THE IMPACT OF ROYAL COMMISSIONS ON PUBLIC POLICY: WORKERS' COMPENSATION IN BRITISH COLUMBIA - 1941-1968

by

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ABSTRACT

During the years 1941 to 1968, issues relating to workers' compensation in British Columbia were subjected to the unprecedented number of three royal commissions. An explanatory framework that evaluates the merits of the commissions and their recommendations, both perceived and otherwise, and the degree to which governments adopted the recommendations, is presented in this paper. The framework is designed to make use of the available relevant primary sources, particularly minutes of the commission proceedings, newspaper accounts and legislative statutes.

All three of the Commissions were thorough, well-received exercises whose recommendations were almost wholly adopted by B.C. governments, though in differing time frames. The need for the second Commission, which was created a mere six years after the finish of the first, primarily arose because of rapid developments in the B.C. labour movement during the mid-1940's. An infusion of leaders with communist ties caused it to harden demands for workers' compensation benefits and reforms. The first Commission had been considered a success by all parties, but the context of its recommendations had changed due to the increase in labour's militancy. This second Commission was also considered to be reasonably successful. However, dissatisfaction with a Workmen's Compensation Board that had completely turned over shortly after the second Commission, led to demands, particularly by labour, to create another commission to review its work and procedures. Board members, at that time, were subject to long tenures and were without any formal mechanism with which to be reviewed.

Critical to the success of the three Commissions was the independent, non-partisan nature of their proceedings and recommendations. Because of this, the credibility accorded

to the recommendations, particularly by labour, caused the Commissions to supercede the traditional mode of cabinet or legislative committtee deliberation for public policy formation in this case. The series of Commissions ended because of satisfaction with the Workmen's Compensation Act, a much higher turnover rate of the Board and increased strength of the provincial labour-backed New Democratic Party. Thus, the Commissions and the three B.C. Supreme Court Justices that served as the Commissioners, must go down in history has having played a significant role in the evolution of occupational safety and health policy in British Columbia.

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INTRODUCTION

One of the most enduring institutions in the British parliamentary system has been the royal commission. The use of this extra-parliamentary body appointed by the government on an ad hoc basis to inquire about problems of societal importance, has been dated as far back as the eleventh century by one scholar[1]. Governments in Canada, which adopted and continue to utilize the British parliamentary system, have made extensive use of royal commissions at both the federal and provincial levels. Yet, despite their often heavy costs, high profiles and the usual prominence of the issues they are investigating, royal commissions in Canada have received little scholarly attention.

There are at least two reasons why this may be so. One has to do with the rather cynical view many academics, politicians, bureaucrats and members of the media have of royal commissions. It is argued that these bodies of inquiry are essentially irrelevant, that they are tools allowing governments to place controversial issues on the backburner, especially if an election is imminent. Thus, one might conclude that the study of royal commissions would reveal little about the public policy process or governmental views on an issue. However, the evidence, though limited, suggests otherwise.[2]

Another reason for the lack of academic study of royal commissions may have to do with the number of them and the variety of issues they cover. Hundreds of these commissions have been held in Canada with foci ranging from sexual psychopaths to free trade. Any comparative or systematic analyses of royal commissions are thus rendered difficult by the widely varying parameters and objectives of them.

What would seem ideal for study, then, would be a series of commissions investigating the same issue and that were held in a relatively short time span. Workers'

compensation[3] in British Columbia presents such an opportunity. During the years 1941 and 1965 the Pacific province appointed three royal commissions on this topic. Such a phenomenon regarding any issue is unprecedented in Canadian history, at the federal or provincial level.[4]

This paper will present an analysis of these three royal commissions. While comparisons among the three will be made, the more intriguing question of why B.C. governments deemed it necessary to appoint so many commissions in such a relatively short time span will be the focus of this paper. Chapter 1 will provide some background on royal commissions and Chapter 2 will do likewise for the Workmen's Compensation Act in B.C. Chapter 3 will present an outline of the analytical methodology employed in this paper. Chapter 4 will attempt to explain why a second commission was considered necessary, while Chapter 5 shall address this same question concerning the third commission. Chapter 6 will by address the question of why this series of royal commissions ended. Chapter 7 will conclude this paper by taking a broad retrospective look at the three commissions. In Chapters 4, 5 and 6, the general issues concerning impacts of the royal commissions on occupational safety and health policy in B.C. will be thoroughly addressed.

CHAPTER 1

ROYAL COMMISSIONS

Definition

The mere task of defining "royal commission" is not a simple matter, at least from an historical perspective. The term "royal" comes from the fact that the commission is officially appointed by the representative of the crown. In the case of provinces such as B.C. this would be the Lieutenant-Governor; in the national case, the Governor-General - on the advice of his/her Ministers or by an Act of the Legislative Assembly. Such commissions are authorized by the Public Inquiries Act in B.C. and the Inquiries Act in Ottawa. The usual procedure is that, after the royal warrant is issued, an order-in-council is passed. The problem in definition arises because of procedural variations. Some commissions have been deemed "royal" even though a royal warrant was not issued nor an order-in-council passed. On the other hand, some commissions have not been given "royal" status even though the procedural dynamics have conformed to typical royal commissions.[1] Once the commission is established, the times and places of the hearings are to be advertised in the British Columbia Gazette by the commissioner(s). After the commissioner(s) has gathered the evidence he or she issues the report to the Lieutenant-Governor. The commissioner(s) has no specified deadline to honor in writing the report. The report is usually presented to the Legislature which in turn usually has it printed in the annual Sessional Papers.[2] However, on a few occasions the report has been first printed in the Gazette.[3]

The following working definition of a British Columbian royal commission has been adapted from John Courtney's definition of a Canadian federal one:

A royal commission of inquiry is an ad hoc, advisory body of one or more commissioners, appointed by the Cabinet of the day to investigate, study and report upon a matter of immediate societal concern, that matter having been defined by that same Cabinet; the term "royal" is retained because of the executive nature of the appointment. The power and authority granted to a royal commission is contained in the Public Inquiries Act. The government has no obligation to adopt legislatively or otherwise any or all of the recommendations presented by a royal commission in its report. Once the final report is delivered the commission ceases to exist.[4]

The original Public Inquiries Act of 1872 contained only two paragraphs. Aside from establishing the authority to hold a commission, the Act gave a commission the power of summoning witnesses, compelling them to produce documents and giving evidence under oath, and generally running the proceedings as if they were held in a court of law.[5] Interestingly, a clause allowing a witness not to testify on grounds of self-incriminaton was later dropped. In later years, the Act was expanded to deal with housekeeping issues such as the replacing of a commissioner who resigned or died while the proceedings of the commission were still active, serving notice in the British Columbia Gazette, appointing staff, tendering the final report to the Legislature and other matters.

History

As mentioned in the introduction, royal commissions have deeproots in the history of the British parliamentary system. Different historians have placed the date of the first British royal commission from the eleventh to the sixteenth century.[6] The discrepancy arises from the different definitions of a commission that these scholars use. Royal commissions also have deep roots in Canadian history. J.E. Hodgetts even claims they existed before Confederation.[7] Courtney argues that the first Canadian royal commission occurred in 1870.[8]

According to Marjorie Holmes, the first B.C. royal commission took place in 1872, and like many of its immediate sucessors, it was concerned with individual criminal cases involving charges of corruption, fraud and other improprieties.[9] In other words, many of the early commissions were held in lieu of what is today termed, Attorney-General's investigations. The first major B.C. royal commission, an inquiry into the forest industry, was held in 1909-10. The year 1914 witnessed nine royal commission reports being delivered, an all-time annual record in the province. Included in this nonet was the Report of the Royal Commission on Labor, on which today's Workers' Compensation Act was originally based.

By this time commissions based on larger issues of immigration, economic expansion, developing technology and social regulation had replaced the smaller, crime and scandal-based inquiries of the nineteenth century. Perhaps because of this, the number of commissions took a sharp rise in the second decade of the twentieth century. Many of the so-called 'Progressive Era' reforms were subjects of a large number of these commissions. In general, royal commissions have become broad in scope and high in profile over the years. However, this has not always been the case. In fact, there are several reports of the early B.C. commissions for which no copy exists today. In a couple these cases, there is no record that they were even filed.[10] Over time, starting in the post-war years, governments' use of royal commissions has waned, due to their increasing costs, duration and the heightened public cynicism towards them.[11]

Characteristics

The impetus to create a royal commission can come from any combination of sources including interest group pressure, bureacratic pressure, executive initiative and public pressure expressed through the media. Interest groups, though often the most vocal critics of royal commissions, are usually their biggest advocates because it gives

them a much sought after government-sponsored public forum in which to express their views and cross-examine their adversaries. Obviously there is executive involvement in every royal commission because of the authority it must exercise under the Public Inquiries Act. Executive initiative for commissions can arise from a variety of factors, ranging from appeasing certain political constituents to a genuine need for reform ideas which cannot be generated from the usual public policy engines. There is an inherent danger in proposing a monocausal explantion for the creation of any royal commission. Many factors often exist, some more readily apparent than others, leading to the decision to appoint a royal commission. The sizes of B.C. royal commissions have ranged from one to three commissioners. Often, federal commissions will be larger than three, perhaps owing to greater scope of the national issues they cover. Governments in both Victoria and Ottawa have borrowed heavily from the legal world for commissioner appointees, namely prominent lawyers and especially court judges. There are practical reasons for this. First, royal commissions have historically involved questions of wrongdoing and amendments to existing statutes, where legal definitions and wordings are involved. Second, as the Public Inquiries Act mandates, royal commission proceedings are to be held as if they were court trials. Thus, legal backgrounds are almost essential for commissioners.

