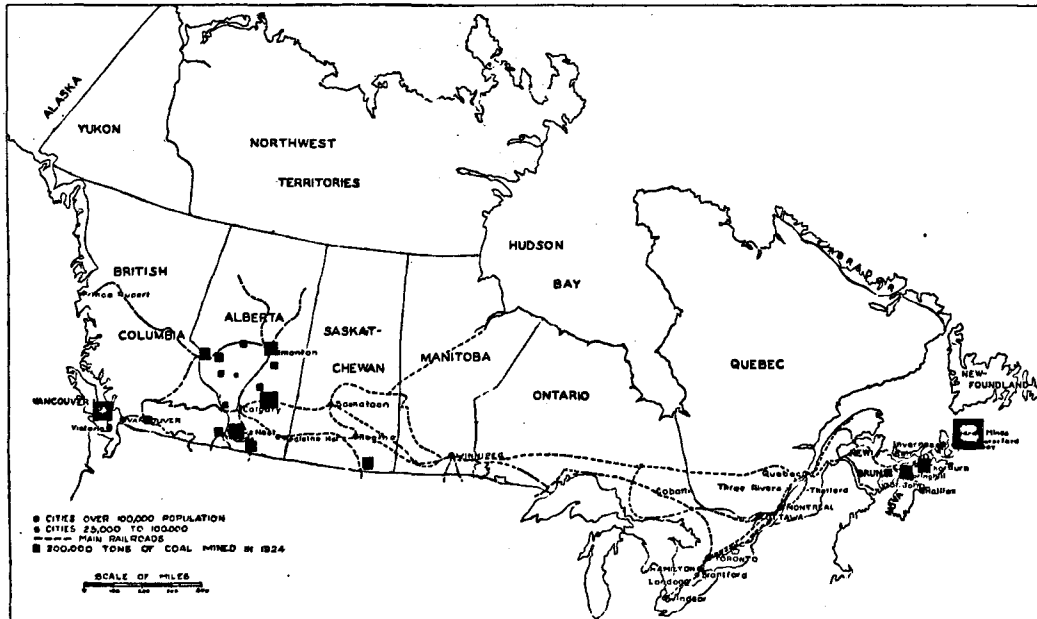


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# POSTPONING STRIKES

A Study of

THE INDUSTRIAL DISPUTES  
INVESTIGATION ACT OF CANADA

BY

**BEN M. SELEKMAN**  
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## FOREWORD

**A**BOUT ten years ago the Russell Sage Foundation published a pamphlet entitled, *Industrial Disputes and the Canadian Act, Facts about Nine Years' Experience with Compulsory Investigation in Canada*, giving the findings of an inquiry made by a member of the staff of the Department of Industrial Studies, Ben M. Selekman. This book is a second report on the same subject by the same investigator. It embodies data of the earlier study and adds the results of nine additional years of experience. It is much more than a supplementary inquiry. The experience of eighteen years gives a more comprehensive and convincing picture of the actual effects of the act than the first nine of these years. Contrasts as well as similarities in the findings are significant.

Both studies are the result of observation "from the outside, looking in." The purposes of the Russell Sage Foundation are confined to our own country. Its charter states its aim as the improvement of social and living conditions in the United States. Often, however, crucial questions arise here to which the experience of our neighbor to the north may supply answers. This was true in 1916, when the threatened railroad strike in the United States brought many suggestions for the prevention of similar danger in the future. Frequent references were made then to the Canadian Industrial Disputes Investigation Act as a means of preventing strikes. The first study, made in 1916, had the specific purpose of answering the question, "Is the Canadian act a law which, if

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put on the statute books in the United States, would be likely to prevent strikes?" Though now, early in 1927, no such single event as the danger of stopping the railroads has stirred interest, nevertheless strikes have been numerous enough to cause us to ask again whether the Canadian law is applicable here. We seek, then, not to bring enlightenment to Canadians, but to look across the border, toward our neighbor's mines, railroads and factories, and to ask whether the act has accomplished its purposes satisfactorily and whether it can wisely be followed in this country.

The answers given are not precisely the same in these two studies. In 1916, the main conclusion was that, contrary to the common impression, the Canadian act had not been administered as a compulsory measure imposing penalties for violations by strikes or lockouts. Again, contrary to a favorable opinion of its effectiveness, the facts showed that it had not prevented strikes, notably in the very industry for which it was designed, coal mining. The implication was that the United States would not wisely adopt a compulsory measure of the kind which the Canadian law on its face appeared to be. The investigator inclined to favor, rather, a provision for continuous investigation by governmental bodies in the United States, so that the facts would be immediately available when strikes occurred.

Part of the evidence that such legislation was not practicable for the United States was the opposition of Canadian labor to it. Within the year in which the inquiry of 1916 was in progress, the Trades and Labor Congress, representing the largest group of trade unions in Canada, had passed a resolution calling for the repeal of the act. In view of the fact that the organizations to

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which these Canadian trade unionists belong are the same unions which are found in the United States, the opposition of labor to the act was likely to be an obstacle in any effort to copy it here. Such an act, designed as it is to improve relations between employers and employes, must have the co-operation of both groups, or be capable of winning it, if it is to be successful in preventing strikes.

The outstanding fact in the present study is that the attitude of Canadian labor toward the act has had two phases and that the first phase, which was the period of opposition, was very nearly over when our first study was made in 1916. During the later years of the World War and since, Canadian labor has vigorously supported the act and urged its extension to other industries. Mr. Selekman's analysis of the reasons for this change of attitude is in itself an important contribution to the study of factors which enable a government successfully to intervene as a conciliator in industrial disputes. It is true today, as was brought out in our earlier report, that conciliation is the dominant feature of the administration of the law. It is the interpretation given to the law by the method and spirit of its administration which has won the support of labor. Labor opposed the compulsory features of the act, which seemed to be in the direction of prohibition of strikes, in the actual wording of the law. But in its operation men have not been punished for striking, and compulsion is not threatened to prevent their doing so; instead of threatening penalties, the Canadian Department of Labour has used the act as a means for bringing employers and employes together for conferences under the auspices of government, to enable them to lessen or to settle their differ-

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ences. Administered in this way, the law has had for some time the adherence of both groups, despite the criticism of certain details.

✓ Although the law is called the Industrial Disputes *Investigation Act*, and its theory has been that if the fact could be made known public opinion would stimulate a reasonable attitude in both groups, as a matter of fact investigation for the enlightenment of public opinion has not accompanied the administration of the act. Representatives of the government have sought, as already noted, to bring employers and employees together. They have believed that publicity would jeopardize the settling of differences. What the act has done has been to impose an obligation not to strike until this method of negotiation and conference can be tried. The act, therefore, is an experiment in conciliation rather than a trial of the method of current investigation and publicity by governmental bureaus.

Opinion of all sorts of people in Canada appears to be heartily in favor of this experiment in conciliation. In the United States would profit by Canadian experience we would do well not to copy the act as it stands on the statute books, nor to think of it as legislation to prohibit strikes; but to look to the conciliatory spirit of its administration. The facts of Canadian experience seem to show that in the United States federal and state governments could wisely develop further their machinery for mediation and conciliation by providing for official representation of employers and employees for joint conference in specific disputes. At present, our federal Department of Labor and some state departments have conciliation bureaus which offer their services as mediators in disputes. If the Canadian law



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to be copied here, the next step would be to invite employers and employes to name representatives who would meet, under the auspices of government, in joint conferences to arrive at just settlements.

It would seem that conditions in the two countries are similar enough to justify our regarding the experience of eighteen years in Canada as significant for the United States.

Mr. Selekman submitted this study to Columbia University in partial fulfilment of the requirements for the degree of Ph.D. He has had the benefit, therefore, of advice from members of the Faculty of Political Science, especially Professor Samuel McCune Lindsay, in whose seminar in social legislation the thesis was submitted, and Professor Henry R. Seager. We in the Foundation greatly appreciate their contributions to the study.

MARY VAN KLEECK  
Director, Department of Industrial Studies

## APPENDICES

## APPENDIX A

### DETAILED TABLES RELATING TO DISPUTES REFERRED FOR ADJUSTMENT UNDER THE CANADIAN INDUSTRIAL DISPUTES INVESTIGATION ACT DURING THE PERIOD MARCH 22, 1907 TO MARCH 31, 1925

Tables 17-23 are based on data derived from the following reports:

Ninth and Tenth Reports of the Registrar of Boards of Conciliation and Investigation of Proceedings under the Industrial Disputes Investigation Act for fiscal years ending March 31, 1916 and March 31, 1917. (These two reports contain annual summaries of the operation of the act since 1907.)

