
Widow and 6 children "	85.00	50.86

It may be argued that $76.31 is a very low wage. The Labour representative said that $109.50 was the average wage paid in Manitoba during 1927 and his calculation was approximately correct. Let us apply his figures and see whether his advocacy of the Ontario scale of benefits was in the best interests of those whom he represented. With wages at $109.50 and the Ontario limitation of total compensation to two-thirds of this amount, it is clear that a bereaved household cannot receive more than $73.00 per month. Under the original Act a widow with 5 children would receive $77.00, but after the Amendment was passed she receives $73.00. It is true that small

households benefitted by the amendment secured by Labour but larger dependent households have the representations of Labour to thank for a smaller monthly pension than they previously received. It is surely sound economics that the larger the number of dependents, the greater should be the amount of the pension. A sole widow can partially earn her living, but a widow with 5 children must stay home and look after them.

While comparison of individual benefits may be misleading, comparisons are given to show that the Manitoba Act is the most generous in Canada. To obtain an accurate picture of the liberality of the Manitoba Act, regard must be had to all of the following items:

(1) Funeral benefits.

Under the Manitoba Act $150.00 is made available for funeral expenses. No other Province in Canada allows more than $125.00. Nova Scotia allows $75.00, while British Columbia and New Brunswick each pay $100.00 for this purpose.

(2) Widows' Pensions.

Nova Scotia and New Brunswick pay $30.00 per month, Alberta and British Columbia $35.00 per month and Ontario, Saskatchewan and Manitoba pay $40.00 monthly. The latter three Provinces limit payments to dependents to 66 2/3% of the deceased workman's average earnings.

(3) Children under 16 years of age.

The pension allowed in Manitoba is $12.00, $10.00,

and $9.00 per month for the first, second and third child respectively, and $8.00 for all others, limited as stated above. For educational purposes the age limit may be raised to 18 years. Alberta pays the same but there is no limitation. Ontario pays $10.00 monthly, subject to the above limitation, and payments ~~cease~~ close at the age of sixteen. British Columbia allows $7.50 for each child which with the widow's allowance is limited to $65. 00 per month, and the Nova Scotia benefits are the same except that the limit is set at $60.00 per month and Saskatchewan has the same provision as Ontario.

Where children are the only dependents, $15.00 a month is paid to each in all the Provinces, with limits of $60.00 a month to all children in British Columbia and Nova Scotia.

(4) Permanent Total Disability.

Nova Scotia and New Brunswick pay pensions to the workman amounting to 55% of his average earnings, British Columbia 62½% and all other Provinces 66 2/3%. Labour has repeatedly asked for 75% in Manitoba and will make a similar demand in Alberta this summer.

(5) Temporary Total Disability.

The same percentages as those allowed for permanent total disability are paid during the continuance of the disability in all Provinces.

(6) Permanent Partial Disability.

The same percentages as applied above are paid for Permanent Partial Disability in all Provinces, except Nova Scotia where a maximum of $2500.00 is set. The percentages apply on the difference in wages before and after the accident.

(7) Temporary Partial Disability.

Same percentages applying as above are paid during the continuance of the partial disability.

(8) Medical Aid.

All Provinces provide full medical aid except Nova Scotia where no medical aid is provided after 30 days from the date of the accident. During the year 1929, Manitoba's injured employees received medical aid to the extent of $256,235.31 as compared with $71,554.49 in 1921.

(9) Waiting Period.

All Canadian Acts provide for a waiting period of varying duration. A Waiting Period may be defined as the length of time that elapses after an accident happens before compensation benefits commence to accrue. There are two kinds, Absolute and Conditional. An absolute waiting period is one for which, no matter how long the injuries continue, no compensation is paid. Under a conditional waiting period a certain specified length of time is fixed, and if the accident does not prevent the workman from returning to work before this period elapses, no compensation is paid, but if the

workman cannot resume work until after this period elapses, then compensation benefits are calculated from the time the accident forces the workman to cease work.

In Alberta and Manitoba the waiting period is absolute and lasts for three days. In New Brunswick, Nova Scotia, Ontario and Saskatchewan, the waiting period is conditional, i.e. if the accident prevents work for seven days or less no compensation is payable, but if the injury continues for more than seven days, compensation is paid from the date of the accident. The British Columbia Act provides that no compensation shall be paid for the first three days disability, if the injury subsists for fourteen days or less, but if the workman cannot return to work until fifteen or more days have elapsed since the accident, compensation is payable from the date of the accident.

