

Report of Commission Regarding an Industrial Dispute Involving the Quebec Central Railway Company and Its Train Service Employees

His Honour Judge Albert Constantineau submitted to the Minister of Labour on December 1 his report as Commissioner to inquire into an industrial dispute involving the management of the Quebec Central Railway Company and its train service employees being members of the Order of Railway Conductors and the Brotherhood of Railroad Trainmen. Judge Constantineau's appointment was made under the provisions of Part I of the Inquiries Act, Chapter 99, R.S.C., 1927, on the recommendation of the Minister of Labour, in accordance with Section 65 of the Industrial Disputes Investigation Act, Chapter 112, R.S.C., 1937 (LABOUR GAZETTE, September, 1937, page 953). The circumstances in connection with this dispute are set forth in the report, the text of which follows.

Text of Report of Commission

In the matter of the Industrial Disputes Investigation Act, R.S.C. 1927, Chap. 112, and Part I of the Inquiries Act, R.S.C. 1927, Chap. 99, and in the matter of an industrial dispute involving the Quebec Central Railway and its train service employees, being members of the Order of Railway Conductors and the Brotherhood of Railroad Trainmen.

To the Hon. Norman McLeod Rogers, a Member of His Majesty's Privy Council for Canada, and Minister of Labour.

The report of the Commissioner appointed for the investigation of the said dispute under the Inquiries Act by His Excellency the Governor in Council on the 8th day of September, 1937, respectfully sets forth as follows:—

The dispute referred to the undersigned for investigation originated, and is connected, with a proposed renewal of an agreement between the Brotherhood of Railroad Trainmen and the Quebec Central Railway. For

over thirty years the Brotherhood of Railroad Trainmen included among its members, not only trainmen, but also conductors, and a joint agreement with the railway regulated the terms of employment and the rates of pay of both classes of employees. In the latter part of 1935 the Brotherhood applied to the railway for a renewal and revision of a previous agreement. The company would have willingly negotiated with the Brotherhood as it had done in previous years but before the subject of the new agreement could be taken up and discussed it was served with a request dated April 16, 1936, which reads as follows:

"This is to certify that the names appearing below are employed and holding seniority as conductors on the Quebec Central Railway, and we hereby request to withdraw from the present contract now held by the Brotherhood of Railroad Trainmen, which contract includes the conductors on that railway, and that the right to representation contained in that contract for the Conductors mentioned be transferred to and vested in the regularly constituted committee of the Order of Railway Conductors."

The petition or request was signed by nineteen employees of the Quebec Central Railway, who professed to be conductors, but at the hearing before the undersigned there was much controversy as to the manner the signatures were obtained and the standing of some of the signatories, but in view of the conclusion reached in this report, this feature of the case has very little relevant bearing.

The matters in dispute which are the subject of this investigation were, for a considerable time, as appeared by the Order in Council appointing the undersigned a commissioner, before the Labour Department, whose officers endeavoured for many months to settle the same, but without success.

On the 8th of September, 1937, the Honourable Minister of Labour, realizing that the dispute between the conductors and the trainmen "had become definitely acute to the detriment of the public interest and the good operation of the service, and arising out of which serious friction had developed between the parties concerned," and, being of opinion that the matters involved were of such a nature as could not best be dealt with by a Board of Conciliation and Investigation under the Industrial Disputes Investigation Act, recommended to His Excellency the Governor in Council the appointment of the undersigned as Commissioner under the provisions of the Inquiries Act to inquire into the said dispute.

In compliance with the instructions contained in the Order in Council appointing him, namely, that the undersigned should "take any steps which in his judgment may effect a settlement of the existing dispute" he, the undersigned, proceeded to Sherbrooke on the 20th of October, 1937, to interview the interested parties. His first conversation was with Mr. G. D. Wadsworth, General Manager of the Quebec Central Railway, who thoroughly explained to him the situation and informed him that the company was not directly interested in the controversy between the conductors and the trainmen, and was willing to contract with whatever organization or organizations the rival parties agreed upon. The next person seen was Mr. Lucien Legendre, Chairman of the newly constituted committee of Conductors, who are striving to secede from the Brotherhood of Railroad Trainmen and secure from the company a separate agreement of their own. His attitude was that the conductors had not been fairly treated in the past by the Brotherhood and that they were clearly entitled to deal separately with the company, if they chose to do so. The last person interviewed was Mr. J. C. Morin, General Chairman of the Brotherhood of Railroad Trainmen, who emphatically denied that the conductors had any ground for complaint and that the railway company had no right to refuse to negotiate with his organization as it had done since the inception of its operations.

From the tone of the above conversations the undersigned could come to no other conclusion but that an amicable settlement or compromise was impossible. On the way home the undersigned called at Montreal on Mr. George Hodge, Manager of the Department of Personnel of the Canadian Pacific Railway Company, the Quebec Central Railway being a subsidiary of that company. Mr. Hodge took the same position as Mr.