Annual Reports of the Department of Labour for fiscal years ending March 31, 1918-1925.

Table 24 is based on data derived from the reports just cited, in addition to the following sources:

Report on Strikes and Lockouts in Canada, from 1901 to 1912.

Annual Reports of the Department of Labour for fiscal years ending March 31, 1914-1916.

Labour Gazette: February, 1917; February, 1918; March, 1919; March, 1920; February, 1921; March, 1922; March, 1923; February, 1924; February, 1925.

## POSTPONING STRIKES

**TABLE 17.—APPLICATIONS FOR BOARDS, BY ORIGIN OF APPLICATION AND BY INDUSTRY, MARCH 22, 1907 TO MARCH 31, 1925**

Industry	Applications made by				Total applications
	Em- ployes only	Em- ployers only	Em- ployers and em- ployes	Others <sup>a</sup>	
Public utilities					
Railroads	184	6	1	1	192
Street railways	93	11	1	—	105
Other municipal utilities	56	1	1	—	58
Coal mining	59	9	1	2	71
Shipping	23	8	1	—	32
Other mining	20	1	—	—	21
All other	62	4	—	—	66
Total public utilities	497	40	5	3	545
War industries	29	—	1	—	30
Other industries	56 <sup>b</sup>	5	3	1	65
Grand total	582	45	9	4	640
Per cent	91.0	7.0	1.4	.6	100.0

<sup>a</sup> In two cases applications were made by municipalities; in one by a mayor; and in the other no formal application was made but a board was established by the Minister of Labour on his own initiative under Section 63A of the act.

<sup>b</sup> In one case the original application made by employees was not immediately acted upon because direct negotiations were renewed. A strike occurred, and a second application was received from the municipality.

TABLE 18.—ACTION RESULTING FROM APPLICATIONS FOR BOARDS, BY INDUSTRY, MARCH 22, 1907  
TO MARCH 31, 1925

Industry	Disputes handled under the act				Disputes referred to other agencies <sup>a</sup>		No action taken (disputes not within scope of the act)	Total applications
	Boards constituted	Boards partially constituted <sup>b</sup>	Boards not constituted <sup>c</sup>	Total	Within scope of the act	Not within scope of the act		
Public utilities								
Railroads	122	8	43	173	11	—	8	192
Street railways	83	7	9	99	5	—	1	105
Other municipal utilities	29	5 <sup>d</sup>	4	38	7	—	13	58
Coal mining	54	—	7	61	7	—	3	71
Shipping	17	2	6	25	4	1	2	32
Other mining	16	1	2	19	—	2	—	21
All other	47	2	9	58	3	—	5	66
Total public utilities	368	25	80	473	37	3	32	545
War industries	18	1	4	23	5	—	2	30
Other industries	35	—	5	40	1	2	22	65
Grand total	421	26	89	536	43	5	56	640
Per cent	65.8	4.1	13.9	83.8	6.7	.8	8.7	100.0

<sup>a</sup> Some of the agencies used to adjust these disputes were: mediators, royal commissions, the Canadian Railway Board of Adjustment No. 1 and the Director of Coal Operations. (See Chapter XIII, Other Agencies for Adjustment of Industrial Disputes in Canada, page 288.)

<sup>b</sup> Differences were adjusted or applications withdrawn before the boards were fully constituted.

<sup>c</sup> In 6 cases applications were referred to boards already in existence: railroads, 3; street railways, 1; other mining, 1; war industries, 1. In the other cases differences were adjusted or applications withdrawn.

<sup>d</sup> Not including 2 disputes which were referred to other agencies when strikes occurred while boards were being established.

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**TABLE 19.—METHOD OF APPOINTING CHAIRMEN OF BOARDS  
BY INDUSTRY,<sup>a</sup> MARCH 22, 1907 TO MARCH 31, 1925**

Industry	Chairmen appointed		Total boards constituted
	On recommendation of other two members	By Minister of Labour	
Public utilities			
Railroads	48	74	122
Street railways	26	57	83
Other municipal utilities	23	6	29
Coal mining	24	30	54
Shipping	10	7	17
Other mining	4	11	15 <sup>b</sup>
All other	21	26	47
Total public utilities	156	211	367 <sup>b</sup>
War industries	7	11	18
Other industries	18	17	35
Grand total	181	239	420 <sup>b</sup>
Per cent	43.1	56.9	100.0

<sup>a</sup> Employers and employes each nominate a representative. These two nominate a chairman. When they cannot agree, the chairman is chosen by the Minister of Labour.

<sup>b</sup> Not including one case in which the method was not made clear in the report.

TABLES RELATING TO DISPUTES

TABLE 20.—TIME ELAPSING BETWEEN APPLICATION FOR AND CONSTITUTION OF BOARDS, BY INDUSTRY, MARCH 22, 1907 TO MARCH 31, 1925

Industry	Cases in which interval was					Total boards constituted
	1 to 15 days	16 to 30 days	31 to 45 days	46 to 60 days	61 days or over	
Public utilities						
Railroads	29	48	24	4	17 <sup>a</sup>	122
Street railways	42	29	7	4	1	83
Other municipal utilities	14	12	1	1	1	29
Coal mining	21	16	10	3	3	53 <sup>b</sup>
Shipping	7	7	1	2	—	17
Other mining	6	6	4	—	—	16
All other	14	24	5	4	—	47
Total public utilities	133	142	52	18	22	367 <sup>b</sup>
War industries	7	10	1	—	—	18
Other industries	21	9	1	1	3 <sup>c</sup>	35
Grand total	161 <sup>d</sup>	161	54	19	25	420 <sup>b</sup>
Per cent	38.3	38.3	12.9	4.5	6.0	100.0

<sup>a</sup> In one case the board was constituted 23 days after request for resumption of proceedings. The delay was due to employees.

<sup>b</sup> Not including one board constituted without an application.

<sup>c</sup> One case was delayed because direct negotiations were temporarily renewed.

<sup>d</sup> The interval was one week or less in 40 cases.

TABLE 21.—TIME ELAPSING BETWEEN APPLICATION FOR AND REPORT BY BOARDS, BY INDUSTRY,  
MARCH 22, 1907 TO MARCH 31, 1925

Industry	Cases in which interval was						Total boards reporting
	1 to 30 days	31 to 45 days	46 to 60 days	61 to 75 days	76 to 90 days	91 days or over	
Public utilities							
Railroads	4	19	23 <sup>a</sup>	19	11	42 <sup>b</sup>	118
Street railways	12	22	24 <sup>c</sup>	10	7 <sup>d</sup>	5	80
Other municipal utilities	5	11	6	3	2	2	29
Coal mining	4	9	12	11	7	7	50 <sup>e</sup>
Shipping	3	9	1	—	1	3	17
Other mining	1	4	7	1	2	1	16
All other	5	12	8	9	7	5	46
Total public utilities	34	86	81	53	37	65	356 <sup>e</sup>
War industries	4	7	3	1	2	1	18
Other industries	17 <sup>f</sup>	5 <sup>g</sup>	3	3	1	5 <sup>h</sup>	34
Grand total	55 <sup>i</sup>	98	87	57	40	71	408 <sup>e</sup>
Per cent	13.5	24.0	21.3	14.0	9.8	17.4	100.0

<sup>a</sup> In one case a supplementary report to clear up minor points was issued 15 days later.

<sup>b</sup> In one case an interim report was issued 74 days earlier.

<sup>c</sup> In one case an interim report was issued 34 days earlier.

<sup>d</sup> In two cases board procedure was discontinued 42 days during the general strike in public utilities in Winnipeg.

<sup>e</sup> Not including one board constituted without an application.

<sup>f</sup> In one case a supplementary report to clear up minor points was issued 173 days later.

<sup>g</sup> In one case a supplementary report to clear up minor points was issued 26 days later.

<sup>h</sup> One case was delayed because direct negotiations were temporarily renewed.

<sup>i</sup> The interval was 15 days or less in 10 cases.