There may also be political factors behind these commission appointments. It has been frequently alleged that there have been many patronage nominations to royal commissions. Given the fact that so many top government officials in Canada have legal backgrounds or a big business history, which would involve legal contacts, it is not surprising that critics would see an 'old boy' network in action. On the other hand, it is difficult to see how a Supreme Court Justice or even a wealthy lawyer could perceive an extended royal commission appointment as a significant reward. Critics further allege that genuine progressive reform ideas are unlikely to come from representatives of the

legal profession which has been dominated by white, upper class males. The fact that many commissioners sit on more than one commission only heightens this criticism.[12] While some may argue that governments try to anticipate the type of report a commissioner may deliver, it is generally agreed that the commissioners are almost always independent from the partisanship that pervades the Canadian political system.

There are also other staff members hired for royal commissions including a secretary (usually a subject specialist), counsel and other assistants. These secondary staff are usually appointed by the commissioner(s), but governments have been known to get involved in this process.[13] Commissioners also consult government bureaucracies for expertise and empirical data. The commissioners have almost complete discretion on the parameters of the commission proceedings. It is he (or them) who decides when and where to hold hearings, if it is necessary to travel to foreign countries to collect information and when to end the proceedings. Royal commission hearings have lasted anywhere from a few days to years depending on the subject. The commissioner's discretion extends to the terms of reference of the inquiry. Although the subject of the commission is explicitly stated in the order-in-council and the B.C. Gazette, it is not uncommon for the hearings to wind up covering and uncovering issues that the government had not suggested.

Once the commissioner closes the hearings he/she must write the final report. There is no prescribed format for the report, although it generally presents findings and facts as well as the recommendations and the rationale for them. The sizes of these reports range from a few pages to thousands. Once the final report is finished it is presented to the Legislature and usually, but not always, the public immediately. As mentioned, the government can adopt any, all or none of the recommendations in any time frame it chooses. It is this last stage of the royal commission that perhaps generates the most controversy. However, as alluded to earlier, limited evidence suggests that

governments' records, at least in Ottawa, for adopting royal commissions' recommendations are better than is generally believed.

Another criticism of royal commissions is their costs, although determining them is not a simple matter. Various government departments allocate parts of their budgets for commissions. Hence, tracing the total costs of a royal commission is difficult.[14] The bulk of the costs usually come from the Commissioners' salaries, payments for legal counsel and the hiring of outside consultants.

The frequent criticism of royal commissions has led to suggestions of alternatives. Perhaps the most common proposal has been ad hoc Legislative Committees composed of M.L.A.s[15] However, there are several disadvantages here. First, royal commissions are ongoing inquiries that are not limited by the Legislative Session. Second, because M.L.A.s' normal duties are in Victoria, many witnesses might have to travel long distances and then require accomodation during the hearings. Third, it would be difficult to convince interest groups and the public that the independent, non-partisan nature of commissions could be upheld by men and women who regularly engage in partisan politics.

Another general suggestion that has been made is to open up and increase access to the traditional policymaking process for the very interest groups that often clamor for royal commissions. There is evidence that this development is already taking place. The traditional bipartite bargaining process, involving government and business, is slowly being replaced by multi-stakeholder forums, where various interests are directly represented at the policy generating stage.[16] As this phenomenon increases, interest groups may lessen their application of pressure to have their voices heard in a public forum like a royal commission. However, until this metamorphosis is complete or becomes more defined, royal commissions are likely to endure.

CHAPTER 2

WORKERS' COMPENSATION

Workers' compensation has at various times been called the most important social institution in a modern industrial society.[1] Undoubtedly, the vast number of citizens affected by it is at the root of such sentiments. In order to understand the rationale and parameters of workers' compensation, it is necessary to go back to the period of the industrial revolution. Because of crude working conditions and primitive techniques of production, workers' injuries and untimely deaths were commonplace. During the century after the industrial revolution, general and specific awareness of industrial diseases slowly rose. By the middle of the nineteenth century studies on workers' diseases began to receive publicity.[2] As developing technology induced the acceleration of industrial production, so did it the number of injuries and deaths in the workplace.

Before workers' compensation, the only recourse an injured worker had was to sue his employer directly. For most workers, this was a difficult, if not impossible, financial proposition. Keeping in mind that there were few two-income families in those days and that the birth rate was high, a worker would have to pay legal expenses while no income was forthcoming. If an employee was temporarily disabled and sued his employer, his chances of being rehired upon recovery were virtually nil. Even if a worker could overcome these financial obstacles and launch a suit against his employer, his chances of winning the case were, at best, slim.[3]

Under common law, employers had three defence doctrines they could plead. Under the "contributory negligence" doctrine, if the worker was even slightly responsible for the accident which occurred, the employer would not be liable at all. Under the "assumption of risk" defence, the employer could claim that there were certain

unavoidable hazardous risks associated with the job and that the worker accepted those risks when he entered into the contractual agreement with the employer. The third defence doctrine was the "fellow-servant" case. Here, if the employer could prove that a fellow employee was even slightly responsible for the injured worker's accident, then the employer would, again, not be liable. Under civil law, the employers' defences were somewhat more limited, but the result was similar. This result was that only an estimated twenty to thirty percent of injured workers who took their employers to court could hope to win.[4] And at that, the victory would result in compensation for modest amounts for only a fixed period of time.

Despite the long financial and legal odds facing the average worker, the situation was not particularly desirable for employers either. Even a few injured employees who could summon the resources to take their cases to court could place a considerable financial burden on an employer for his legal expenses, especially if it was a small business. In any case, the end result of the pre-workers' compensation era was that many injured, poverty-stricken workers and their families were forced onto the streets, causing intolerable social problems for the state and employers alike.[5] This wholly undesirable situation demanded a solution. This solution was workers' compensation.

Although workers' compensation acts have varied historically and globally, the underlying principle states that the costs of employees' injuries and deaths are considered incidental to the costs of production and, as such, are passed on to the consumer. In direct contrast to the tort law doctrines discussed, the idea here is no-fault liability, unless the worker's injury is caused by his/her gross negligence. The rationale for this social legislation was that employers in a modern state were in the best position to prevent industrial accidents and diseases and thus, should be given economic incentive to do so. Another practical reason for the existence of workers' compensation was to avoid lengthy and costly lawsuits and, in doing so, provide assured and swift payments to the injured

worker or his/her family.[6]

Very limited and specific forms of workers' compensation can be dated back to before the eighteenth century. The first comprehensive scheme was adopted in Germany in 1884. Otto von Bismarck and his government, in an effort to keep their military-industrial empire at full speed and ward off the threat of socialism, enacted a compulsory public accident insurance scheme which provided compensation for all accidents occurring in industrial milieus regardless of the source of negligence or inherent risks.[7] An injured worker would receive two-thirds of his normal wage during the disablement period. The German Act of 1884 only applied to workers in mining and manufacturing industries. By the end of the decade, however, coverage was extended to government employees, agricultural and forestry workers and seamen.

After several years of discussion, Britain became the second nation to adopt an extensive workers' compensation act in 1897. The Act deemed employers liable for "personal injury by accident arising out of and in the course of employment."[8] Unlike the German Act, companies in Britain were not required to carry insurance, though in practise most did. The original Act covered railways, mines, quarries, some building projects and structural engineering operations.[9] This statute did not preclude law suits under common law doctrines, so there were still a number of cases that went before a court of law. The British benefits were less generous and more restrictive than the German ones. For example, an injured British worker would only receive fifty percent of his normal wage while unable to work.

It was not until a decade later that most European countries and the United States had workers' compensation laws in place. Virtually all these nations adopted Acts that were based on the German or, more likely, British models.[10] In Canada, occupational safety and health issues fell under the jurisdiction of the provinces, in the domain of

property and civil rights, according to the British North America Act. Up until the twentieth century, the only relevant statutes were Employer Liability Acts which slightly altered the common law defences used by employers. British Columbia, in 1891, had erected such an act, which removed the "fellow servant" defence in certain specified situations, mainly in the railway industry.[11] Few industrial accidents qualified for compensation under the Act.

B.C. became the first jurisdiction on the North American continent to adopt a workers' compensation act in 1902. The Act was based on the British model. The Act of 1902 espoused a new principle, that the cost of injuries arising out of industrial accidents were considered as part of the costs of production, and these costs were to be added to the price that the consumer paid. The Act made employers individually liable to its employees for all injuries "arising out of and in the cause of employment".[12] Coverage was extended to a majority of work-related injuries, but the maximum that a worker could receive was fifty percent of his wages for a maximum of three years, not exceeding $1500 in total.