Wadsworth had taken, namely, that this company was not directly interested in the dispute but was nevertheless anxious that there should be no friction among the employees of the Quebec Central Railway Company.

In view of the circumstances above described there was nothing left for the undersigned to do but to hear the parties interested at a meeting at some appointed time and place. The hearing was commenced at Montreal on the 3rd day of November, 1937, in one of the conference rooms of the Canadian Pacific Railway, which was provided through the courtesy of Mr. Hodge. Mr. Wadsworth was present at the request of the undersigned on behalf of the Quebec Central Railway Company. Mr. Todd, Vice-President of the Order of Railway Conductors, Mr. Legendre and Mr. Duval represented the Railway Conductors; and Mr. W. J. Babe, Vice-President of the Brotherhood of Railroad Trainmen, and Mr. J. C. Morin attended on behalf of the Brotherhood of Railroad Trainmen.

Mr. Todd presented most of the arguments in favour of the conductors and relied chiefly on the principle that every class of labour or craft should be allowed to contract for its own members. He stated that on nearly all the railway lines of America this principle had been acknowledged and acted upon and in support of his contention he produced documents showing what decisions had been given by Courts and Labour Boards in Canada and in the United States which had dealt with subjects of a similar character. Mr. Legendre and Mr. Dorval charged that the conductors on the Quebec Central Railway had not always been treated fairly by the Brotherhood of Trainmen and that they were at their mercy inasmuch as they constituted only a minority of the members of the Brotherhood. Reference was specifically made to the mileage of conductors, which on the Quebec Central Railway had been reduced substantially below that which prevailed on other railway lines, the effect being not only to diminish the wages of conductors but also their pension whenever they retired from service. At this juncture Mr. Morin interjected that if only a question of mileage was at issue the Brotherhood would be willing to restore it to what it was prior to the reduction. This suggestion, however, was rejected, and it was again asserted that the conductors should be free to contract with the railway company as they pleased, since there were many other questions which affected them personally besides mileage.

After Mr. Babe had made some preliminary remarks Mr. Morin replied to the arguments propounded by the Railway Conductors by a lengthy plea on behalf of the Brotherhood of Railroad Trainmen. One of his contentions was that conditions which might be suitable to an extensive railway system should not prevail on a small railway line like the Quebec Central Railway, where the total number of conductors and trainmen was very limited. He denied that the conductors had ever received unjust treatment at the hands of the Brotherhood and he defended the action of the latter in reducing their mileage, alleging that it was unfair that certain employees on the seniority list should receive high salaries while others lower down on the list should be out of employment or receiving a very meagre remuneration. He was strongly of the opinion that all questions affecting the interest of the employees on the railway, whether conductors or trainmen, should be determined and adjusted by a vote of the members of the Brotherhood of Railroad Trainmen as presently constituted, being convinced that such a procedure was more likely to promote and maintain harmony and friendly relations among all the employees than any other scheme or arrangement. He was amazed at the thought that an agreement which had lasted for such a long period and had worked so satisfactorily (according to him) should be changed or altered because of the discontent of a few conductors. He accused the Order of Railway Conductors of being at the root of the agitation, which resulted in the signing of the petition that was forwarded to the Quebec Central Railway. He declared that they had even canvassed trainmen to induce them to join their Order.

His main argument, however, and the one he seemingly regarded as a fundamental ground to support his case, was that the Brotherhood of Railroad Trainmen had a vested right to continue to negotiate agreements both for the conductors and the trainmen because of the length of time the Brotherhood had done so and that the railway had no right to take any notice of the protest that had been made by some of the conductors.

The above is a concise summary, though by no means exhaustive, of the facts and arguments that were presented at the hearing. Shorn of all minor details and considerations of a controversial character the bare question to be ruled upon by the undersigned is whether, in view of their objection and remonstrance, the conductors should,

under the circumstances disclosed, be compelled to remain with the Brotherhood of Railroad Trainmen and be denied the privilege of negotiating a separate schedule independently of any other organisation. In the main Mr. Morin did not altogether challenge the right of the conductors to contract separately, but he strenuously contended they were not unanimous on the subject and that before any departure from the existing agreement be made a proper vote should be taken. The discussion upon this point disclosed that the parties were not at one regarding the manner of conducting the voting. Apart from ascertaining by a vote the feeling of the members of the Brotherhood of Railroad Trainmen as presently constituted, which the conductors could not accept, there was divergence of opinion as to the standing of those who should be entitled to vote. Mr. Morin urged that not only the regular conductors, but also the trainmen who had acted as conductors part of their time, should be consulted. On the other hand, Mr. Todd forcibly contended that the part-time conductors should not vote unless they had been employed as conductors a substantial portion of their time, say at least fifty per cent. He substantiated his argument by quoting precedents in similar cases.

At the close of the hearing the undersigned enquired from those present whether it would not be possible to compromise the differences between the conductors and the trainmen. Thereupon Mr. Wadsworth suggested that the joint agreement might be continued with two separate committees, one representing the conductors and the other the trainmen, but Mr. Morin at once flatly rejected the proposal.