TABLE 22.—NATURE OF REPORTS OF BOARDS CONSTITUTED, BY INDUSTRY, MARCH 22, 1907 TO MARCH 31, 1925

Industry	Report signed by all members		Report from which one member dissented			Separate report from each member	Nature of report not clear	No report	Total boards constituted
	Decision unanimous	Reservations on minor points	Em- ployes' repre- sentative	Em- ployers' repre- sentative	Chair- man				
Public utilities									
Railroads	65	7	26	18	-	-	2	4	122
Street railways	39	4	23	12	1	-	1	3	83
Other municipal utilities	20	2	3	3	-	-	1	-	29
Coal mining	30	2	12	3	-	-	4	3	54
Shipping	14	-	2	1	-	-	-	-	17
Other mining	8	-	6	1	-	1	-	-	16
All other	21	5	9	8	-	1	2	1	47
Total public utilities	197	20	81	46	1	2	10	11	368
War industries	8	2	2	5	-	1	-	-	18
Other industries	25	3	4	2	-	-	-	1	35
Grand total	230	25	87	53	1	3	10	12	421
Per cent	54.6	5.9	20.7	12.6	.2	.7	2.4	2.9	100.0

## POSTPONING STRIKES

**TABLE 23.—RESULTS OBTAINED IN DISPUTES HANDLED UNDER THE ACT, BY INDUSTRY, MARCH 22, 1907 TO MARCH 31, 1925**

Industry	Strike averted or ended <sup>a</sup>	Strike not averted or ended	Total disputes handled under the act
Public utilities			
Railroads	165	8	173
Street railways	89	10	99
Other municipal utilities	34	4	38
Coal mining	50	11	61
Shipping	25	—	25
Other mining	14	5	19
All other	52	6	58
Total public utilities	429	44 <sup>b</sup>	473
War industries	21	2 <sup>c</sup>	23
Other industries	40	—	40
Grand total	490	46	536
Per cent	91.4	8.6	100.0

<sup>a</sup> "Strike ended" refers to settlement of strikes called before or during board proceedings. These strikes were few in number; they were illegal when they occurred in public utilities or war industries.

<sup>b</sup> Of these strikes, 30 were legal, that is, they occurred after the report of the board was submitted; 14 were illegal because they were called before or during board proceedings.

<sup>c</sup> One legal; one illegal.

TABLES RELATING TO DISPUTES

TABLE 24.—ESTIMATED NUMBER OF STRIKES OCCURRING IN PUBLIC UTILITY INDUSTRIES IN VIOLATION OF THE ACT, BY INDUSTRY, MARCH 22, 1907 TO MARCH 31, 1925

Industry	Strikes in violation of the act		
	No application made for a board	Application made for a board <sup>a</sup>	Total
Public utilities			
Railroads	40	11	51
Street railways	16	9	25
Other municipal utilities	26	4	30
Coal mining	186	12 <sup>b</sup>	198
Shipping	52	6	58
Other mining	37	1	38
All other	68	4	72
Total public utilities	425	47	472
Per cent	90.0	10.0	100.0

<sup>a</sup> Includes strikes called before application for a board, as well as those occurring before or during board proceedings. Strikes which occur after the report of a board are not in violation of the act.

<sup>b</sup> Including one lockout. In this case and in the case of one strike, ignorance of the law was claimed and the employees returned to work when informed.

## APPENDIX B

### SUMMARY OF CONCLUSIONS OF PREVIOUS INVESTIGATIONS OF THE INDUSTRIAL DISPUTES INVESTIGATION ACT

Victor S. Clark made two studies of the act, both published by the Bureau of Labor of the United States Department of Commerce and Labor. One report appeared in May, 1908 and covered the operation of the act during the first year of its enactment.<sup>1</sup> The other appeared in January, 1910 and covered the operation of the act from April, 1908 to August 1909.<sup>2</sup> In the latter report, Mr. Clark states that "On the whole it does not seem necessary to revise the conclusions of the previous report, which the following observations will supplement rather than supersede."<sup>3</sup> The conclusions of the second report may therefore be accepted for both investigations. These were substantially as follows:

[1] . . . the Industrial Disputes Investigation Act seems to be gaining support in Canada with longer experience, and has very few opponents outside of labor ranks.

[2] The labor opposition is strongest where socialism is strongest.

[3] The act has afforded machinery for settling most of the disputes that have occurred in the industries to which it applies; but in some cases it has postponed rather than prevented strikes, and in other cases strikers have defied the law with impunity. . . .

[4] The most serious danger it faces is the non-enforcement of the strike and lockout penalties in cases where the law is violated for the express purpose of weakening its authority. . . .

[5] Under the conditions for which it was devised, however, the Canadian law, in spite of some setbacks, is useful legislation, and

<sup>1</sup> The Canadian Industrial Disputes Investigation Act of 1907. Bulletin No. 76, Washington, 1908.

<sup>2</sup> Canadian Industrial Disputes Investigation Act of 1907. Bulletin No. 86, Washington, 1910.

<sup>3</sup> *Ibid.* p. 1.

## CONCLUSIONS OF PREVIOUS INVESTIGATIONS

promises more for the future than most measures—perhaps more than any other measure—for promoting industrial peace by government intervention. . . .

[6] The adoption of a similar statute in any State or by the United States Government, whether desirable or not, is likely to be opposed by organized labor, and probably could be secured only after some industrial crisis profoundly affecting public opinion had centered popular attention upon the question of strike prevention. . . .

[7] The enforcement of the penal clauses of the law would probably be more difficult in the United States than it is in Canada, and for that reason the success of such a statute somewhat less probable.<sup>1</sup>

The next report on the operation of the law was published in December, 1912. It was the result of an investigation made by Sir George Askwith at the request of the British Board of Trade, which, following several serious strikes, was anxious to find out whether the Canadian act would be applicable to conditions in England. Sir George spent the months of September and October, 1912 interviewing "several hundred employers, workmen, trade union officials, public men, and Government officials at most of the principal industrial centres."<sup>2</sup> His intention was "to examine, from the British point of view . . . the real advantage or disadvantage of the Act, and from practical knowledge of trade disputes to consider how far any development upon the lines of the Act can be of service generally in this country."<sup>3</sup> His conclusion in the main was

. . . that the forwarding of the spirit and intent of conciliation is the most valuable portion of the Canadian Act, and that an act on these lines, even if the restrictive features which aim at delaying stoppage until after inquiry were omitted, would be suitable and practicable in this country [i.e. Great Britain]. Such an act need not necessarily be applied in all cases, but neither need it be confined to services of public utility. It could be generally available in cases where the public were likely to be seriously affected. Without the restrictive

<sup>1</sup> *Ibid.* pp. 21-22.

<sup>2</sup> Report on the Industrial Disputes Investigation Act of Canada, 1907. H. M. Stationery Office, London, 1912, p. 2.

<sup>3</sup> *Ibid.* p. 3.

## POSTPONING STRIKES

features it would give the right not only to conciliate but fully to investigate the matters in dispute, with similar powers in regard to witnesses, production of documents and inspection, as are vested in a court of record in civil cases, with a view, if conciliation fails, to recommendations being made as to what are believed to be fair terms.<sup>1</sup>

In 1918 the Bureau of Labor Statistics of the United States Department of Labor published a study of the act by Benjamin M. Squires. This report proposed "to consider primarily the effectiveness of the compulsory investigation provisions of the act." The files in the Canadian Department of Labour were examined and the operation of the act discussed "with the minister and deputy minister of labor and with other officials concerned with its administration."<sup>2</sup> Among his conclusions Mr. Squires states that "in view of the numerous violations of the restrictive provisions and the comparatively few prosecutions, the question naturally arises whether these provisions add materially to the value of the act,"<sup>3</sup> and that "in the administration of the Canadian act emphasis has been placed upon conciliation and mediation rather than upon compulsion."<sup>4</sup>

In 1918 the National Industrial Conference Board, an organization which represents various employers' associations in the United States, published a study of the act. The summary and conclusions of the Board are stated as follows:

(1) The commonly expressed opinion, that the failure to impose penalties for illegal strikes is the principal weakness of the Act and the cause of its comparatively infrequent application, is not borne out. . . . The Act might be quite as strong if the penalty provision was repealed. The few cases in which penalties have been imposed are responsible for much opposition to the act.

(2) The operation of the Act has signally failed to inspire complete confidence of workers. . . .