The B.C. Workmen's Compensation Act of 1902 turned out to be only a partial solution to the problem. Both the employer and the employee had to agree on an arbitrated or court settlement. Many cases still wound up in court. One of the reasons for the continuing legal battles was the heavy expenses associated with the W.C.A. system. As companies were now more or less forced to buy private insurance, these costs included insurance agent's fees and administrative expenses.[13] Thus, it was in the interest of employers to force the smallest possible settlement from the workers to maintain their previous profit margins. This often meant having to contest cases in the courts.

In 1912, the B.C. government appointed a royal commission to investigate general labour conditions in the province. The Commission concluded, amongst other things, that the majority of the industrial accident funds were going to legal fees and insurance agents and not the workers, the intended beneficiary. The Commission recommended compulsory government insurance against industrial accidents. By now, such an Act was already in place in Ontario. The rationale for this Act was that an administrative body designed to handle a heavy volume of claims would be more efficient and less expensive to operate. No resort to the courts was provided. The costs would be the responsibility of all industries, thus ensuring the survival of smaller companies and the solvency of the accident fund.[14]

The early reaction to the Ontario scheme was very positive and this provided an impetus for subsequent events in B.C., especially when one considers that the idea of completely eliminating the courts and private insurance companies' involvement was deemed quite a radical form of state intervention at the time. A new Workmen's Compensation bill was introduced in the B.C. Legislature in 1915. Before having it passed, the government decided to appoint a royal commission to study the matter further. A year later, the Pineo Commission recommended adopting a system like Ontario's with two differences. One was the concept of having medical treatment and first aid involved in the workmen's compensation scheme. The fund for this was to be shared by both employers and employees. The second innovation gave legislative accident prevention administration powers to the new Workmen's Compensation Board.[15] On May 26, 1916, the long awaited new Act, complete with all the Pineo Commission's recommendations, passed the Legislature in Victoria and became law. It was at that time probably the most comprehensive workers' compensation scheme in North America, and perhaps even the world.[16]

Since then, many changes to the B.C. Workmen's Compensation Act have taken place. More workers in different occupations have come under coverage. Many occupational diseases have become categorized as compensable. Physical and vocational rehabilitation became part of the W.C.A. in the early 1940's. The accident prevention concept has been expanded into a number of areas -- industrial hygiene, factory and plant inspection, consultation and research into occupational safety and health. The B.C. W.C.B. is still unique in Canada for having an industrial hygiene division.[17] Pensions and benefits have risen over the years to match inflation. B.C. became the first jurisdiction in North America to have them tied to the cost-of-living index in the late 1960's. Despite these changes, the underlying principles behind the W.C.A. established in 1916 have remained intact to this day. In fact, over the years both reformers and anti-reformers have frequently referred back to these principles to support/reject proposed changes to the Act.

In general, the B.C. W.C.A. appears to have been, over the years, amongst the most innovative and progressive of its kind in North America and the world. Delegations from as far away as Sri Lanka have visited the Pacific province to study its W.C.A. as a potential model for their workers' compensation provisions[18] The vast majority of the workers' compensation innovations in B.C. have emanated from the three Royal Commissions that are the subject of this paper. The very fact that these three commissions took place at all indicates that the W.C.A. has not evolved without controversy. The dynamics surrounding reform efforts in this regard have been in no short measure due to the efforts of interest groups, particularly organized labour.

The Workmen's Compensation Board has also undergone significant changes over the years. Starting out in 1917 with a staff of forty inexperienced employees, the Board has evolved into a large, multi-faceted bureaucracy today. The W.C.B. has consisted of

three Commissioners, one of whom has a labour background, another with a history of industry interests, and the all-important Chairman, an individual with a more neutral background, usually legal or governmental. Despite the theoretically balanced structure, the Board has been subject to as much controversy as the Act itself. The Board members used to have long tenures, in some cases well over a decade. However, today, the members seldom spend more than several years on the W.C.B. The more frequent turnover of the Board brought with it, for a time, charges of politicization. However, today, the circumstances surrounding the Act and Board have probably never been more tranquil.

CHAPTER 3

METHODOLOGY

An attempt to explain the series of Workmen's Compensation Royal Commissions is rendered difficult by the absence of important primary sources. Because of the closed nature of the Canadian parliamentary system, minutes of cabinet meetings and departmental memos are unavailable. There are no formal records of Legislative Debates (Hansard) in Victoria until 1970. Political memoirs or autobiographies of relevant government actors are also lacking. Among available primary sources are the minutes of the Royal Commission hearings, the final Commission reports, newspaper accounts[1], legislative statutes and amendments to them. From these available sources, an explanatory framework has been constructed.

There are two major assumptions relevant to this explanatory framework. The first is that the existence of the second and third Commissions can largely be explained by taking a retrospective look at the immediately previous Commission. The primary justification for this is the timing of the Commissions. Royal Commission II[2] was appointed just six years after the release of Royal Commission I's report, while Royal Commission III's creation came ten years after the release of Royal Commission II's report. Consequently, it will be expected that there was significant overlapping of issues between Royal Commissions I and II and II and III. It will also be expected that there was much reference to the previous Commissions in these cases.

The second key assumption is that whether a royal commission can be considered a success or not is largely dependent on two factors. One has to do with the nature of the recommendations of the commission. Are they considered thorough, effective, well conceived, practical, feasible and fair? Or are they considered unsuccessful in these

respects, either in process or in substance, particularly by the relevant interest groups? The other cross-cutting factor is to what degree the government adopts these recommendations. Do governments adopt little, some, or much of the commission's suggestions? Further, how do governments handle the major important recommendations? Under these criteria, a royal commission would be considered successful if the recommendations received widespread approval and governments adopted most , if not all, of them. The failure of a royal commission could come during the recommendation stage, the government adoption stage or both. The explanatory framework contains four scenarios.

SCENARIO #1 - The commission's recommendations are considered appropriate and the government, by and large, adopts them. As mentioned, this would result in what is considered a successful royal commission. Thus, the subsequent commission could be explained by the emergence of new issues, problems and circumstances that the previous commission could not reasonably have been expected to foresee. In the case of workers' compensation, they could be any combination of a change in labour values (i.e their minimum terms), change in the ideology or party of the government, new technology leading to new occupational safety and health issues, change in the economic climate, change in the W.C.B. policy and partisan politics (i.e. an election campaign promise). Under this scenario, neither the previous royal commission nor the actions of the government of that day can be considered responsible for the next commission.

SCENARIO #2 - The commission's recommendations are considered appropriate but the government does not adopt them. There are two possiblities here. Either the government makes few or no subsequent changes to the W.C.A. or its amendments are at wide variance with the commission's recommendations. In both cases the government is considered responsible for the failure of the commission. Interest groups, particularly labour, focus their attacks on the government, who in turn appoint the subsequent

commission to appease them and/or genuinely seek another opinion on the whole issue.

SCENARIO #3 - The commission's recommendations are considered inappropriate and the government, by and large, adopts them. A commission's recommendations can be considered inappropriate for a number of reasons. They include, bias towards one interest group (probably industry), impracticality, not being up to the standards in other jurisdictions in Canada or elsewhere, dissatisfaction with the hearings' procedures or being based on controversial facts. Despite the review period between the release of the commission's controversial report and the subsequent legislative reaction, the government adopts them for any of several reasons including, a lack of expertise with which to form an alternative opinion, a genuine belief in the merits of the recommendations or a simple policy of adopting royal commission recommendations ipso facto. Whatever the case, both the government and the commission are considered responsible for the failure of the inquiry; the commission, for the flawed recommendations and the government, for adopting them. Thus, new problems are created, perhaps old ones not solved and the need for another royal commission arises to 'get it right.'

SCENARIO #4 - The commission's recommendations are considered inappropriate and the government does not adopt them. The recommendations are considered inappropriate for reasons already mentioned. The government then does one of three things. It makes few or no changes to the W.C.A. Thus, the original problems still exist and pressure is applied on the government to appoint another commission to solve them. Another possibility is that the government disregards the flawed recommendations and creates it own amendments which, for different reasons, are also considered inappropriate. Thus, new problems now exist which require another commission to investigate them. The third possibility is that the government disregards the recommendations and creates its own legislation which is considered appropriate. Hence, the commission itself is considered a failure but through government ingenuity

the problem is solved. As in SCENARIO #1, however, new problems, circumstances and/or circumstances arise and thus, another royal commission is required.

The determination of whether or not a commission's recommendations are considered appropriate by the relevant interest groups will be based on newspaper accounts, the minutes of the subsequent Royal Commission hearings and to a lesser degree, the final Commission reports. Newspaper accounts will also be relied on to gauge interest group and government sentiments during the inter-commission periods. The minutes of the Commission hearings should provide good summaries of interest group sentiments toward the previous inquiry. Determining to what degree the government adopts the Commission's recommendations is a somewhat simpler task. One compares the recommendations with governments' subsequent amendments to the W.C.A. between the release of the Commission report and the announcement of the next inquiry. The criteria for defining the major, important issues will be based on the number of workers affected, the amount of money involved and the sentiments expressed by labour and industry representatives during the hearings.