While, at first sight, it may seem difficult to justify any waiting period from a theoretical point of view, the practice is warranted both in theory and in practice. In an ordinary negligence case, such as an automobile collision, the injured party is entitled to receive judgment for an amount sufficient to place him in the same position after the accident as he was in before the collision took place. But the injured party must himself be innocent of contributory negligence, and he must prove that the defendant was legally responsible for the damage done.

A study of the historical development of Workmen's Compensation shows that the basis of all legislation on the subject is that of insurance, and not because of any legal liability or responsibility resting upon the employer. It is very rarely that insurance is considered in the light of full indemnity, but only as assistance against the loss suffered through accident, and almost invariably is not payable in the event of the loss arising from the deliberate act of the insured. If all industrial accidents were due entirely either to the hazard of the industry or the negligence of the employer, a waiting period could not be justified in theory. But industrial accidents in a very large number of cases are due solely to such carelessness of the workman as, operating emery wheels without wearing goggles, using scaffolding without taking the trouble to nail the supports firmly, throwing dynamite, dropping tools off construction work, etc. etc. Therefore a waiting period is theoretically justifiable.

In actual practice the desirability and necessity for a waiting period has been definitely established by years of experience both in Canada and the United States. Nearly one-quarter of all accidents occurring in Manitoba necessitate a lay-off of less than three days. If compensation were paid for the first three days, the cost of administration would be increased more than 25%, because trivial accidents would increase materially if employers paid for them. Out of every thousand persons a certain

number will malinger. If you pay them to do so the number will increase and the amount of malingering done by each will tend to increase. Abolition of the waiting period would be a direct invitation to pinch a finger, or mysteriously strain the back whenever there was a prospect of a day's fishing or the garden needed hoeing.

A conditional waiting period is less desirable than an absolute waiting period, because it increases the cost of administration, leads to controversy and acts as an invitation to prolong the period of lay-off beyond the period justified by the extent of the injury, in order to secure compensation. For example, in a Province having a seven day conditional waiting period a workman earning $6.00 per day suffers an accident which would justify laying off work for six days. If he returns to work on the seventh day he will lose $36.00 in wages and receive no compensation, but if he can prolong the lay-off to the eighth day he will lose $42.00 in wages and receive two-thirds of $42.00 or $28.00 in compensation, or a net loss of $14.00. In other words, it is to his financial advantage to extend the convalescent period beyond what is reasonable because by so doing he profits to the extent of $22.00.

(10) Contribution to Compensation Funds.

In all the Provinces of Canada, except Alberta and British Columbia, the employers contribute the full amount necessary to pay compensation benefits. In Alberta work-

men contribute from one to four cents a day and under the British Columbia Act workmen are compelled to contribute a cent a day.

Comparing the above items and totalling the benefits conferred upon injured workmen and their dependents by the various provinces, it is clear that Manitoba provides the highest scale of benefits in Canada. It is only necessary to refer briefly to the benefits paid in the States of the American Republic to appreciate the generosity of the Manitoba Act.

In 17 States the amount of compensation paid is limited to 50% of the workman's average earnings; in 3 States 55%; in 8 States 60%; in 3 States 65%; and in only 11 States is 66 2/3% paid.

At present there is no limit to the amount of compensation which may be paid to a workman or his dependents in Manitoba. In Great Britain the maximum compensation in any one case is limited to $3000.00. There is not one Workmen's Compensation Act in force in the United States which does not fix a maximum. Twenty-three States fix a maximum limit on compensation ranging from $3000.00 to $6000. and the average maximum of seventeen other States is $4270.00. Reports of the Manitoba Workmen's Compensation Board show that there are cases where one accident has cost over $20,000.00. In one instance $21,895.00 was paid. Six accidents cost a total of $88,333.00, or an average of $14,722.00 per accident.

Thirty-five States fix a waiting period of one week; one State 5 days; 3 States 3 days; 3 States 10 days; and 4 States 14 days. Payments are also limited as to duration. For example, if an Alabama workman loses his leg, payments cease 175 weeks after the accident occurred, but if he loses his arm, payments continue for 200 weeks; if a Kansas employee loses his big toe, he will not receive compensation after 30 weeks, if he loses a thumb, payments cease after 60 weeks, but if one eye is destroyed, he will receive 110 weeks compensation. Practically all of the States provide for similar limitations. In Manitoba, no such limit is fixed.