(3) The requirement of the Act that a Board may not be applied for unless one or the other of the disputants makes a statutory declaration

<sup>1</sup> *Ibid.* p. 17.

<sup>2</sup> Operation of the Industrial Disputes Investigation Act of Canada. Bulletin No. 233, Washington, 1918, p. 8.

<sup>3</sup> *Ibid.* p. 135.

<sup>4</sup> *Ibid.* p. 139.

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that a strike or lockout will otherwise occur, has not operated advantageously, and is no doubt chargeable with some of the illegal strikes that have occurred. . . .

(4) Owing to the fact that incidental administrative rulings tend to become fixed as precedents, and further that, especially among workers, incidental causes of irritation are held in memory for many years, opposition to the Act is cumulative and tends to become stronger, despite the fact that its operation may have been generally beneficial to the workers themselves.

(5) The existence of the Act on the statute books has acted as a wholesome restraint both on employers and employees through a period of great industrial unrest; it has served in some degree to crystallize public opinion and in particular cases to make it effective for maintenance of industrial peace.

(6) Investigations have been most successful when most informally conducted; introduction of legal machinery is almost certain to destroy their usefulness.

(7) Where investigations have been fairly conducted, with no unfortunate administrative irritations, and with tactful, informal procedure, resultant recommendations have been almost universally backed by public opinion and accepted by the disputants.

(8) The Act after ten years of operation has the support of Canadian public opinion. The evidence of this is twofold: (a) No political party has even suggested making an issue of its repeal. (b) The restraint which organized labor feels, in spite of the fact that the penalty has seldom been imposed, is that of public opinion behind the Act.<sup>1</sup>

<sup>1</sup> Canadian Industrial Disputes Investigation Act. Research Report No. 5, 1918, pp. 21-23.

## APPENDIX C

### TEXT OF INDUSTRIAL DISPUTES INVESTIGATION ACT WITH AMENDMENTS PASSED IN 1910, 1918, 1920 AND 1925

#### 6-7 EDWARD VII CHAPTER 20

An Act to Aid in the Prevention and Settlement of  
Strikes and Lockouts in Mines and Industries Con-  
nected with Public Utilities.

[Assented to 22nd March, 1907.]

His Majesty, by and with the advice and consent of  
the Senate and House of Commons of Canada, enacts  
as follows:

1. This Act may be cited as *The Industrial Disputes  
Investigation Act, 1907*.

#### PRELIMINARY

##### *Interpretation*

2. In this Act, unless the context otherwise requires—  
(a) "Minister" means the Minister of Labour;  
(b) "department" means the Department of Labour;  
(c) "employer" means any person, company or cor-  
poration employing ten or more persons and owning or  
operating any mining property, agency of transpor-  
tation or communication, or public service utility,  
including, except as hereinafter provided, railways,  
whether operated by steam, electricity or other motive



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power, steamships, telegraph and telephone lines, gas, electric light, water and power works;

*[Paragraph (c) was amended in 1920 by adding the following words at the end:]*

“or any number of such persons, companies or corporations acting together, or who in the opinion of the Minister have interests in common.” (10-11 George V, 1920, Chap. 29.)

(d) “employee” means any person employed by an employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry to which this Act applies;

*[The following paragraph was inserted immediately after paragraph (d) by an amendment in 1918:]*

“(dd) A lockout or strike shall not, nor, where application for a Board is made within thirty days after the dismissal, shall any dismissal, cause any employee to cease to be an employee, or an employer to cease to be an employer, within the meaning and for the purposes of this Act.” (8-9 George V, 1918, Chap. 27.)

(e) “dispute” or “industrial dispute” means any dispute or difference between an employer and one or more of his employees, as to matters or things affecting or relating to work done or to be done by him or them, or as to the privileges, rights and duties of employers or employees (not involving any such violation thereof as constitutes an indictable offence); and, without limiting the general nature of the above definition, includes all matters relating to—

- (1) the wages allowance or other remuneration of employees, or the price paid or to be paid in respect of employment;

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- (2) the hours of employment, sex, age, qualification or status of employees, and the mode, terms and conditions of employment;
- (3) the employment of children or any person or persons or class of persons, or the dismissal of or refusal to employ any particular person or persons or class of persons;
- (4) claims on the part of an employer or any employee as to whether and, if so, under what circumstances, preference of employment should or should not be given to one class over another of persons being or not being members of labour or other organizations, British subjects or aliens;
- (5) materials supplied and alleged to be bad, unfit or unsuitable, or damage alleged to have been done to work;
- (6) any established custom or usage, either generally or in the particular district affected;
- (7) the interpretation of an agreement or a clause thereof;
- (f) "lockout" (without limiting the nature of its meaning) means a closing of a place of employment or a suspension of work, or a refusal by an employer to continue to employ any number of his employees in consequence of a dispute, done with a view to compelling his employees, or to aid another employer in compelling his employees, to accept terms of employment;
- (g) "strike" or "to go on strike" (without limiting the nature of its meaning) means the cessation of work by a body of employees acting in combination, or a concerted refusal or a refusal under a common understanding of any number of employees to continue to work for an employer, in consequence of a dispute, done

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as a means of compelling their employer, or to aid other employees in compelling their employer, to accept terms of employment;

(b) "board" means a Board of Conciliation and Investigation established under the provisions of this Act;

(i) "application" means an application for the appointment of a Board under the provisions of this Act;

(j) "Registrar" means the Registrar of Boards of Conciliation and Investigation under this Act;

(k) "prescribed" means prescribed by this Act, or by any rules or regulations made thereunder;

(l) "trade union" or "union" means any organization of employees formed for the purpose of regulating relations between employers and employees.

*[The following was inserted after Section 2 by an amendment in 1925:]*

#### "APPLICATION OF ACT

"2A. This Act shall apply to the following disputes only:—

(i) Any dispute in relation to employment upon or in connection with any work, undertaking or business which is within the legislative authority of the Parliament of Canada, including but not so as to restrict the generality of the foregoing:

(a) works, undertakings or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime;

(b) lines of steam or other ships, railways, canals, telegraphs and other works and undertakings connecting any province with any other or

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others of the provinces, or extending beyond the limits of the province;

- (c) lines of steamships between a province and any British or foreign country;
- (d) ferries between any province and any British or foreign country, or between two provinces;
- (e) works, undertakings or business belonging to, carried on or operated by aliens, including foreign corporations immigrating into Canada to carry on business;
- (f) such works as, although wholly situate within the province, have been or may be declared by the Parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the provinces;
- (g) works, undertakings or business of any company or corporation incorporated by or under the authority of the Parliament of Canada.

(ii) Any dispute which is not within the exclusive legislative authority of any provincial legislature to regulate in the manner provided by this Act.

(iii) Any dispute which the Governor in Council may by reason of any real or apprehended national emergency declare to be subject to the provisions of this Act.

(iv) Any dispute which is within the exclusive legislative jurisdiction of any province and which by the legislation of the province is made subject to the provisions of this Act." (15-16 George V, 1925, Chap. 14.)

"2B. The provisions of this Act shall be construed as relating only to the application of *The Industrial Dis-*

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*putes Investigation Act, 1907*, and not so as to extend the meaning of the word "employer" as defined by section two, paragraph (c), of the said Act." (15-16 George V, 1925, Chap. 14.)

### *Administration*

3. The Minister of Labour shall have the general administration of this Act.

4. The Governor in Council shall appoint a Registrar of Boards of Conciliation and Investigation, who shall have the powers and perform the duties prescribed.

2. The Office of Registrar may be held either separately or in conjunction with any other office in the public service, and in the latter case the Registrar may, if the Governor in Council thinks fit, be appointed, not by name, but by reference to such other office, whereupon the person who for the time being holds such office, or performs its duties, shall by virtue thereof be the Registrar.

## BOARDS OF CONCILIATION AND INVESTIGATION

### *Constitution of Boards*

5. Wherever any dispute exists between an employer and any of his employees, and the parties thereto are unable to adjust it, either of the parties to the dispute may make application to the Minister for the appointment of a Board of Conciliation and Investigation, to which Board the dispute may be referred under the provisions of this Act: Provided, however, that, in the case of a dispute between a railway company and its employees, such dispute may be referred, for the purpose of conciliation and investigation, under the pro-

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visions concerning railway disputes in the Conciliation and Labour Act.