On the whole, after weighing carefully the facts and arguments that were submitted by the Order of Railway Conductors and the Brotherhood of Railroad Trainmen, and the admission expressly or impliedly made on behalf of the latter that the conductors might be entitled to a separate schedule, were a vote properly taken, and upon perusing the opinions and rulings of Courts and Labour Boards in similar cases, the undersigned has come to the conclusion that the conductors on the Quebec Central Railway have the right to negotiate for a separate schedule regulating the rates of pay and other terms of their employment with the company, separate and apart from the Brotherhood of Railroad Trainmen, provided that the majority of them desire such separate schedule.

It seems to the undersigned that no other conclusion could be arrived at in a case of this kind, in the absence of special circumstances of an extraordinary character. There were no

such circumstances established in evidence in the instant case because even if all the allegations made by the Brotherhood of Railroad Trainmen were well founded this would not be fatal to their cause, provided always they confined their activities to the enforcement of their legitimate rights. The gist, or real substance of the line of argument of the Brotherhood of Railroad Trainmen, might be said to have been summed up and crystallized in one terse sentence by Mr. Babe, who said "We have the contract, and what we have we hold."

To compel the conductors on the Quebec Central Railway, against their protest, to submit to the decision of the Brotherhood of Railroad Trainmen regarding questions affecting their personal interests would in many instances be sanctioning a violation of a most elementary principle of law and justice, namely, that no man should be a judge in his own cause. They being in the minority, whenever their interests should clash with those of the trainmen (the mileage, for instance) the latter

would adjudicate in matters in which they were vitally interested.

In ascertaining the will of the conductors, the undersigned is of opinion that only those who are entitled to regular employment as conductors, and those others who have worked as conductors at least fifty per cent of their time during the twelve months next preceding the taking of the vote, should be entitled to vote.

The recommendation of the undersigned, therefore, is that whenever the conductors on the Quebec Central Railway satisfy the company that a majority of their number desire to have a separate schedule, separate and apart from the Brotherhood of Railroad Trainmen, or any other organisation, they should be allowed to negotiate for the same whenever the railway finds it proper and expedient to grant their request.

Dated at Ottawa, this 30th day of November, 1937.

Respectfully submitted,
(Sgd.) A. CONSTANTINEAU.

Statistics of Electric Railways in Canada

According to a preliminary report for 1936 on electric railways of Canada 614,890,897 passengers were carried during 1936 which was an increase of 14,162,584 passengers, or 2.4 per cent, over the 1935 traffic and was the third increase since the low point reached in 1933. Revenues increased from \$40,442,320 in 1935 to \$41,391,927 and net income available for dividends and reserves increased from \$6,932,715 to \$7,480,451.

There were thirty-seven electric railways in Canada carrying passengers and nine of them in the larger cities carried 88 per cent of the traffic. The Montreal system carried 32.3 per cent of the total and the Toronto system carried 25.1 per cent. All of these large systems showed increases in passengers carried over 1935 traffic, ranging from 1.1 per cent for the Calgary railway to 6.6 per cent for the Hamilton railway.

The mileage of track, exclusive of sidings, turnouts, shops, etc., was reduced from 1,826 miles in 1935 to 1,800 miles and the number of passenger cars was reduced from 3,707 to 3,605. During the year 7 trackless trolley cars were put into operation in Montreal and the number of motor buses was increased from 552 to 605. The number of employees was reduced from 14,381 to 14,280, but the payroll was increased from \$18,649,517 to \$18,968,832.

For the third year in the past thirty-six no passengers were killed (the other years with clean records were 1933 and 1937) and

only 1,503 passengers were injured, as compared with 1,517 in 1935 and 2,808 in 1929. There were 2 employees and 41 other persons killed and 280 employees and 651 other persons injured during the year.

There were 6,351 accidental deaths in Canada during 1936, of which 2,760 occurred in the home, 2,590 in public places and 980 in industry, according to figures released by the Dominion Bureau of Statistics. The number of males meeting an accidental death was 4,406 and females 1,945. The largest number of deaths occurred in the age-group 70 years and over, the number being 1,874. The age-group 30-49 years was second with 1,253 deaths; 50-69 years was third with 1,250 and 15-29 years, 1,054 deaths. The deaths between ages of 5 and 14 numbered 519, between 1 and 4 years, 443, and under one year, 158.

"Food Chains in Canada, 1936," is the title of a report issued recently by the Internal Trade Branch of the Dominion Bureau of Statistics. The report shows that during 1936, employment was furnished to 13,328 persons in food store chains. Of this number, 11,507 were male and 1,821 were females, to whom \$3,441,900 was paid in salaries and wages. It is pointed out that these figures relate to all store employees, part-time and full-time, but warehouse and other overhead staff are not included. The payroll for 1936 was 4.3 per cent greater than the \$3,094,500 paid out in 1935. Sales during the same interval increased by 5.6 per cent.