Eight States limit the amount which will be provided for Medical Aid, and eleven States limit the duration of medical assistance, while eight States restrict both amount and duration of medical aid. In Manitoba all necessary medical aid is provided employees at the expense of employers, and the term "Medical Aid" is given an extremely wide meaning.

In connection with the above comparisons, it is only fair to take into consideration the fact that Eastern Canadian Provinces and many of the States of the United States are well established industrial centers, and that heavier levies for Workmen's Compensation can be paid more easily than in Manitoba where the payroll for compensation purposes does not exceed eighty million dollars. While the Manitoba Act gives a very generous scale of benefits, leaders in labour movements do not let a year pass without

asking the government to force employers to assume greater burdens in the form of providing more compensation.

CHAPTER IV

Should Workmen Contribute to the Compensation Fund?

Under the Manitoba system of Workmen's Compensation an employer taking a workman into his employment, in effect, hands him an insurance policy free of premium without a medical examination, covering industrial disability, partial or total, temporary or permanent, unlimited in amount, or at least limited only by the workman's expectation of life, and by the number of dependents he can gather around him. Having regard to the many benefits conferred upon workmen by the Manitoba Act the question naturally arises as to whether or not workmen should be compelled to defray at least a small part of the expense involved.

Consideration of the subject of a financial contribution by workmen to the fund necessitates a clear understanding of the underlying principles of modern Workmen's Compensation Legislation. There are three main causes of an industrial accident:

(1) Negligence on the part of the employer.

(2) Hazard inherent in the industry.

(3) Carelessness and negligence on the part of the workmen involved.

Under the old common law, compensation for injuries suffered was a matter of recovery of damages for fault direct, or indirect, on the part of the employer. In other words there had to be proof of negligence on the part of the employer,

either by his omission to do that which an ordinarily prudent man would have done or by his doing some act which an ordinarily prudent man would not have done.

Under this system the workmen was obliged to start an action, pay the costs of issuing a writ, the service charges, the costs of examination for discovery, witness fees, including expert medical evidence, and last, but not least, the lawyer usually collected a fee for his services. If the workman succeeded in clearly showing the employer to be negligent he secured judgment, but his troubles did not end there. He still had to collect on that judgment, if he could. If the employer was worth the amount of the judgment the workman received compensation.

Assuming that the workman had a clear case and did not run foul of the technicalities of the Law Courts, a great deal of time was lost before he received his compensation. In the meantime he had to pay his doctor's fees, his legal disbursements, and had to provide for his wife and family.

Under the modern system of compulsory State-fund compensation, such as we have today, the situation is entirely changed. The workman is now assured of compensation even if the injury is the result of his own negligence or carelessness. He now gets 66 2/3% of his wages, plus hospital expenses, doctors' fees, pensions for his family - all this regardless of whether the workman himself is entirely responsible, and it is maintained that he should be willing to contribute at least a nominal part towards the cost of the modern system. He knows that even if his employer suffers

financial reverses it will not affect the certainty of compensation.

Furthermore, the workman, insofar as his occupation is concerned is relieved from the necessity of paying heavy accident insurance premiums. Where is there an insurance company that will pay a man 66 2/3% of his wages, guarantee his widow $30.00 a month and his children from $8.00 to $12.00 a month as well as pay his medical assistance for a premium of, say, two cents a working day?

Under the present system the workman has his medical aid provided and does not fight or finance a law suit while the employer contributes the whole of the financial burden under the Act, and furthermore, the case is decided by a Board upon which the workman has as much representation as the employer.

Let there be no misunderstanding on this point. Manitoba has been very fortunate in its selection of labor representatives and it is only fair that the workmen should have representation on the Board, provided they contribute financially to the fund. It is unreasonable and unfair that the Workmen's Compensation fund should be administered by any group which makes no contribution.