6. Whenever, under this Act, an application is made in due form for the appointment of a Board of Conciliation and Investigation, and such application does not relate to a dispute which is the subject of a reference under the provisions concerning railway disputes in the Conciliation and Labour Act, the Minister, whose decision for such purpose shall be final, shall, within fifteen days from the date at which the application is received, establish such Board under his hand and seal of office, if satisfied that the provisions of this Act apply.

*[Section 6 was repealed in 1918 and the following substituted therefor:]*

“6. (1) Whenever, under this Act, an application is made in due form for the appointment of a Board of Conciliation and Investigation, the Minister shall, within fifteen days from the date at which the application is received, establish such Board under his hand and seal of office, if satisfied that the provisions of this Act apply.

“(2) The decision of the Minister as to the granting or refusal of a Board shall be final, and when a Board is granted by the Minister, it shall be conclusively deemed to be authorized by and to be in accordance with the provisions of this Act, and no order shall be made or process or proceeding had or taken in any court to question the granting or refusal of a Board, or to review, prohibit, or restrain the establishment of such Board or the proceedings thereof.” (8-9 George V, 1918, Chap. 27.)

7. Every Board shall consist of three members who shall be appointed by the Minister.

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2. Of the three members of the Board one shall be appointed on the recommendation of the employer and one on the recommendation of the employees (the parties to the dispute), and the third on the recommendation of the members so chosen.

8. For the purposes of appointment of the members of the Board, the following provisions shall apply:—

1. Each party to the dispute may, at the time of making application or within five days after being requested so to do by the Minister, recommend the name of one person who is willing and ready to act as a member of the Board, and the Minister shall appoint such person a member of the Board.

2. If either of the parties fails or neglects to duly make any recommendation within the said period, or such extension thereof as the Minister, on cause shown, grants, the Minister shall, as soon thereafter as possible, appoint a fit person to be a member of the Board; and such member shall be deemed to be appointed on the recommendation of the said party.

3. The members chosen on the recommendation of the parties may, within five days after their appointment, recommend the name of one person who is willing and ready to act as a third member of the Board, and the Minister shall appoint such person a member of the Board.

4. If the members chosen on the recommendation of the parties fail or neglect to duly make any recommendation within the said period, or such extension thereof as the Minister, on cause shown, grants, the Minister shall, as soon thereafter as possible, appoint a fit person to be a third member of the Board, and such member

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shall be deemed to be appointed on the recommendation of the two other members of the Board.

5. The third member shall be the Chairman of the Board.

9. As soon as possible after the full Board has been appointed by the Minister, the Registrar shall notify the parties of the names of the members of the Board and the chairman thereof, and such notification shall be final and conclusive for all purposes.

10. Every member of a Board shall hold office from the time of his appointment until the report of the Board is signed and transmitted to the Minister.

*[Section 10 was amended in 1918 by adding the following:]*

“and for the purposes of subsection two of section twenty-nine of this Act, from the time the Board is reconvened by the Chairman until the report required under such section is transmitted to the Minister.”  
(8-9 George V, 1918, Chap. 27.)

11. No person shall act as a member of a Board who has any direct pecuniary interest in the issue of a dispute referred to such Board.

12. Every vacancy in the membership of a Board shall be supplied in the same manner as in the case of the original appointment of every person appointed.

13. Before entering upon the exercise of the functions of their office the members of a Board, including the chairman, shall make oath or affirmation before a justice of the peace that they will faithfully and impartially perform the duties of their office, and also that, except in



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the discharge of their duties, they will not disclose to any person any of the evidence or other matter brought before the Board.

*[Section 13 was amended in 1910 by adding after the word "peace" in the fourth line in this paragraph the words:]*

"or other person authorized to administer an oath or affirmation." (9-10 Edward VII, 1910, Chap. 29.)

14. The department may provide the Board with a secretary, stenographer, or such other clerical assistance as to the Minister appears necessary for the efficient carrying out of the provisions of this Act.

#### *Procedure for Reference of Disputes to Boards*

15. For the purpose of determining the manner in which, and the persons by whom, an application for the appointment of a Board is to be made, the following provisions shall apply:—

1. The application shall be made in writing in the prescribed form, and shall be in substance a request to the Minister to appoint a Board to which the existing dispute may be referred under the provisions of this Act.

2. The application shall be accompanied by—

(a) A statement setting forth—

- (1) the parties to the dispute;
- (2) the nature and cause of the dispute, including any claims or demands made by either party upon the other, to which exception is taken;
- (3) an approximate estimate of the number of persons affected or likely to be affected by the dispute;
- (4) the efforts made by the parties themselves to adjust the dispute;

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and—

(b) A statutory declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board of Conciliation and Investigation under the Act, to the best of the knowledge and belief of the declarant, a lockout or strike, as the case may be, will be declared, and that the necessary authority to declare such lockout or strike has been obtained.

*[Paragraph (b) was repealed in 1910 and the following substituted therefor:]*

“(b) A statutory declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarant a lockout or strike will be declared, and (except where the application is made by an employer in consequence of an intended change in wages or hours proposed by the said employer) that the necessary authority to declare such lockout or strike has been obtained; or, where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees and so recognized by the employer, a statutory declaration by the chairman or president and by the secretary of such committee setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarants a strike will be declared, that the dispute has been the subject of negotiations between the committee and the employer, that all efforts to obtain a

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satisfactory settlement have failed, and that there is no reasonable hope of securing a settlement by further negotiations." (9-10 Edward VII, 1910, Chap. 29.)

*[Paragraph (b) was again repealed in 1925 and the following substituted therefor:]*

"(b) A statutory declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarant a lockout or strike will be declared, and (except where the application is made by an employer in consequence of an intended change in wages or hours proposed by the said employer) that the necessary authority to declare such lockout or strike has been obtained; or, where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees and so recognized by the employer, a statutory declaration by the chairman or president and by the secretary of such committee setting forth that, failing an adjustment of the dispute or a reference thereof by the Minister to a Board, to the best of the knowledge and belief of the declarants a strike will be declared, that the dispute has been the subject of negotiations between the committee of the employees and the employer, or that it has been impossible to secure conference or to enter into negotiations, that all efforts to obtain a satisfactory settlement have failed, and that there is no reasonable hope of securing a settlement by further effort or negotiations." (15-16 George V, 1925, Chap. 14.)

3. The application may mention the name of a person

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who is willing and ready and desires to act as a member of the Board representing the party or parties making the application.

16. The application and the declaration accompanying it—

- (1) if made by an employer, an incorporated company or corporation, shall be signed by some one of its duly authorized managers or other principal executive officers;
- (2) if made by an employer other than an incorporated company or corporation, shall be signed by the employer himself in case he is an individual, or a majority of the partners or members in case of a partnership, firm or association;
- (3) if made by employees, members of a trade union, shall be signed by two of its officers duly authorized by a majority vote of the members of the union, or by a vote taken by ballot of the members of the union present at a meeting called on not less than three days' notice for the purpose of discussing the question;

*[Paragraph (3) was amended in 1910 by adding the following:]*

“or, where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees, and so recognized by the employer, may be signed by the chairman or president and by the secretary of the said committee.” (9-10 Edward VII, 1910, Chap. 29.)

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- (4) if made by employees some or all of whom are not members of a trade union, shall be signed by two of their number duly authorized by a majority vote taken by ballot of the employees present at a meeting called on not less than three days' notice for the purpose of discussing the question.

*[Section 16 was repealed in 1920 and the following substituted therefor:]*

"16. (1) The application and the declaration accompanying it shall be signed, if made—

"(a) by an employer who is an individual, by the employer himself;

"(b) by an employer which is a partnership, firm or association, by a majority of the partners or members;

"(c) by an employer which is an incorporated company or corporation, by some one of its duly authorized managers or by one or more of the principal executive officers;

"(d) by employees who are members of a trade union, by two of its officers authorized in writing by a majority of the union members affected. If such authorization is obtained by a vote taken in whole or in part at a meeting, such meeting shall be called on not less than three days' notice and the vote shall be by ballot. Where a dispute directly affects employees in more than one province and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees, and so recognized by the employer, may be signed by

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the chairman or president and by the secretary of the said committee;

“(e) by employees some or all of whom are not members of a trade union, by two of their number authorized in writing by a majority of such employees. If such authorization is obtained in whole or in part by a vote at a meeting, such meeting shall be called on not less than three days’ notice and the vote shall be by ballot.