Finally, it should be emphasized that the main goal of Chapters 4 and 5 is to determine which of the four explanatory SCENARIOS best describe Royal Commissions II and III respectively. While questions such as why a government does or does not adopt a Commission's recommendations or adopts them in an incremental, piece-meal manner as opposed to all-at-once, are certainly relevant, the absence of important primary sources can only leave one to speculate on them. Nor will this paper attempt to explain why B.C. governments did not substitute these series of royal commissions with Legislative Committees or simply deal with ongoing issues involving workers' compensation through the conventional channel of cabinet deliberation.

CHAPTER 4

EXPLAINING THE CREATION OF ROYAL COMMISSION II

Although the main objective of this chapter is to determine what explanatory scenario best fits Royal Commission II, a few words on why, possibly, Royal Commission I was created are perhaps appropriate. The absence of important primary sources makes it difficult to state firm conclusions on this question. In 1938, the Liberal government of Dufferin Pattullo introduced amendments to the W.C.A. increasing benefits to injured workers, as well as to widows and dependents of workers killed on the job. According to newspaper accounts, pressure in the Legislature by the labour-backed Cooperative Commonwealth Federation (C.C.F.) party was at least partly responsible for these legislative changes.[1]

The relationship between the Liberal government and B.C. labour had soured because of two violent strike-related incidents, as well as the latter's discontent with other labour-related issues.[2] Perhaps, then, these amendments to the W.C.A. were meant to appease the labour sector. If this was the case, the manoeuvre failed. The amendments fell short of the C.C.F.'s demands and for labour, too much water had passed under the bridge. Harold Winch, C.C.F. leader, called unsuccessfully, for a Special Committee to the Legislature to perform a complete probe of the Act in late 1940.[3]

Royal Commission I was officially appointed on July 1, 1941 through an order-in-council. There are two items to be mentioned with regard to the Pattullo government's rationale for the Commission. First, the B.C. Federationist reported that the appointment of Royal Commission I was the fulfillment of a promise made by Premier Pattullo to Winch.[4] The other part of the deal was that the latter would not introduce another motion calling for a Special Legislative Committee to probe the W.C.A. Second, the Commission was appointed only a few weeks before the Premier called an election. Thus, it is quite possible that the first of the series of Royal Commissions on the W.C.A.

was a pre-election gift the labour movement.

Royal Commission I had one commissioner, Gordon McGregor Sloan, then the Chief Justice of the Court of Appeal of B.C. He had been the youngest attorney-general in Canadian history in a previous B.C. Liberal government. Chief Justice Sloan appears to have been something of a royal commission specialist. Not only was he to be the sole commissioner of both Royal Commmissions I and II, he was also the sole commissioner in two major B.C. royal commissions on the forest industry.[5] Despite his past Liberal ties, there does not appear to have been much, if any, dissatisfaction with his appointment to Royal Commission I.

The Commission hearings opened August 5, 1941 and closed March 6, 1942. The Commission sat for 52 days and held hearings in Vancouver, Victoria, Nanaimo, Nelson, Lillooet and Goldbridge. The total number of witnesses that testified was 160. Their evidence was recorded on 5,065 pages of transcript.[6] The vast majority of these witnesses were union representatives, industry representatives and members of the medical profession. There were 218 exhibits produced as evidence. These numbers would pale in comparison with Royal Commissions II and III. However, there is no evidence that any groups or individuals felt that they did not have their say or that the proceedings were cut prematurely short.

From reviewing the testimony of industry and labour representatives, it is apparent that there were at least nine issues that could be considered of major importance. Perhaps the most controversial one was 'blanket coverage'. This term refers to, rather simply, to a situation where all workers regularly engaged in all industries or occupations would be covered for all diseases arising out of or in the course of their employment.[7] The existing Act covered different workers under various clauses. They received scheduled coverage, which referred to a list of specified diseases corresponding

to particular industries or processes to which the diseases were peculiar. The W.C.B. was empowered to add to that list as it saw fit.

Union representatives were strongly and unanimously for 'blanket coverage', arguing that certain groups of workers were 'falling between the cracks' of the classifications and that the W.C.B. had "failed to exercise initiative" in adding diseases to the scheduled list.[8] During the hearings, various labour representatives suggested occupational diseases that they felt had been erroneously left off the list. The Commissioner sided with industry, who were just as unanimously opposed to the 'blanket coverage' scheme. Chief Justice Sloan reasoned that the existing system had worked well, few workers would benefit from the 'blanket coverage' change and that no other jurisdiction in North America had the proposed system in place.[9] He further analyzed, disease by disease, the examples put forth by labour and concluded in each case that the W.C.B had not erred by leaving them off the list.

Another major issue during Royal Commission I was 'average earnings'. This term refers to the method of calculation of compensation due to an injured worker while disabled. The existing Act gave wide discretion to the W.C.B. in the manner of calculating compensation, and suggested various ways in which it could be done, depending on the circumstances of the worker and the injury.[10] Labour representatives were strongly in favor of restricting this discretion, and many of them supported the idea of all compensation payments being based on the rate of wages being received by the worker at the time of the injury.

However, when the Commissioner produced hypothetical cases in which this method would actually harm workers, several unions agreed and withdrew this demand.[11] Labour's initial demand here, to restrict W.C.B. discretion, appears, again, to have been premised on a distrust of the Board. Chief Justice Sloan addressed several

individual cases which unions claimed were examples of compensation payments being unfairly calculated. He defended the Board in each case. Again, on this issue, Commissioner Sloan sided with industry, but it should be pointed out that, by the end of the proceedings, labour was ambivalent on the subject.

The question of whether to establish a medical appeal board was also a major issue. While there was virtually no one advocating provision for W.C.B. decisions to be appealed to law courts, there was some sentiment expressed favoring an independent tribunal to review Board decisions on medical grounds, if either the employer or employee was unhappy over a case. There was a clear split in the labour movement on this issue. The larger and more powerful coastal unions opposed any appeal board. Harold Pritchett, representing three of the largest B.C. coastal unions, stated that an appeal board would result in industry appealing all the cases with which it was even slightly unhappy, which, in turn, would cause delays and general chaos in payments to workers.[12] On the other hand, the smaller interior, mostly mining, unions favored a medical appeal board. Henry Nicholson, head of the Sullivan Mine Workmen's Cooperative Committee, stated that such a tribunal was preferred because W.C.B. doctors did not travel to the more remote areas of the province often enough. Consequently, he said, decisions affecting their union members were being made far away in Vancouver on the basis of written reports, not first-hand examinations.[13] Industry, fearing that employees would appeal too many cases, were unanimously opposed to a medical appeal board. It appears as if the coastal unions and industry were on the same side on this issue because of mutual distrust. The case of a medical appeal board was more of an issue of philosophy or principle than of logic or efficiency. As such, it was easy for Chief Justice Sloan to take the majority opinion on this issue and oppose any appeal tribunal.

Labour representatives pushed for an extension of the age of coverage for dependent children from 16 to 18. They did this primarily to aid 17 and 18 year old

dependents of killed workers in their educational pursuits and because eighteen was the minimum age at which one could be employed in the mining industry in B.C. at the time.[14] Industry representatives did not form a consensus on this issue. One major witness opposed the proposed amendment entirely, another suggested upping the age to 17 and a couple of others supported the idea only in cases where it could be established that the teenager needed financial assistance for education. They demanded that in any change, payments not be retroactive to any previous time period. Chief Justice Sloan opted for the scheme based on need of financial assistance for education, with no payments retroactive as industry had demanded.[15] In this issue, the Commissioner compromised.

At the time of the hearings there was no formal rehabilitation scheme in place, although the W.C.B. did have some limited activity in this area. Unions argued strongly for a rehabilitation program, pointing out that large and sophisticated programs existed in Ontario, Britain and the U.S. Further, they argued that B.C. was the only province in Canada without at least some statutory provision for workers' rehabilitation.[16] A few industry representatives supported a rehabilitation scheme of some sort, while most of them were silent on the issue. Chief Justice Sloan, although short on specifics, recommended a comprehensive program providing for both physical and vocational rehabilitation. His only proviso was that employers, employees and the government share in its costs. Thus, the Commissioner sided with labour on this issue.

Another important issue in Royal Commission I regarded the compensation rate. The existing rate of compensation for workers who were permanently totally disabled was sixty-six and two-thirds percent of his/her average earnings during his/her working lifetime. If after a thorough search, a permanently partially disabled worker could only get a job that paid less than his/her previous job, he/she would get this percentage of the difference between the two wages.[17] This rate had been raised from fifty-five percent in

the original W.C.A. in 1916. Most unions submitted briefs to Chief Justice Sloan asking that the rate be raised to anywhere from seventy-five to one hundred percent. Industry strongly favored the status quo. The Commissioner sided with industry stating that any increase would add too much of a burden to them and that the B.C. rate was the same as the rest of Canada and higher than most American states.[18]

The issue of the 'waiting period' was also an important one in first Commission. The existing Act deemed that no compensation would be paid to an injured worker who was unable to work for only three days or less. Further, the disabled worker would not receive workers' compensation for the first three days unless his/her total disablement period lasted more than fourteen days.[19] Several unions pushed for the elimination of the waiting period and the reduction of the retroactive period, while industry argued in favor of their retention. The latter predicted that eliminating the three day waiting period would result in the W.C.B. being overwhelmed with petty claims and that workers would 'time their injuries' to have long weekends at industry's expense. They also claimed that the 'waiting period' was part of the workers' contribution to the Accident Fund. Labour's point was that workers disabled between three and fourteen days were being shortchanged. After an extensive comparative analysis with all of North America in this regard, Chief Justice Sloan sided with industry and recommended no change.[20]

Most union representatives asked for a statutory provision which would allow injured workers to select a chiropractor for treatment instead of a "qualified practising physician". Under the existing Act the W.C.B. had full discretion in this regard. Industry representatives had little to say on this issue. Commissioner Sloan rejected labour's request, hinting at skepticism of the chiropractic profession and its effectiveness.[21] According to the Commissioner, the Board was in the best position to judge which type of treatment would be appropriate.