To throw the whole cost of insurance upon the industry not only shocks all sense of justice, but places the workmen in an extremely false position. Even the most advanced form of Socialism would not seek to free the workmen from all sense of responsibility for his own actions, or to throw upon the employer the responsibility for making pro-

vision for his every want. So long as it is recognized that there are certain things which the workmen is expected to provide for himself out of his wages, there must be a point at which the obligations of the employers end. If every accident was entirely due to the fault of the employer then some case could be made for the contention that employers should bear the burden. But the experience of every Workmen's Compensation Board, not alone in Canada but elsewhere, shows that the human element, i.e. the lack of care and failure to use safeguards (supplied and maintained by the employer) on the part of the workman is responsible for a great number of accidents. For example the Workmen's Compensation Board of Ontario, on page 6 of its report for 1928 states " In any event the fact remains that the number of accidents is steadily increasing and both employer and employee should put forth every effort to change the situation."

Hence it is apparent that accidents are not entirely due to the hazard of the industry and the negligence of the employer. The Ontario Board which has had the largest experience of any in Canada recognizes this fact.

Turning to Manitoba we find on pages 4 and 5 of the Board's Report for 1927 the following quotation:

> "The compensation budget may be balanced in two ways; rates may be increased or accidents may be prevented. Contact with these cases from day to day convinces one that at least half our accidents are preventable, some by greater precaution on the part of the employer,

> others by more care being taken by the men on the job.
>
> "In last year's report reference was made to eye injuries and accidents happening by reason of the collapse of scaffolds. Little, if any, improvement has been noted in the first group. Eye injuries are for the most part preventable. Goggles should be supplied, and when supplied should be worn. Apparently men will take risk rather than suffer inconvenience. Shop discipline in this connection is something difficult to enforce."

Further statements could be quoted to prove that accidents are in a large number of cases due to the carelessness of workmen. Now, this argument will no doubt be met with the statement that no man in his right senses will deliberately throw himself into a machine in order to suffer an accident and thereby become entitled to compensation. ~~This~~ With this reply no person can disagree but workmen, through thoughtlessness, or carelessness, suffer accidents which a reasonable amount of care on their part would eliminate. There are plenty of instances to prove this. Take for instance at the mines, workmen are instructed not to throw dynamite from one to another but rather to carry it. Notwithstanding repeated instructions and warnings, dynamite is tossed from one workman to another. Now, if several workmen were killed because of this practice and in spite of the endeavors of em-

ployers to ensure the safety of the men, Workmen's Compensation benefits would nevertheless be payable. Why, under those circumstances, workmen should be held blameless and employers entirely to blame must remain a mystery. Yet employers must under our present Act pay for the carelessness and direct disobedience of the workmen. Surely, without giving further illustrations, it must be apparent to everyone that accidents are not always and entirely due to the fault of the employer, or even to the hazard of the industry. Surely, too, workmen should not be permitted to collect compensation when they throw T.N.T. at each other, unless they are prepared to contribute towards the cost.

So long as any injuries are due to the fault of the workmen elementary principles of justice demand that he should bear a share of the pecuniary responsibility. In fact so elementary is this principle that its mere statement almost calls for an apology. But, those are not the only reasons why workmen should contribute. There are other and weightier reasons for a recognition of the principle of contribution. In the quotations from the reports of the Ontario and Manitoba Boards wherein it was stated that both employers and employees must take steps to prevent accidents and also from the indisputable fact that carelessness and thoughtlessness on the part of workmen is responsible for a large number of accidents, it is clear that steps must be taken to force both partners in industry to reduce accidents.

This has been largely accomplished so far as employers are concerned. They have installed safety devices in machinery, inaugurated shop committees for the betterment of shop practices with a view to eliminating accidents; they have induced many of their employees to take first-aid courses so as to lessen the effect of accidents which, unfortunately, occur and in addition to this the Bureau of Labor inspects plants and orders further safeguards which must be installed at the expense of the employer and if these are not supplied the employer is liable to prosecution. But, while joint responsibility for accidents is recognized and action has been taken by the Government to compel employers to take measures tending towards the reduction of accidents, no such action has been taken to compel carefulness on the part of the workmen.