“(2) If more than one employer, or more than one trade union, or the employees of more than one employer, is or are interested, then and in such case the application and declaration shall be signed in the manner aforesaid by or on behalf of each employer or trade union or the employees of each employer so interested, or by or on behalf of a majority of such employers, or trades unions, or of such employees.” (10-11 George V, 1920, Chap. 29.)

17. Every application for the appointment of a Board shall be transmitted by post by registered letter addressed to the Registrar of Boards of Conciliation and Investigation, Department of Labour, Ottawa, and the date of the receipt of such registered letter at the department shall be regarded as the date of the receipt of such application.

18. In every case where an application is made for the appointment of a Board the party making application shall, at the time of transmitting it to the Registrar, also transmit by registered letter to the other party to the dispute, or by personal delivery, a copy of the application and of the accompanying statement and declaration.

## TEXT OF DISPUTES ACT

19. Upon receipt by either party to a dispute of a copy of the application for the appointment of a Board such party shall, without delay, prepare a statement in reply to the application and transmit it by registered letter, or by personal delivery, to the Registrar and to the party making the application.

20. Copies of applications or statements in reply thereto, to be transmitted to the other party under any of the preceding sections where the other party is—

- (1) an employer, an incorporated company or corporation, shall be sent to the manager or other principal executive officer of the company or corporation;
- (2) an employer other than an incorporated company or corporation, shall be sent to the employer himself or to the employer in the name of the business or firm as commonly known;
- (3) composed of employees, members of a trade union, shall be sent to the president and secretary of such union;
- (4) composed of employees some or all of whom are not members of a trade union,—
  - (a) Where some of the employees are members of a trade union, shall be sent to the president and secretary of the union as representing the employees belonging to the union; also
  - (b) Where some of the employees are not members of a trade union and there are no persons authorized to represent such employees, shall be sent to ten of their number;
  - (c) Where, under paragraph (4) of section 16, two persons have been authorized to make an application, shall be sent to such two persons.

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[Section 20 was amended in 1920 by substituting in subparagraph (c) of paragraph (4) for the words:]

“paragraph (4) of section 16” the words “paragraph (e) of subsection (1) of section sixteen.” (10-11 George V, 1920, Chap. 29.)

[Section 20 was further amended in 1920 by adding the following subsections:]

“(2) When the other party comprises more than one employer and those employers are members of an association authorized to carry on negotiations in disputes between employers and employees, copies of applications or statements in reply shall be transmitted to the secretary or principal executive officer of such association; when no such association exists copies of the applications or statements in reply shall be transmitted to each employer individually, or by agreement one employer may be designated by the individual employers concerned to receive copies of applications or statements in reply.

“(3) When in any individual industry the other party comprises more than one trade union and the latter are grouped in a council or federation authorized to carry on negotiations between employers or employees, copies of applications or statements in reply shall be transmitted to the president or secretary of such council or federation; when no such council or federation exists, copies of applications or statements in reply shall be transmitted to the president or secretary of each individual union.” (10-11 George V, 1920, Chap. 29.)

### *Functions, Powers and Procedure of Boards*

21. Any dispute may be referred to a Board by application in that behalf made in due form by any party



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thereto; provided that no dispute shall be the subject of reference to a Board under this Act in any case in which the employees affected by the dispute are fewer than ten.

22. Upon the appointment of the Board the Registrar shall forward to the chairman a copy of the application for the appointment of such Board, and of its accompanying statement and declaration, and of the statement in reply, and the Board shall forthwith proceed to deal with the matters referred to in these documents.

*[Section 22 was amended in 1918 by adding the following subsection:]*

“(2) Should it at any stage of the proceedings be made to appear to the Minister that it is necessary, in order to deal satisfactorily with the matters in dispute, that some other matter or matters involved in or incidental to those appearing in the application and statement in answer, if any, should also be referred to the Board, the Minister may under his hand and seal of office refer such matters to the Board accordingly.”  
(8-9 George V, 1918, Chap. 27.)

23. In every case where a dispute is duly referred to a Board it shall be the duty of the Board to endeavour to bring about a settlement of the dispute, and to this end the Board shall, in such manner as it thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits thereof and the right settlement thereof. In the course of such inquiry the Board may make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the

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dispute, and may adjourn the proceedings for any period the Board thinks reasonable to allow the parties to agree upon terms of settlement.

24. If a settlement of the dispute is arrived at by the parties during the course of its reference to the Board, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and shall, if the parties so agree, be binding as if made a recommendation by the Board under section 62 of this Act, and a copy thereof with a report upon the proceedings shall be forwarded to the Minister.

25. If a settlement of the dispute is not arrived at during the course of its reference to the Board, the Board shall make a full report thereon to the Minister, which report shall set forth the various proceedings and steps taken by the Board for the purpose of fully and carefully ascertaining all the facts and circumstances, and shall also set forth such facts and circumstances, and its findings therefrom, including the cause of the dispute and the Board's recommendation for the settlement of the dispute according to the merits and substantial justice of the case.

26. The Board's recommendation shall deal with each item of the dispute and shall state in plain terms, and avoiding as far as possible all technicalities, what in the Board's opinion ought or ought not to be done by the respective parties concerned. Wherever it appears to the Board expedient so to do, its recommendation shall also state the period during which the proposed settlement should continue in force, and the date from which it should commence.

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27. The Board's report and recommendation shall be made to the Minister in writing, and shall be signed by such of the members as concur therein, and shall be transmitted by the chairman by registered letter to the Registrar as soon as practicable after the reference of the dispute to the Board; and in the same manner a minority report may be made by any dissenting member of the Board.

28. Upon receipt of the Board's report the Minister shall forthwith cause the report to be filed in the office of the Registrar and a copy thereof to be sent free of charge to the parties to the dispute, and to the representative of any newspaper published in Canada who applies therefor, and the Minister may distribute copies of the report, and of any minority report, in such manner as to him seems most desirable as a means of securing a compliance with the Board's recommendation. The Registrar shall, upon application, supply certified copies for a prescribed fee, to persons other than those mentioned in this section.

29. For the information of Parliament and the public, the report and recommendation of the Board, and any minority report, shall, without delay, be published in the *Labour Gazette*, and be included in the annual report of the Department of Labour to the Governor General.

[Section 29 was repealed in 1918 and the following substituted therefor.]

"29. (1) For the information of Parliament and the public, the report and recommendations of the Board, and any minority report, shall, without delay, be published in the *Labour Gazette*, either verbatim or in summary form as the Minister may determine.

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“(2) Where any question arises as to the meaning or application of, or as to anything relating to or connected with,—

- (a) any recommendation made by the Board, or,
- (b) any settlement agreement drawn up by the Board under section twenty-four of this Act,

the Minister, where he deems it expedient, may, on the application of either party or of his own motion, request from the chairman of the Board an expression of the Board’s opinion upon such question, and the chairman shall upon receipt of such request reconvene the Board, and the Board shall as soon as practicable report to the Minister its opinion upon such question.” (8–9 George V, 1918, Chap. 27.)

30. For the purpose of its inquiry the Board shall have all the powers of summoning before it, and enforcing the attendance of witnesses, of administering oaths, and of requiring witnesses to give evidence on oath or on solemn affirmation (if they are persons entitled to affirm in civil matters) and to produce such books, papers or other documents or things as the Board deems requisite to the full investigation of the matters into which it is inquiring, as is vested in any court of record in civil cases.

2. Any member of the Board may administer an oath, and the Board may accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

31. The summons shall be in the prescribed form, and may require any person to produce before the Board any books, papers or other documents or things in his

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possession or under his control in any way relating to the proceedings.

32. All books, papers and other documents or things produced before the Board, whether voluntarily or in pursuance to summons, may be inspected by the Board, and also by such parties as the Board allows; but the information obtained therefrom shall not, except in so far as the Board deems it expedient, be made public, and such parts of the books, papers or other documents as in the opinion of the Board do not relate to the matter at issue may be sealed up.

33. Any party to the proceedings shall be competent and may be compelled to give evidence as a witness.

34. Every person who is summoned and duly attends as a witness shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil suits in the superior courts in the province where the inquiry is being conducted.