The final major issue in Royal Commission I involved evaluation of incapacity. This was one of the most controversial and complicated matters in Royal Commission I. The key issue here involved cases where workers, who were permanently partially disabled, had recovered but had not been able resume work in their former occupation. The existing system deemed that these workers would get sixty-six and two-thirds percent of the difference between their former wage and an estimated wage of a potential new job.[22]

The labour representatives demanded strongly that these workers, while trying to find suitable work, should continue to be compensated as totally disabled workers receiving sixty-six and two-thirds percent of their former wage. Such a clause existed in the British Workman's Compensation Act. Industry representatives opposed this proposed amendment on the grounds that it was akin to unemployment insurance, something the Act was not intended to provide.[23] Chief Justice Sloan prefaced his recommendation by stating that a comprehensive vocational and physical rehabilitation program would solve a lot of the problems in this regard. His recommendation was a compromise, suggesting that the W.C.B. have discretion on what basis a permanently partially disabled unemployed worker should be compensated.[24]

There were many other issues that Commissioner Sloan dealt with. A number of them related to allowances for dependents of killed workers. He recommended slight increases in several categories to account for inflation, as labour had asked for and industry had approved.[25] There were several proposed amendments, pushed by mining union representatives, relating to silicosis; Chief Justice Sloan approved most of these. The remaining issues dealt primarily with W.C.B. administrative procedures.

In briefly summarizing the substance of the Commissioner's recommendations, it appears as if he struck a fairly balanced compromise between industry and labour, with

perhaps the former getting slightly the better of it. On particularly controversial issues, such as average earnings and evaluation of incapacity, the Commissioner opted for W.C.B. discretion rather than statutory regulation favoring one side or the other.

Before looking at reaction to the recommendations, two general comments about the Royal Commission I hearings will be stated. First, industry and their representatives who testified at the hearings appeared to be much better prepared than their labour counterparts. This is perhaps not surprising given the court-like proceedings that a royal commission emulates. All of the major industry representatives who submitted briefs to the hearings held law degrees.[26] In general, they appeared to be confident and well prepared when cross-examined by labour representatives. In addition, industry retained several prominent legal counsellors during the hearings both for consultation when under cross-examination and for the purposes of cross-examining labour representatives. By contrast, none of the representatives of labour had legal backgrounds. Many of them were hesitant under cross-examination and some of them even seemed intimidated by the Commission atmosphere. In some cases it was if they had merely read scripts and were unable to fully understand the rationale for the demands they were presenting. What effect this imbalance in legal experience had on the Commissioner is impossible to say, but it certainly could not have helped labour's efforts during the hearings.

The second general point to be made is that industry representatives appeared to be more unified in their demands than their labour counterparts. On most issues the industrial sector presented a united front in their submissions, while the labour group was often split. This is perhaps best reflected by the fact that the labour representatives could be divided into three categories, the large coastal unions, the interior (mostly mining) unions and other organized labour groups. There seemed to be less coordination in the demands of these groups than in those of their industry counterparts. Many of the labour representatives appeared only to be concerned with issues particular to their industry and

lacked a broader perspective of the of the W.C.A. Thus, industry submissions tended to be longer and more extensive while labour testimony often only focussed on a few issues. Commissioner Sloan referred to this division amongst labour in the final report and this fact undoubtedly hurt them in making effective submissions. These two general points will be alluded to later.

Royal Commission I's hearings ended on March 6, 1942. Chief Justice Sloan's subsequent report was released to the public on September 15, 1942. The four hundred page report was considered one of the most exhaustive in B.C. history.[27] Newspaper accounts of the initial reaction to the report yield fairly positive sentiments toward it. This was perhaps a reflection of the skilful compromising efforts of the Commissioner. Lawrence Anderson, Secretary of the Joint Shipyards Union, said that recommendations in favor of the workers were "excellent".[28] Birt Showler, President of the Vancouver Trades & Labour Council, said, "The report as a whole is a good one and very definitely a step upwards, which is all to the good of the masses."[29] The headline in the October, 1942 issue of the Labour Statesman read "Compensation Act Inquiry Report Is Very Favorable".[30] A joint committee of nine different railroad workers' unions submitted a brief to cabinet that expressed general agreement with Chief Justice Sloan's recommendations.[31] Industry, too, was pleased. Stated Senator W.A. deBeque Farris, chief counsel for nine employer groups at the hearings, "I think Mr. Justice Sloan has done a public service by his report. Many recommendations were made to the Commission for changes which would have defeated their purpose by making the Act unworkable. Some would have proved too burdensome and others, impractical and unsound. The Commissioner seems to have weeded out these proposals."[32]

The only group that appears to have been significantly upset was the B.C. Hospital Association. There were several administrative and cost issues associated with the W.C.B. that it felt were not addressed satisfactorily in the Commission report.[33]

Nonetheless, these newspaper accounts are the first indication that the Royal Commission I recommendations were considered appropriate by the relevant interest groups. Attention will now turn to the first inter-commission period.

As mentioned previously, the rationale behind the creation of Royal Commission I by the Liberal government may have been to provide a pre-election 'carrot' to the labour movement. If this was the case, the move did not work well. The Pattullo government lost its majority in the Legislature as a result of the 1941 election. A coalition government with the Pattullo Liberals and the John Hart Conservatives was formed with the latter taking over the Premier's reigns. Labour Minister George Pearson kept his portfolio.

It was not until six months after the September, 1942 release of the Royal Commission I report in that the government introduced, debated and passed amendments in reaction to it. As Table I indicates, the Hart coalition government adopted the vast majority of Chief Justice Sloan's recommendations. On all of the major issues discussed previously, the government adopted the Commission's suggestions. So many of the recommendations were adopted that, for the sake of brevity, the only five of forty-seven that were not, will be considered specifically. Three of them had to with silicosis. These three recommendations by Chief Justice Sloan were in response to rather minor demands by mining unions. The government concurred with several other of his recommendations in the area of silicosis so it cannot be said that there was a pattern in this group of issues.

Another rejected recommendation was a proposal to unify and simplify accident prevention services across government departments and the statutory Acts they serve. This proposal came from the Board itself and was probably considered not feasible by the government. The recommendation to speed up doctors' responses to administrative duties was not enacted in 1943, but was in 1946. There are no newspaper accounts of the

legislative debate involving these amendments nor the interest group reaction to them. This is probably an indication that the circumstances surrounding the government's response to Chief Justice Sloan's report were not controversial.

At this point, then, it appears as if Royal Commission I was considered a success. Chief Justice Sloan's recommendations were generally well received and the government adopted virtually all of them. However, any anticipation of a period of tranquility involving workers' compensation issues in B.C. would not have been well founded. Less than a year after the 1943 bill, the B.C. Trades and Labour Congress presented a brief to the Coalition cabinet asking for 'blanket coverage', a rasie in the minimum allowance and elimination of the workers' contribution to the Medical Aid Fund.[34] A couple of weeks later, the Standard Railway Organization also met the cabinet and asked for an increase in the compensation rate to seventy-five percent and allowance of other than conventional types of medical treatment to come under coverage and repeated the demands of the B.C. T.L.C.[35] Two years later, in November of 1945, the T.L.C. came back to Victoria and demanded 'blanket coverage', a one hundred percent compensation rate, elimination of the 'waiting period', a raise in widows' allowances, speeding up of doctors' administrative duties, upping the age limit for dependent children in all cases and coverage for replacement of broken dentures and spectacles, amongst other things.[36]

All of these issues had been dealt with during Royal Commission I. But, whereas they appear to have been relatively settled just a couple of years before, they became the subject of controversy again. The Hart Coalition government was solidly re-elected in October, 1945 and appears to have been on the verge of appointing Royal Commission II shortly afterwards. Pearson, in December of 1945, predicted a royal commission, "carrying on from the point where the investigation of 1941 finished."[37] He stated, a month later, that his "personal view is that a periodical review of the W.C.A. by a Commissioner is a practical way of dealing with the problem."[38] Winch added, "It

seems to me a foregone conclusion that a Royal Commission will be appointed to consider the whole matter of reforms which labour has urged and is urging."[39]

Whether Pearson changed his mind or was overruled by the cabinet or the Premier, in March, 1946 the Coalition government forestalled Royal Commission II by introducing the second batch of amendments to the W.C.A. since the release of Royal Commission I's report. This bill seems to have been clearly designed to appease a increasingly discontented B.C. labour movement. The major changes were: discontinuance of payments to the Medical Aid Fund by workers, extension of the time limit to three years for a worker to file a claim, full coverage for silicosis victims even if they were first exposed in out-of-B.C. mines and provision for compensation for workers who had broken their dentures or spectacles on the job.[40]

Proposed C.C.F. amendments that were rejected in the Legislature included 'blanket coverage', increases in the allowances for dependents of killed workers, a raise in the compensation rate, coverage for fishermen, abolition of the 'waiting period' and full compensation for a permanent partial disability case until suitable employment could be found.[41] The most controversial proposal that was rejected was one that would have mandated the W.C.B. to have chiropractors and naturopaths on its medical staff. The C.C.F. argued long and hard on this issue and even convinced four government backbenchers to side with them. The leftist party accused the government of caving in to pressure from a jealous and skeptical B.C. Medical Association.[42]

Despite the fact that the 1946 bill was a not insignificant gain by the B.C. labour movement, agitation over the Act continued. In session after session in Victoria, the C.C.F. would introduce amendments that would have altered the W.C.A., and labour conferences across B.C. passed resolutions demanding changes in the Act. It seems clear that the labour sector in B.C. had become much more hardline and militant since the

government had adopted, with its support, most of Chief Justice Sloan's recommendations in 1943.