The installation of safety devices cannot reduce accidents if these devices are not used. The State also compels employers to pay the total costs of accidents when they occur and has thus placed a responsibility upon them to devise ways and means of reducing the hazards. Unfortunately a great part of this remedy is entirely beyond their control and rests entirely in the hands of the workmen themselves. But unless the Workmen's Compensation Act is amended to provide contribution of a few cents a day by workmen, there is no financial urge upon workmen to exercise care. It will not be seriously disputed that the highest degree of co-operative effort on the part of workmen to the end of preventing

accidents cannot be secured without throwing upon him, at least some pecuniary responsibility. It may be said that workmen will object to paying two cents a day towards the compensation fund, but if there should be irritation attendent upon the practice of deducting from wages a portion of the insurance premium, it will serve to keep before the mind of workmen, the necessity of care on his own part in order to prevent accidents.

Despite all that has been done or may be done by the employers, the Bureau of Labor,or any other agency, the greater part of the onus of responsibility for accidents rests in the final analysis with the individual workmen, and steady contribution of workmen would develop an accident-prevention consciousness. It would be a reminder to exercise care. It would give him a financial interest in the fund from which compensation is payable. Where a man's pocketbook is, his heart is also, and there would be a tendency for the skilled and careful workman to impress upon the untrained and carefree man the necessity of protecting his own money. Incidentally contribution by the workmen would place labor's representative on the Board in a much more logical position, as he would be disbursing funds towards which those he represents have contributed.

If there were not some form of contribution from workmen it would be necessary upon principles of elementary justice to withhold compensation in cases where the injury was due to the fault of the workman. The proposition to com-

pensate in all cases regardless of fault, must be, therefore, logically and justly contingent upon the workmen paying his share. The employers' share should represent those injuries which are the result of the fault of the employer or of the inherent hazard of the occupation.

It is inconceivable that workmen as a whole would raise any objection to a deduction of a trifling few cents a day from their wages for the purpose of compensation. In Alberta and British Columbia where workmen do contribute the scheme is working satisfactorily for all concerned.

Let us compare our own accident record with the accident record of the Province of Alberta, where the workmen contribute to the fund. Let it be noted that the industry of Alberta is of a more hazardous nature than that of Manitoba owing to the coal mines, mountain construction and oil wells existing in that Province.

1927	Number of Accidents	Payroll	
ALBERTA	10,149	$68,543,673.	1 accident for every $6754. of payroll
MANITOBA	10,982	$65,197,169	1 accident for every $5936. of payroll.

For 1927 Manitoba's accident record is 13⅔% greater than that of Alberta.

1928	Number of Accidents	Payroll	
ALBERTA	13,400	$86,500,319.	1 accident for every $6,455. of payroll.
MANITOBA	13,282	$74,900,000.	1 accident for every $5,639. of payroll

For 1928 Manitoba's accident record is 14½% greater than that of Alberta.

The above figures, it is submitted, show that the accident record in Alberta where the workmen contribute one to four cents per working day to the compensation fund is much better than that of our own province where the workmen contribute nothing. This bears out the statement that a nominal contribution on the part of workmen tends to render them more careful, thereby directly reducing accidents.

The only arguments advanced in opposition to a monetary contribution by workmen are two in number. The first is that employers bring industry into being and industry is the cause of industrial accidents, therefore employers should pay the entire cost of such accidents. The chief difficulty with this somewhat smug theory is that it is contrary to fact.

We have noted above that the reports of Workmen's Compensation Boards show that apart from the inherent hazard of industry both employers and employees are responsible for accidents. If an employer does not keep his equipment in a safe working shape, or fails to supply safeguards, it must be admitted that he should be held responsible for accidents resulting from his carelessness. On the other hand, when workmen fail to use safeguards or are otherwise careless, they too should be held liable for resulting accidents.

So far as can be ascertained, no attempt has been made in Canada to estimate the percentage of accidents attributable to the fault of the employer, or of the employee, and that to be attributed to the inherent hazard incidental to industry. The statistics available are very old but give

some indication as to causes of industrial accidents in Germany, as follows:

	Percentages		
	1887	1897	1907
By fault of employer	20.47	17.30	16.81
" " " employee	26.56	29.74	28.89
" " " both	8.01	10.14	9.94
Due to negligence of parties	55.04	57.18	55.64
" " hazard of industry	44.96	42.82	44.36

It is clear that over a period of twenty years employees were to blame for at least one-quarter of the accidents. The 1907 figures covered 46,000 accidents and should therefore be fairly representative. An investigation of 377 accidents in Pittsburg in 1910 resulted in the following classification:

	Percentages
By fault of employers	29.97
" " " employees	27.85
" " " both	16.91
" " " neither	26.27

It is true that these statistics are out of date but it is safe to assume that human nature does not change rapidly and that fortuity remains fairly constant. Furthermore the inventive genius of man has undoubtedly lessened the hazard of industry. While new kinds of machinery appear constantly, safety devices now supplied counterbalance the

machinery hazard. In any event it is apparent that workmen are responsible for a fairly large proportion of accidents and that they should contribute not only to the cause of accidents but also to the cost incidental thereto.