*[Section 34 was amended in 1920 by adding the following words at the end:]*

*“with a minimum allowance of four dollars per day.”*  
*(10-11 George V, 1920, Chap. 29.)*

35. Where a reference has been made to the Board of a dispute between a railway company and its employees, any witness summoned by the Board in connection with the dispute shall be entitled to free transportation over any railway en route when proceeding to the place of meeting of the Board and thereafter returning to his home, and the Board shall furnish to such witness a proper certificate evidencing his right to such free transportation.

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36. If any person who has been duly served with such summons and to whom at the same time payment or tender has been made of his reasonable travelling expenses according to the aforesaid scale, fails to duly attend or to duly produce any book, paper or other document or thing as required by his summons, he shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars, unless he shows that there was good and sufficient cause for such failure.

37. If, in any proceedings before the Board, any person wilfully insults any member of the Board or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the Board, any officer of the Board or any constable may take the person offending into custody and remove him from the precincts of the Board, to be detained in custody until the rising of the Board, and the person so offending shall be liable to a penalty not exceeding one hundred dollars.

38. The Board, or any member thereof, and, on being authorized in writing by the Board, any other person, may, without any other warrant than this Act, at any time, enter any building, mine, mine workings, ship, vessel, factory, workshop, place or premises of any kind, wherein, or in respect of which, any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking place or has taken place, which has been made the subject of a reference to the Board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such building,

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mine, mine workings, ship, vessel, factory, workshop, place or premises as aforesaid, in respect of or in relation to any matter or thing hereinbefore mentioned, and any person who hinders or obstructs the Board or any such person authorized as aforesaid, in the exercise of any power conferred by this section, shall be guilty of an offence and be liable to a penalty not exceeding one hundred dollars.

39. Any party to a reference may be represented before the Board by three or less than three persons designated for the purpose, or by counsel or solicitor where allowed as hereinafter provided.

40. Every party appearing by a representative shall be bound by the acts of such representative.

41. No counsel or solicitor shall be entitled to appear or be heard before the Board, except with the consent of the parties to the dispute, and notwithstanding such consent the Board may decline to allow counsel or solicitors to appear.

42. Persons other than British subjects shall not be allowed to act as members of a Board.

43. If, without good cause shown, any party to proceedings before the Board fails to attend or to be represented, the Board may proceed as if he had duly attended or had been represented.

44. The sittings of the Board shall be held at such time and place as are from time to time fixed by the chairman, after consultation with the other members of the Board, and the parties shall be notified by the chairman as to the time and place at which sittings are

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to be held: Provided that, so far as practicable, the Board shall sit in the locality within which the subject-matter of the proceeding before it arose.

45. The proceedings of the Board shall be conducted in public; provided that at any such proceedings before it, the Board, on its own motion, or on the application of any of the parties, may direct that the proceedings shall be conducted in private and that all persons other than the parties, their representatives, the officers of the Board and the witnesses under examination shall withdraw.

46. The decision of a majority of the members present at a sitting of the Board shall be the decision of the Board, and the findings and recommendations of the majority of its members shall be those of the Board.

47. The presence of the chairman and at least one other member of the Board shall be necessary to constitute a sitting of the Board.

48. In case of the absence of any one member from a meeting of the Board the other two members shall not proceed, unless it is shown that the third member has been notified of the meeting in ample time to admit of his attendance.

2. If any member of a Board dies, or becomes incapacitated, or refuses or neglects to act, his successor shall be appointed in the manner provided with respect to the original member of the Board.

49. The Board may at any time dismiss any matter referred to it which it thinks frivolous or trivial.

50. The Board may, with the consent of the Minister, employ competent experts or assessors to examine the



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books or official reports of either party, and to advise it upon any technical or other matter material to the investigation, but shall not disclose such reports or the results of such inspection or examination under this section without the consent of both the parties to the dispute.

### *Remuneration and Expenses of Board*

51. The members of a Board while engaged in the adjustment of a dispute shall be remunerated for their services as follows:

- (a) to members other than the chairman—
  - (i) an allowance of five dollars a day for a time not exceeding three days during which the members may be actually engaged in selecting a third member of the Board;
  - (ii) an allowance of fifteen dollars for each whole day's sitting of the Board;
  - (iii) an allowance of seven dollars for each half-day's sitting of the Board;
- (b) the chairman shall be allowed twenty dollars a day for each whole day's sitting of the Board, and ten dollars a day for each half-day's sittings;
- (c) no allowance shall be made to any member of the Board on account of any sitting of the Board which does not extend over a half day, unless it is shown to the satisfaction of the Minister that such meeting of the Board was necessary to the performance of its duties as speedily as possible, and that the causes which prevented a half-day's sitting of the Board were beyond its control.

*[Section 51 of the act was repealed in 1910 and the following substituted therefor:]*

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**51.** The members of a Board shall be remunerated for their services as follows:

“(a) to members other than the chairman, an allowance of five dollars a day for a time not exceeding three days during which the members may be actually engaged in selecting a third member of the Board;

“(b) to each member of the Board, including the chairman, an allowance at the rate of twenty dollars for each day’s sitting of the Board and for each day necessarily engaged in travelling from or to his place of residence to attend or after attending a meeting of the Board.” (9-10 Edward VII, 1910, Chap. 29.)

**52.** No member of the Board shall accept in addition to his salary as a member of the Board any perquisite or gratuity of any kind, from any corporation, association, partnership or individual in any way interested in any matter or thing before or about to be brought before the Board in accordance with the provisions of this Act. The accepting of such perquisite or gratuity by any member of the Board shall be an offence and shall render such member liable to a fine not exceeding one thousand dollars.

**53.** Each member of the Board will be entitled to his actual necessary travelling expenses for each day that he is engaged in travelling from or to his place of residence for the purpose of attending or after having attended a meeting of the Board.

**54.** All expenses of the Board, including expenses for transportation incurred by the members thereof or by persons under its order in making investigations under this Act, salaries of employees and agents, and fees and

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mileage to witnesses shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the Board, which vouchers shall be forwarded by the chairman to the Minister. The chairman shall also forward to the Minister a certified and detailed statement of the sittings of the Board, and of the members present at such sittings.

#### DUTIES OF THE REGISTRAR

55. It shall be the duty of the Registrar:—

(a) to receive and register, and, subject to the provisions of this Act, to deal with all applications by employers or employees for a reference of any dispute to a Board, and to at once bring to the Minister's attention every such application;

(b) to conduct such correspondence with the parties and members of Boards as may be necessary to constitute any Board as speedily as possible in accordance with the provisions of this Act;

(c) to receive and file all reports and recommendations of Boards, and conduct such correspondence and do such things as may assist in rendering effective the recommendations of the Boards, in accordance with the provisions of this Act;

(d) to keep a register in which shall be entered the particulars of all applications, references, reports and recommendations relating to the appointment of a Board, and its proceedings; and to safely keep all applications, statements, reports, recommendations and other documents relating to proceedings before the Board, and, when so required, transmit all or any of such to the Minister;

(e) to supply to any parties, on request, information

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as to this Act, or any regulations or proceedings thereunder, and also to furnish parties to a dispute and members of the Board with necessary blank forms, forms of summons or other papers or documents required in connection with the effective carrying out of the provisions of this Act;

(f) generally, to do all such things and take all such proceedings as may be required in the performance of his duties prescribed under this Act or any regulations thereunder.

### STRIKES AND LOCKOUTS PRIOR TO AND PENDING A REFERENCE TO A BOARD ILLEGAL

56. It shall be unlawful for any employer to declare or cause a lockout, or for any employee to go on strike, on account of any dispute prior to or during a reference of such dispute to a Board of Conciliation and Investigation under the provisions of this Act, or prior to or during a reference under the provisions concerning railway disputes in the Conciliation and Labour Act: Provided that nothing in this Act shall prohibit the suspension or discontinuance of any industry or of the working of any persons therein for any cause not constituting a lockout or strike: Provided also that, except where the parties have entered into an agreement under section 62 of this Act, nothing in this Act shall be held to restrain any employer from declaring a lockout, or any employee from going on strike in respect of any dispute which has been duly referred to a Board and which has been dealt with under section 24 or 25 of this Act, or in respect of any dispute which has been the subject of a reference under the provisions concerning railway disputes in the Conciliation and Labour Act.