What explains this phenomenon? The answer lies in rather profound changes that were taking place in the nature and composition of the labour movement at this time. Even as the government was adopting most of Chief Justice Sloan's well received recommendations, World War II was beginning to wind down in the minds of Canadians. The labour sector in B.C. and in Canada as a whole, had made what it considered significant sacrifices at home and abroad. One of these sacrifices was its overly generous compromising on W.C.A. issues in Royal Commission I. Governments' pleas for more sacrifices for the sake of unity against the enemy were now ceasing to be effective with a labour movement that was undergoing a rapid metamorphosis, especially in B.C.

During the World War II years, the coastal unions expanded dramatically. Various affiliates of the Trades and Labour Congress of Canada grew because of war production and federal enabling legislation. Thousands of skilled workers in the building trades swelled the Congress's membership.[43] Pulp and paper workers organized more effectively. The most significant expansion took place when workers in unions affiliated with the break-away Congress of Industrial Organization, the former major rival union to the T.L.C., joined those in the All-Canadian Congress of Labour to form the large, new C.C.L. Workers from the various industrial occupations brought with them a hard-line attitude.[44] Significant organizational work was seen in the shipbuilding unions in 1943. The Vancouver affiliate of the Boilermakers' Union expanded from two hundred members in 1940 to over fourteen thousand in 1943, making it the largest union in Canada.[45] In the latter year, coastal packinghouse workers achieved union certification. In June of 1944, the Mine, Mill and Smelter Workers' Union signed up eight thousand members and received certification. The International Woodworkers of America went from fifteen hundred members in 1940 to over fifteen thousand members in 1943.[46] The

urban unions grew as well. The Vancouver Labour Council increased from sixteen affiliates and twenty-seven hundred members in 1940 to thirty-eight affiliates and twenty-eight thousand members in 1944.[47] Such C.C.L. expansion also took place in Victoria and Prince Rupert. Looking at the big picture, in the six year period between 1939 and 1945, union membership in B.C. went from 34,397 to 83,823.[48] In the former year, an estimated 12.7 per cent of the province's labour sector was unionized, while in the latter year the figure was about 30 per cent.

Combined with this rapid expansion of the industrial union movement was the significant role played by communists. Zealous and competent organizers, communists were dominant in the early 1940's in the Boilermakers', Shipyard Workers', Longshoremen's, the I.W.A. and the Metal Miners', among industrial unions. Today's large and powerful B.C. Federation of Labour was formed in 1944 and communist leadership dominated it then.[49] Although there were attempts to curtail communist power within the wartime B.C. union sector, the extreme left-wing element proved resilient. The union communists, buoyed by the swelling of their rank and file, initiated significant strike action and actively lobbied legislators unlike their more docile predecessors. Travelling to Victoria to present demands to the government cabinet became a common trip for the new unionists.

Royal Commission I on the W.C.A. took place during the time of leadership battles in union halls across the province. By the time the communists had emerged in control, the government's legislative reaction to Royal Commission I was already on the books. The new unionists' view of the Commission was that it was held during extraordinary times and that it was not reflective of long term reality. Stated a prominent radical B.C.F.L. official during Royal Commission III, "...the 1942 report when we cited this report, we had to keep in mind that this was a war time report. It was made at a time when things were in a rather precarious position and we had to bear in mind that the

opinions had not been consolidated on anything."[50] The B.C. labour movement of the very early 1940's, smaller and less militant, had accepted Royal Commission I's recommendations rather passively. However, as its size and leadership had changed rapidly, so did its views on the W.C.A. which ultimately helped lead to the creation of Royal Commission II just a few years later.

As with Royal Commission I, there appears to have been political overtones with the timing of the announcement of Royal Commission II. Pearson announced to the press on March 8, 1949, his government's intention of holding the inquiry.[51] Just five weeks later Byron Johnson, who had replaced Premier Hart, who had resigned for health reasons, dissolved the Legislature and called a provincial election for June of 1949. Just four days before the election date, Pearson announced that Chief Justice Sloan would again be a one-man commission.[52]

The fact that he was re-appointed as the sole commissioner is another indication that the Chief Justice and his 1942 recommendations were considered successful, at least by the government, despite subsequent labour agitation over the Act. It would not have made much political sense for the government to make the re-appointment announcement, especially just four days before an election, if he and his suggestions had been considered a failure, particularly by the enlarged B.C. labour movement. The labour sector's positive sentiments toward Chief Justice Sloan's re-appointment were perhaps best expressed by C.C.F. leader Harold Winch in his opening testimony in Royal Commission II: "The scope, thoroughness and findings of your 1942 inquiry were of such high standard that although the workers did not obtain, and have not yet achieved, all the improvements they felt and still feel they are entitled to, nevertheless your re-appointment to again hold a public inquiry is an occasion of considerable satisfaction to all workers in industry."[53]

Although a more thorough, substantive analysis of Royal Commission II will be presented in the next chapter, a precursory look at it confirms the expectation that there would be significant reference in it to Royal Commission I. In fact, a common pattern in the second proceedings would be for an industry counsel to be cross-examining a union official as to why, just a few years after approving Royal Commission I's recommendations, was his organization back making new demands. More specifically, he would be asked what had changed in just a few years that would compel the Chief Justice to reverse or alter his views from those he held a short time ago.

An example of such an issue is 'blanket coverage' which Chief Justice Sloan rejected in Royal Commission I. It was also to be an important subject in Royal Commission II. When cross-examined by Alfred Bull, counsel for the B.C. Loggers' Association, George Home, representative of the B.C.F.L. was accused of merely repeating demands made during the 1942 Commission. He replied, "I would suggest that is the way you have of adding improvement to legislation over a period of time." When asked what had changed in seven years as far as the 'blanket coverage' issue was concerned he responded, "...the Commissioner came to his findings here on the basis of an inquiry which was held in 1942. The Commissioner will come to his findings here on the basis of evidence produced in this inquiry. I don't think at this time I am prepared to dispute the Commissioner's findings in 1942." He went further, "I don't think there is a great deal of hard feeling against the Compensation Board or the Compensation Act but there is continuous advocating for amendments to the Act toward the ultimate goal that the people of the province want."[54] Winch added, "In the past seven years there have been growing signs of recognition for blanket coverage. Anyone, except someone who has a closed mind, learns something every day. The present Commissioner is seven years older and wiser and may see his way clear to the realizing the mistake he made."[55]

What the labour sector seemed to be implying, at least on the 'blanket coverage' issue, was that its values, expectations and minimum terms had changed in seven years. It was willing, albeit grudgingly, to accept rejection of the 'blanket coverage' concept in 1942 but was not, seven years later. This is a reflection of the increased militancy and hardening of attitudes that had taken place in the B.C. labour movement. Of the eight other major issues in Royal Commission I, seven were again topics of debate in Royal Commission II, though in some cases - average earnings method and 'waiting period' - not as major or controversial as before. The only major issue in the first Commission that did not re-appear was the age limit for dependent children receiving compensation for the loss of their father. As was the case in the 'blanket coverage' issue, union representatives would often argue that the re-consideration of these issues was not so much based on new information as on more enlightened and progressive attitudes.