The second argument against financial contribution by workmen is that employees already contribute one-third of their wages during disability and two-thirds in addition during the first three days of that disability. There are three answers to this contention that the difference between the basis of compensation and full earnings constitutes a sufficient contribution from the workman. In the first place the 100% earning capacity of the workman is usually based arbitrarily upon the wages which the workman was receiving at the time of the injury. But if the workman had not been injured there is no human probability that he would have earned full wages to the moment of his death, so that it is not fair to reckon the workman's actual loss upon a 100% basis. In the second place, compensation places the workman beyond further contingency of loss of earning capacity by reason of injury from accident or disease contracted elsewherethan in industry. Compensation constitutes an assured income not subject to the contingencies of sickness, old age or unemployment and renders insurance against these unnecessary. Finally, the workman is being paid while he is not producing. Compensation cannot be placed upon the same basis as wages since the latter is the price paid for services

actually performed. It is therefore submitted that workmen should contribute to the funds from which they receive a protection against loss from accident not enjoyed by any other class of people in the state.

CHAPTER V

Should the State Contribute to the Compensation Fund?

Broadly speaking there are three grounds upon which the Manitoba Government should make a financial contribution towards the expenses involved in the payment of Workmen's Compensation. That the legislature realized the justice of contribution is clear from the wording of Section 54 of the Act which provides for the annual payment "to assist in defraying the expenses incurred in the administration of the Act." To date, however, the Government has not contributed a dollar in compliance with this provision.

The first and foremost ground upon which the State should contribute is that the withdrawal from the Law Courts of the work of adjudication of compensation cases has effected a considerable saving in the cost of the administration of justice formerly borne by the Province. TheProvince pays the cost of many commissions such as the Municipal and Public Utility Board, the ordinary Law Courts excepting Judges salaries, the Liquor Commission, etc., etc., and there is no adequate reason why employers should be forced to pay not only the cost of compensation claims but also the administrative expenses incidental thereto, so long as the semi-public bodies making use of the Municipal and Public Utility Board are exempted from paying the costs of administration incurred by that body.

A second reason in support of state contribution is that the state controls appointments to the Workmen's Compensation Board and fixes the salaries. In addition to this the state determines the benefits payable by the Board. It is unfair that the patronage, the fixing of salaries and the setting of compensation benefits should be entirely controlled by the state, when no governmental assistance is given in defraying the cost. It is a violation of the principle that "he who calls the tune should pay the piper."

There is a third ground upon which the state should contribute, and it is a factor worthy of serious consideration. The provision for the needs of injured workmen and their dependents by Manitoba employers relieves to a large extent the burden usually borne by the general public by way of poor relief, unemployment relief and charity generally. If employers did not pay compensation, the injured and their dependents would be thrown almost entirely upon the charity of the public or the expense of the Government or State. Many injured workmen now receiving a guaranteed income for life, even if they had not been injured, would suffer from unemployment and become a state burden were it not for the generous benefits now provided by employers.

In most modern compensation systems these features are recognized and the state itself bears a portion of the expense of the system. In some systems, that of Switzerland for example, the state contributes a definite proportion of

the insurance premiums. The Alberta government has paid $33,389.52 towards office rental for the Alberta Workmen's Compensation Board during the past ten years. In the same period the Province of British Columbia has contributed the sum of $156,000.00 by way of salaries. During the first thirteen years operation of theOntaric Board the government paid the salaries of the Board amounting to $26,000.00 annaally, and in addition, during the first nine years contributed $655,500.00 in grants. Saskatchewan provides $25,000.00 annually towards the expenses of the system. Precedent therefore, is not lacking for state contribution.