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57. Employers and employees shall give at least thirty days' notice of an intended change affecting conditions of employment with respect to wages or hours; and in every case where a dispute has been referred to a Board, until the dispute has been finally dealt with by the Board, neither of the parties nor the employees affected shall alter the conditions of employment with respect to wages or hours, or on account of the dispute do or be concerned in doing, directly or indirectly, anything in the nature of a lockout or strike, or a suspension or discontinuance of employment or work, but the relationship of employer and employee shall continue uninterrupted by the dispute, or anything arising out of the dispute; but if, in the opinion of the Board, either party uses this or any other provision of this Act for the purpose of unjustly maintaining a given condition of affairs through delay, and the Board so reports to the Minister, such party shall be guilty of an offence, and liable to the same penalties as are imposed for a violation of the next preceding section.

*[Section 57 was amended in 1910 by substituting for the words in the first seven lines as above down to "alter" inclusive the following:]*

"57. Employers and employees shall give at least thirty days' notice of an intended change affecting conditions or employment with respect to wages or hours; and in the event of such intended change resulting in a dispute, until the dispute has been finally dealt with by a Board, neither of the parties affected shall alter."  
(9-10 Edward VII, 1910, Chap. 29.)

*[Section 57 was further amended in 1920 by substituting for the words in the first seven lines thereof down to "alter" inclusive the following:]*

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“57. Employers and employees shall give at least thirty days' notice of an intended change affecting conditions of employment with respect to wages or hours; and in the event of such intended change resulting in a dispute, until the dispute has been finally dealt with by a Board, and a copy of its report has been delivered through the Registrar to both the parties affected, neither of those parties shall alter.” (10-11 George V, 1920, Chap. 29.)

*[Section 57 was repealed in 1925 and the following substituted therefor:]*

“57. Employers and employees shall give at least thirty days' notice of an intended or desired change affecting conditions of employment with respect to wages or hours; and in the event of such intended or desired change resulting in a dispute, it shall be unlawful for the employer to make effective a proposed change in wages or hours or for the employees to go on strike, until the dispute has been finally dealt with by a Board, and a copy of its report has been delivered through the Registrar to both the parties affected; the application for the appointment of a Board shall be made by the employers or employees proposing the change in wages or in hours; neither of those parties shall alter the conditions of employment with respect to wages or hours, or on account of the dispute do or be concerned in doing directly or indirectly, anything in the nature of a lockout or strike, or a suspension or discontinuance of employment or work, but the relationship of employer and employee shall continue uninterrupted by the dispute, or anything arising out of the dispute; but if, in the opinion of the Board, either party uses this or

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any other provision of this Act for the purpose of unjustly maintaining a given condition of affairs through delay, and the Board so reports to the Minister, such party shall be guilty of an offence, and liable to the same penalties as are imposed for a violation of the next preceding section." (15-16 George V, 1925, Chap. 14.)

58. Any employer declaring or causing a lockout contrary to the provisions of this Act shall be liable to a fine of not less than one hundred dollars, nor more than one thousand dollars for each day or part of a day that such lockout exists.

*[Section 58 was repealed in 1925 and the following substituted therefor:]*

"58. Any employer declaring or causing a lockout or making effective a change in wages or hours contrary to the provisions of this Act shall be liable to a fine of not less than one hundred dollars, nor more than one thousand dollars for each day or part of a day that such lockout or change exists." (15-16 George V, 1925, Chap. 14.)

59. Any employee who goes on strike contrary to the provisions of this Act shall be liable to a fine of not less than ten dollars nor more than fifty dollars, for each day or part of a day that such employee is on strike.

60. Any person who incites, encourages or aids in any manner any employer to declare or continue a lockout, or any employee to go or continue on strike contrary to the provisions of this Act, shall be guilty of an offence and liable to a fine of not less than fifty dollars nor more than one thousand dollars.

### POSTPONING STRIKES

61. The procedure for enforcing penalties imposed or authorized to be imposed by this Act shall be that prescribed by Part XV of *The Criminal Code* relating to summary convictions.

### SPECIAL PROVISIONS

62. Either party to a dispute which may be referred under this Act to a Board may agree in writing, at any time before or after the Board has made its report and recommendation, to be bound by the recommendation of the Board in the same manner as parties are bound upon an award made pursuant to a reference to arbitration on the order of a court of record; every agreement so to be bound made by one party shall be forwarded to the Registrar who shall communicate it to the other party, and if the other party agrees in like manner to be bound by the recommendation of the Board, then the recommendation shall be made a rule of the said court on the application of either party and shall be enforceable in like manner.

63. In the event of a dispute arising in any industry or trade other than such as may be included under the provisions of this Act, and such dispute threatens to result in a lockout or strike, or has actually resulted in a lockout or strike, either of the parties may agree in writing to allow such dispute to be referred to a Board of Conciliation and Investigation, to be constituted under the provisions of this Act.

2. Every agreement to allow such reference shall be forwarded to the Registrar, who shall communicate it to the other party, and if such other party agrees in like manner to allow the dispute to be referred to a Board,



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the dispute may be so referred as if the industry or trade and the parties were included within the provisions of this Act.

3. From the time that the parties have been notified in writing by the Registrar that in consequence of their mutual agreement to refer the dispute to a Board under the provisions of this Act, the Minister has decided to refer such dispute, the lockout or strike, if in existence, shall forthwith cease, and the provisions of this Act shall bind the parties.

*[The following section was inserted in 1918 after Section 63:]*

“63A. Where in any industry any strike or lockout has occurred, and in the public interest or for any other reason it seems to the Minister expedient, the Minister, on the application of any municipality interested, or of the mayor, reeve, or other head officer or acting head officer thereof, or of his own motion, may, without application of either of the parties to the dispute, strike, or lockout, whether it involves one or more employers or employees in the employ of one or more employers, constitute a Board of Conciliation and Investigation under this Act in respect of any dispute, or strike or lockout, or may in any such case, if it seems to him expedient, either with or without an application from any interested party, recommend to the Governor in Council the appointment of some person or persons as commissioner or commissioners under the provisions of the *Inquiries Act* to inquire into the dispute, strike or lockout, or into any matters or circumstances connected therewith.” (8-9 George V, 1918, Chap. 27.)

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[Section 63A was amended in 1920 by inserting after the word "occurred" in the second line the words:]

"or seems to the Minister to be imminent." (10-11 George V, 1920, Chap. 29.)

[The following section was inserted in 1918 to follow Section 63A:]

"63B. The Minister, where he deems it expedient, may, either upon or without any application in that behalf, make or cause to be made any inquiries he thinks fit regarding industrial matters, and may cause such steps to be taken by his department and the officers thereof as seem calculated to secure industrial peace and to promote conditions favourable to settlement of disputes." (8-9 George V, 1918, Chap. 27.)

## MISCELLANEOUS

64. No court of the Dominion of Canada, or of any province or territory thereof, shall have power or jurisdiction to recognize or enforce, or to receive in evidence any report of a Board, or any testimony or proceedings before a Board, as against any person or for any purpose, except in the case of the prosecution of such person for perjury.

65. No proceeding under this Act shall be deemed invalid by reason of any defect of form or any technical irregularity.

66. The Minister shall determine the allowance or amounts to be paid to all persons other than the members of a Board, employed by the Government or any Board, including the Registrar, secretaries, clerks, experts, stenographers or other persons performing any services under the provisions of this Act.

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67. In case of prosecutions under this Act, whether a conviction is or is not obtained, it shall be the duty of the clerk of the court before which any such prosecution takes place to briefly report the particulars of such prosecution to the Registrar within thirty days after it has been determined, and such clerk shall be entitled to a prescribed fee in payment of his services.

68. The Governor in Council may make regulations as to the time within which anything hereby authorized shall be done, and also as to any other matter or thing which appears to him necessary or advisable to the effectual working of the several provisions of this Act. All such regulations shall go into force on the day of the publication thereof in *The Canada Gazette*, and they shall be laid before Parliament within fifteen days after such publication, or, if Parliament is not then in session, within fifteen days after the opening of the next session thereof.

69. All charges and expenses incurred by the Government in connection with the administration of this Act shall be defrayed out of such appropriations as are made by Parliament for that purpose.

70. An annual report with respect to the matters transacted by him under this Act shall be made by the Minister to the Governor General, and shall be laid before Parliament within the first fifteen days of each session thereof.

## APPENDIX D

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