It would be inaccurate, however, to state that labour attitude was the only changing factor relevant to the W.C.A. in the first inter-commission period. The post-war years in B.C., as in the rest of North America, had seen large industrial expansion. New industries started up, bringing with them new occupational safety and health issues. This was also the case in established industries that were adapting to rapidly developing new technology. New occupational safety and health issues, or increased awareness of previous ones, were also arising due to advances in medical science. These new developments were at least partially reflected by the fact that two-thirds of the issues in Royal Commission II had been dealt with peripherally or not at all in Royal Commission I. Dorothy Steeves, a C.C.F. M.L.A. at that time, later wrote, "Changing industrial conditions after the war demanded new policies in workmen's compensation and the government set up a second Royal Commission of enquiry..."[56]

Another situation that had changed was the labour movement's view of the Board

itself. During Royal Commission I, the W.C.B. members were widely praised by all interest groups. However, the sentiments toward them was much more negative during Royal Commission II. Perhaps the fact that the Board was completely turned over between 1943 and 1948 was significant here. Bill White, Boilermakers' Union head and prominent labour official at the time, later wrote that he had compiled some ninety-five cases where workers' claims had been, in his opinion, clearly unfairly dealt with by the Board. He then personally presented these individual cases to Attorney-General Gordon Wismer, who acknowledged the injustices in them. According to White, it was on the basis of these cases that the second inquiry was created.[57] In general, the labour representatives expressed a much harsher view towards the three-person Board in Royal Commission II. Not only were its methods of dealing with claims criticized, but so were its attitudes in general. It was accused of being insensitive, arrogant and antagonistic towards injured workers.

CONCLUSION

It would appear as if SCENARIO #1 provides the best explanation for the creation of Royal Commission II; that is the previous Commission's recommendations were considered appropriate and the government, by and large, adopted them, but rapidly changing circumstances altered the context of the recommendations. From Table I, there is little doubt that the governments did in fact adopt Royal Commission I's recommendations. Only a handful of relatively minor ones were not accepted in the first round of amendments. In the second round, several significant concessions to the labour movement were made but the essence of the first Commission's recommendations remained intact.

There is also considerable evidence that the recommendations themselves were considered thorough, feasible, practical and fair by both industry and labour at the time

they were being formed and released. A review of newspaper accounts shows both groups praising all aspects of Royal Commission I. An analysis of the major issues and industry and labour's demands indicates that Chief Justice Sloan's recommendations were not strongly biased in favor of either group. The fact that he was re-appointed to Royal Commission II without any apparent dissent is a further indication of the belief that Royal Commission I had been a positive event. The references to it and its recommendations in the hearings of Royal Commission II were non-controversial.

Thus, Royal Commission I had been considered a success, though a limited one due to changing circumstances. Perhaps the biggest change occurred in the dynamics of the B.C. labour movement. A combination of soldiers returning home, immigration and a booming post-war economy had swelled union membership strength. With this expansion came a strong communist influence which brought with it a hardening of attitudes and a type of militancy that had not existed in the early stages of World War II during when Royal Commission I was held. It has been argued by some that in good, prosperous times labour unions are strong and demanding, while in tough economic times they are weaker and more docile.[58] This axiom can certainly be applied to Royal Commission I and the period immediately following it.

Other circumstances had changed during the first inter-commission period. The expanding economy had brought with it new production techniques which in turn created new occupational safety and health issues. However, as Chapter 5 will suggest, these new technology-related issues were more a consequence of Royal Commission II than a cause of it. The same can be said for advances in occupational health sciences research and the new issues it spawned. Another changing circumstance during the first inter-commission period was the relationship between the W.C.B. and the labour movement. A complete turnover in the Board had brought with it, according to labour, an antagonistic, hostile, anti-worker attitude regarding individual claims.

The combination of these changing factors in the early post-war era drove the labour movement to apply considerable pressure on the governments to make changes in the W.C.A. After the 1946 amendments had failed to appease the workers' organizations, the Coalition government decided on the royal commission route again in response to this pressure.

CHAPTER 5

EXPLAINING THE CREATION OF ROYAL COMMISSION III

Royal Commission II began hearings on November 7, 1949 and ended them just more than two years later on November 23, 1951. Testimony was heard from 630 witnesses. Among them were 43 medical doctors, 48 union representatives and 26 people testifying on behalf of large industries in B.C. The testimony was recorded on 22,982 pages of transcript and over 1200 exhibits were submitted. The Commission was in session for 226 days and heard testimony in Vancouver, Victoria, Trail and Nelson. The Commissioner also inspected rehabilitation centers in several locales in both Canada and the United States.[1]

At the time, such an extensive and exhaustive set of proceedings was quite unusual for a B.C. royal commission. This development was apparently quite unforeseen by the government and Commissioner Sloan himself. He stated in the preamble of his final report, "He (Attorney-General Wismer) pointed out that as I had acted in a similar capacity in 1942 it was my duty to undertake this further inquiry, and then added that only a few matters required investigation and that the Commission would probably not require more than two or three months of my time. Because of these representations I agreed to act as requested."[2] It may be inferred from these sentiments that the original intent of the Commission was just to quickly update the major issues, rather than address the morass of legal and medical subjects it would wind up dealing with. Royal Commission II was slow getting started. Stated the Chief Justice on the third day of the hearings, "There is a great clamor to get under way and then we get here and find about three briefs ready for presentation." He also said, ironically, that he did not want to spend the next two years on this Commission.[3] The extraordinary length of the Commission created a mood of impatience in the labour movement. At a C.C.F.-sponsored conference eleven months into the Commission's work, Vancouver labour

groups passed a resolution urging Commissioner Sloan to submit an interim report.[4] Winch stated at the conference, "The government, acting on behalf of industry, is dragging this inquiry out. The longer it takes the more it is to the interest of industry that will have to pay for any improvements in the Act." However, three months later, executive members of B.C.'s three main labour organizations submitted a brief to the cabinet stating that they were "well satisfied with the treatment its representatives had received in the hearings Chief Justice Sloan was holding."[5] Perhaps due to the extended length, the circumstances surrounding Royal Commission II were, in general, more politically charged than in the previous Commission.

One reason for the longer duration of Royal Commission II in comparison to its predecessor was the large number of individual workers who felt compelled to testify about their own experiences and dealings with the W.C.B. According to White, many of these individuals came forward without any prior consultations with their union or organized labour.[6] Another difference from Royal Commission I, was the large number of members of the medical profession who testified at the proceedings. While most were summoned, many testified voluntarily. Most of this latter group spoke in support of workers. One particular medical doctor, Norman Kemp, a former W.C.B. physician who had been dismissed by the Board, was especially noteworthy because of his blistering criticism of it. Kemp, who was present during most of the two year hearings, on his own account, was a source of controversy for much of the proceedings.[7]

As mentioned in Chapter 4, there were several major issues in Royal Commission I that re-surfaced in Royal Commission II, including 'blanket coverage'. As has been noted, little had changed in the substance of this issue; rather, the changes had come in the context of it. Labour representatives argued that there had been growing recognition of the justness of 'blanket coverage' by workers and society in general. Industry representatives, for essentially the same reasons as in 1942, rejected this idea in strong

terms. Commissioner Sloan took a different approach the second time around on this issue by breaking it down into major groups of workers who were not covered and would be under 'blanket coverage.' In dealing with agricultural workers, Chief Justice Sloan presented an extensive analysis of the nature of farm accidents as well as a comparison of other countries' handling of them.[8] The Commissioner concluded that agricultural workers should have statutory coverage rather than have to apply for it. He added that the low number of requests from agricultural workers was due to their lack of education and awareness.[9]

The Act as it stood forbade domestic workers from receiving coverage.[10] Chief Justice Sloan argued that there would be too many administrative difficulties created by enacting compulsory coverage for domestic workers but that optional coverage was appropriate.[11] In a terse, one line statement, the Commissioner stated that there was no evidence that office personnel ought to be covered.[12] As for the occupational disease aspect of this issue, the Commissioner, again, argued that workers would not be any better off in this regard from the scheduled disease method.[13] Labour, as they did in 1942, disagreed with this assertion. Thus, the Chief Justice made one major concession (agricultural workers), one minor concession (domestic workers) but, again, sided with industry on this issue.

As in Royal Commission I, the labour sector was split on the issue of a medical appeal board. For example, while the growing B.C.F.L. favored an appeal board, the Vancouver, New Westminster and District T.L.C., representing 32,000 workers, opposed it.[14] However, unlike 1942, the industrial representatives were somewhat split on the issue. While the large Canadian Manufacturer's Association (C.M.A.) opposed an appeal tribunal, the Canadian National Railways and Canadian Pacific Railways favored it.[15] The argument by the opposers was the same as it was in 1942, that both industry and labour would over-use and over-load the system creating chaotic time delays and a

bureaucratic nightmare.

Since Royal Commission I, a number of jurisdictions in the U.S., including nearby Washington and Oregon, had erected medical appeal boards of some kind, so Chief Justice Sloan now had some references to test the doubters' hypothesis. His finding was that the number of appealed cases in these jurisdictions was in fact very small and he concluded that there was no reason to think that B.C. would be any different in this regard. Thus, against much opposition on both sides, Commissioner Sloan recommended the creation of a medical appeal board. He also made many detailed suggestions as to how this tribunal should be structured and operated.[16] It cannot be said that the Commissioner favored labour or industry on this controversial issue.

Another major issue that resurfaced in Royal Commission II was the compensation rate. The increased militancy of the B.C. labour movement was no more apparent than on this issue. Virtually all of the union representatives sought a rate increase from sixty-six and two-thirds percent to one hundred percent. The industry representatives dug their heels in just as deeply and argued strongly that there should be no change in the rate. Chief Justice Sloan rejected the one hundred percent demand out of hand by quoting a large passage out of his 1942 report containing his thoughts on the issue. He also re-stated the whole rationale and underlying principles of the W.C.A. Commissioner Sloan did, however, after a thorough statistical analysis, ascertain that the purchasing power of the average B.C. worker had declined since 1938. That, coupled with the fact that the provinces of Ontario and Saskatchewan had recently raised their compensation rate to seventy-five percent, compelled Chief Justice Sloan to recommend an increase in the rate to seventy percent.[17] On this issue the Commissioner sided with industry.