CHAPTER VI

Conclusion

While Manitoba is rapidly becoming an industrialized province her industries are breaking new ground and cannot progress if the state imposes upon them more than legitimate burdens. It is true that cheapness of electric power has given Manitoba a competitive advantage over many other provinces but this has been largely offset by the heavy freight rates paid by the people of this province, Manitoba is geographically situated in a position where she must remain destined to pay the peak of transportation charges. In addition to this Manitoba's industries are comparatively young and many of them are small compared with those of competitors in the Eastern Canadian Provinces and the United States. The result is that the economies of large production and distribution of which advantage is taken in the well established industrial centers cannot be practised to the same extent in Manitoba. Manitoba manufacturers are the only manufacturers in Canada who pay a Provincial Corporation Income Tax and, to the extent of this tax, are placed in a disadvantageous competitive position. With a more generous Workmen's Compensation Act than applies elsewhere in Canada, Manitoba's industries are handicapped at the very commencement of their existence.

The industrialists of Manitoba have no right to ask for artificial stimulation in the form of governmental assistance but they have a right to demand that the govern-

ment should not set up such artificial restraints as unfair taxation and unlimited Workmen's Compensation costs. The development of industry in Manitoba is of vital concern to every citizen of the Province. To the farmer, the dairyman and the gardener it is important because it increases the market for what he produces; to the merchant because it adds to his trade; to the workman because it increases the number of jobs and opportunities; to all because it distributes taxation over a greater number. Industrialists therefore claim the right to an equal opportunity with others to build up the province in which they have invested their capital.

APPENDIX I

Minimum Wage For Boys

The Minimum Wage Act was amended in April 1931 to include within its scope the employment of boys under the age of 18 years in industries to which the Act applies. The regulations issued in respect of female workers by the Minimum Wage Board were made applicable to such boys.

It is rather difficult to understand why the legislature passed this amendment. On four previous occasions in the last five years the legislature defeated the same amendment which was introduced by one of the Labour members, and despite the fact that governmental investigation of boy labour in Manitoba during these years showed that hours of labour were being reduced and weekly wages were being increased, the Bill was passed. The current unemployment situation was not shown to have had any bearing on the question of the employment of boys, and otherwise no evidence was submitted in 1931 to show that boy labour was being treated differently than hitherto, except that hours were somewhat shorter and wages slightly higher.

Notwithstanding these factors, the legislature approved in 1931 the Bill which it had rejected on four previous occasions. Under these circumstances it would not seem unfair to conclude that if the legislature was justified in rejecting the proposal every year for four years, it was not justified in adopting it in the fifth year. In other words the legislature must be held to have condemned its previous stands on the question.

Labour representatives appearing before the Law Amendments Committee of the Legislature supported a Minimum Wage for boys on two grounds. The first was that boys were worked during unreasonably long hours for less than a living wage, therefore the interests of boys should be safeguarded. In the second place the same representatives contended that the passage of the proposal was necessary because employers in Manitoba were displacing female workers receiving the Minimum Wage by boys who would work for less than the minimum therefore the Bill should be passed to safeguard the interests of female workers.

Let us assume for the sake of argument that the second contention was supported by the facts. The only benefit that could be hoped for in this connection would be that female workers displaced by boy labour would be given back their positions. In order to accomplish this, employers, under existing economic conditions, would be forced to dismiss the boys! This was pointed out to Labour representatives who were asked to state whether they represented the interests of boys or of female workers. Embarrassed by the inconsistency of their arguments, labour representatives then concentrated upon their first contantion.

The chief opposition to the Bill came from representatives of boys work organizations, who claimed that, if a minimum wage were established for boys, it would be more difficult for them to find work for theboys. The Bill was also opposed on the gound that to place boys on the same basis

as female workers was tantamount to saying that boys needed the same wages for the same number of hours of work as applied in the case of female workers. No budgets were considered by the legislature to show what is a living wage for boys, and no evidence was submitted to indicate the number of hours a boy can work without injury to his health. Until such budgets are produced it is submitted that no person can prove that boys employed in Manitoba do not receive a living wage, because the term "living wage" has not been determined. The same applies to the reasonableness of hours of labour. Therefore it is contended that the legislature did not have sufficient facts before it to arrive at a decision that would be economically sound.

A minimum wage law for boys is subject to all the objections that apply to similar legislation for female workers, without many of the compensating advantages. To argue that, because a minimum wage law may be justified in the case of female workers, it is therefore justifiable in the case of boys, is faulty because it fails to distinguish the essential difference between female and male employment. It leaves out of account the effect that the institution of marriage has upon industrial employment. The large majority of industrial female workers cease to be employed in industry when they graduate to the larger field of wifehood, where minimum wages and maximum hours of work

are not regulated by the state. On the other hand practically all male workers engaged in industry continue their regular employment after they are married. In other words, despite the growing independence of women, industrial pursuits are not generally looked upon as a life-work in the case of the majority of female workers, whereas boys enter upon their work with the knowledge that marriage will not bring about a change in their life-work.

It is only reasonable that greater time and effort be spent in preparation for a life-work, than in the preparation for a position that is regarded as temporary. The period from 15 to 18 years of age is the time in which boys are either finding their vocation or preparing themselves for their life-work. In factories it is almost always necessary to transfer boys from one department to another in order that they may find the work for which they are best fitted. During this learning period boys receive greater benefits from their experience than they do from their wages. Very often their services are actually worth little or nothing to their employers in the first year or more of employment during which their capabilities for the future are being developed. This fact is recognized in industries to which the apprenticeship system applies.

With female workers the outlook, in most cases is entirely different. Most factory positions held by women are what is known as "blind alley jobs", where the most

important element to be considered is that of wages and not of future advancement.

The effect of placing boys under the operation of the Minimum Wage Act, cannot yet be estimated. It is almost certain that the Minimum Wage Board will be forced to set up special regulations to cover the employment of boys because of the differences between female and boy employment. There can be no doubt, however, that, if the minimum wage set by the Board increases wages even slightly, many boys will find it impossible to secure employment. A number of employers have already stated that, if wages of boys under 18 years of age are raised, they will employ those over the age of 18 at a slightly increased money wage and secure greater efficiency by so doing.

There is one condition under which the amendment will prove beneficial. In any group of individuals there are always a few who are unscrupulous and employers are not entirely immune in this respect. At the present time there are a few cases where boys work extremely long hours for very low wages. The amendment will remedy this condition. It is unfortunate, however, that, because of a few cases of unfairness, the large majority of boys should be placed under an Act which disregards natural ability, willingness and individuality and treats those included within its scope as automatons.

APPENDIX II

Miscellaneous

There are a number of statutes which seek to regulate the relationship between employers and employees in Manitoba, but there are none of equal importance with the Minimum Wage Act and the Workmen's Compensation Act. Space will not permit more than a brief reference to some of the more outstanding statutes.

1. One Day's Rest in Seven.

In 1928 the legislature passed an Act which provides that all employees, with certain exceptions, shall have at least 24 consecutive hours rest per week. The exceptions, include watchmen, stationary boiler engineers, fireman, tlegraphers, employees working less than five hours daily and those whose work is managerial. Wide powers of exemption are given to the Bureau of Labour.

2. Building Trades Protection Act.

This Act came into force in 1914 and provides for safety measures in the erection or repair of any buildings. Briefly, it is sought to regulate scaffolding, hoists, ladders and flooring for the protection of workmen.

3. The Fair Wage Act.

This Act was passed in 1916 and came into force two years later. Provision is made for the appointment of a Fair Wage Board whose duties consist in making investigations as to wages and hours of labour in employment upon any governmental public works and to make regulations governing same. The Minister of Public Works then approves or

amends these recommendations after which they become law. Many regulations have been passed governing the rate of wages per hour and the number of hours per week that shall apply on public works for such employees as teamsters, bricklayers, stonemasons, plasterers, plumbers, carpenters, electricians, etc., etc.

A similar law was passed by the Dominion Parliament in 1929 to apply to federal public works.

4. The Factories Act

This Act regulates the operation of factories and provides for inspection of conditions of labour, sanitary provisions, precaution against fire and many other matters having to do with the welfare of employees. Factories are inspected from time to time by officials of the Bureau of Labour.

The Shops regulation Act and the Bake-Shops Act provide for similar protection to employees engaged in stores, warehouses and other shops of a similar nature, with special provisions applying in the case of bake shops.

Under the Steam Boiler Act rigid inspection of steam boilers of all kinds is provided for except of those used in heating private residences. It is expected that at the next session of the legislature the regulation of refrigerating plants, including those used in apartment blocks will be sought.

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