As was the case in 1942, the chiropractor issue was not a labour-industry conflict

but rather a chiropractor/labour versus medical profession one. Both chiropractors and union representatives asked that injured workers not be required first to obtain permission from a physician to see a chiropractor to qualify for workers' compensation coverage.[18] This contentious restriction was actually removed by the W.C.B. during the hearings, so the issue was quickly dealt with before Chief Justice Sloan had to make a recommendation on it. Several union representatives also requested that the W.C.B. hire chiropractors for its staff. The Commissioner made no comment in this regard.

The issue of 'light work' was classified, in Chief Justice Sloan's terms, as 'evaluation of incapacity' during Royal Commission I. The often used term 'light work' referred to a potential job a partially disabled employee could get that would pay less than his/her former job which he/she could not yet perform. In 1942, the Commissioner recommended that the W.C.B. be given discretion as to whether a worker in this situation should receive sixty-six and two-thirds percent of the difference between the 'light work' wage and his/her former wage or that percentage of his former salary. Chief Justice Sloan had predicted that the issue would be resolved through a physical and rehabilitation scheme. He might have been at least partially correct because while 'light work' was a major issue in Royal Commission II, it did not generate as much controversy as it did before. As in 1942, union representatives asked that the 'light work' clause be scrapped, while their industry counterparts defended it. Commissioner Sloan sided with the latter by suggesting that the subsection be left intact.[19]

The other major subjects in Royal Commission II were either non-existent in 1942 or not major ones then. The issue of widow's pensions received much publicity in the inter-commission period and was part of the larger feminist movement.[20] Widows of killed workers received $50 per month, a figure that had not changed since 1943. Union representatives demanded an increase ranging anywhere from $25 to $50 per month, while business representatives unanimously suggested a $10 increase. Chief Justice

Sloan recommended the pension be increased to $75 per month and sided with labour.[21]

At the time, dependent children of killed workers received an allowance $12.50 per month. Most labour representatives asked for an increase to $17.50 per month. Curiously, industry representatives, almost unanimously, generously suggested the figure be raised to an even higher figure of $20 per month, which is what Commissioner Sloan recommended.[22]

Two other monetary issues concerned the ceiling and floor on individual payments. The least amount a disabled worker could receive was $12.50 per week. Industry representatives insisted on no increase, while their union counterparts suggested an increase anywhere from $5 to $12.50 per week. Chief Justice Sloan recommended a minimum payment of $15 per week and thus, compromised on this issue[23] Some unions asked for the elimination of the $2,500 per year ceiling, while others wanted it raised to anywhere from $3,250 to $3,500 annually. Business representatives were almost unanimous in demanding that it remain the same, despite the rapid escalation in the cost of living since the previous adjustment in 1943. The Commissioner recommended that the ceiling be raised to $3,600 per year and sided with labour on this issue.[24] The final major monetary issue concerned an injured worker's per diem. Injured workers were receiving up to a maximum of $3.50 daily allowance for medical visits outside of their home town.[25] Labour representatives unanimously asked that this maximum be raised to $4.50 per day. Industry, in the words of Chief Justice Sloan, was strongly opposed to any increase. Citing inflationary pressures, the Commissioner sided with labour and recommended that the maximum per diem be raised as they had demanded.[26]

Although the scope and sheer number of issues was larger in Royal Commission II than in its predecessor, there appeared to be fewer controversial, classic labour-management confrontations. Most of the other issues involved W.C.B. administrative

procedures. In many such issues, the sole testimony came from lawyers. New medical technology had also helped create more issues. Quite often, here, the debate was strictly between members of the medical profession. Several other subjects related to the manner in which the rehabilitation scheme could be upgraded and improved.

In summarizing the major issues, it would be appropriate to say that Commissioner Sloan was, again, fairly balanced in his overall judgements between labour and industry. The Chief Justice seemed to defer to labour on quantitative compensation payment rate issues, while siding with business on qualitative questions involving principle or philosophy. As in Royal Commission I, neither side could say that it got almost all of what it wanted but neither could it claim that it came away as a clear loser.

As in Chapter 4, some general comments concerning Royal Commission II shall be made before looking at reaction to the final report. First, as in Royal Commission I, industry had the cream of the B.C. legal talent pool representing them, while not a single labour representative had a legal background.[27] Despite this, labour representatives seemed more confident, articulate and competent in the second Commission hearings than during the first. Only two out of the ten major labour representatives who testified in Royal Commission I returned to give evidence in the second Commission. Perhaps these new union representatives had learned from their predecessors' mistakes in 1942. Nonetheless, the lack of legal backgrounds precluded labour from becoming effectively involved in many of the administrative issue debates during the hearings.

Another general comment about Royal Commission II to be made is that the labour movement emphasized monetary compensation rate issues much more so than in 1942. There are two possible reasons for this. First, the inflation rates in the years leading up to 1949 were much higher than in the period immediately preceding 1942.

Another possibility, judging from the general lack of controversy in Royal Commission II, is that the high priced array of legal talent employed by industry again, may have prompted the labour movement to change its strategy this time. By emphasizing monetary issues, which all working people could relate to and which did not require sophisticated legal knowledge to argue in favor of, labour improved its chances of coming away from Royal Commission II with substantial gains in at least some areas. Although the labour sector did not get much help from the legal world, they did get considerable support from members of the medical profession. Many medical doctors testified in support of individual worker complaints or the labour movement in general.

As far as industry representatives were concerned, as in the case of Royal Commission I, they were generally more united in their stances than their labour counterparts. B.C. business representatives expressed very conservative views on most issues. They yielded only marginally in most monetary compensation areas despite increasing inflation, and were opposed to almost all major labour initiatives.

As mentioned, Royal Commission II ended just after two years' work in November, 1951. Rather remarkably, the final report was delivered to the Legislature and released to the public just seven weeks later.[28] It is difficult to gauge the immediate reaction of labour and industry at the time of the release of the report because there does not appear to have been much, at least publicly. There are no newspaper accounts of any reaction from B.C. business representatives. The Labour Statesman, the largest labour newspaper in the province at the time, had no reaction whatsoever upon the report's release.

There are perhaps a couple of reasons for this muted response, particularly on labour's behalf. As was mentioned in Chapter 1, it has been cynically suggested that governments often appoint Royal Commissions hoping that an excessively long inquiry

will wear away and erode interest group pressure on the subject that is being investigated. While there is evidence that this was not the government's objective in Royal Commission II, that may have been the result anyway. Many top union officials, anticipating a short inquiry as Chief Justice Sloan and the government were, testified in the early stages of the Commission. However, as time wore on, their arguments may have gotten lost in the increasing morass of issues, as public salience waned. So concerned with this possibility some of them were, that a couple of the most powerful union officials returned near the end of Royal Commission II to essentially reiterate earlier positions.

Another possible reason for labour's muted response to the release of Royal Commission II's report was preoccupation with another issue. At the time of the release of the report, as well as during the hearings, the Industrial Conciliation and Arbitration Act was significantly more controversial than the Workmen's Compensation Act.[29] This Act struck at the very heart of unions' right to organize and strike and was the prominent issue in labour newspapers. This other issue, coupled with the fact that Chief Justice Sloan's recommendations were not lop-sided against labour, may help explain the lack of significant public reaction to the release of the report.

What little labour reaction there was, was mixed. George Home, Secretary of the B.C.F.L. said that Commissioner Sloan had done a thorough job on the report.[30] J. Stewart Alsbury, B.C. President of the International Woodworkers of America (I.W.A.) said, "The Commissioner recommended no more than was absolutely necessary to patch up a disturbing situation. It will require adoption of all his proposals to place the administration of compensation even within striking distance of solution to the problem."[31] Jim Bury, Council Secretary of the B.C. I.W.A. stated, "The contemplated changes are limited to those suggestions that were made by employers before the inquiry board."[32] More positive sentiments were expressed by Percy Rayment, Secretary of the

Victoria Trades and Labour Congress, who called the proposals by Chief Justice Sloan "a step in the right direction".[33] At an executive meeting of the B.C. Trades and Labour Congress, a resolution was passed stating that the report by Commissioner Sloan was in many respects acceptable to labour but that it did not go far enough, particularly with regard to increasing compensation, pensions and allowances.[34] An editorial in Ship and Shop stated, "While a number of improvements have been recommended, and outstanding gains made, the report in many respects is disappointing."[35] A headline in the B.C. District Union News read, "A Fair Report". An editorial stated that the Commission "makes a major step forward".[36]

In the two years since Royal Commission II began, the political landscape in B.C. had changed considerably. The Coalition government, due to internal disputes, had fallen apart at the seams as most of the Conservative members left the union.[37] A new party, the Social Credit led by W.A.C. Bennett, had gained popularity. The Socreds espoused an anti-business, anti-establishment, populist agenda and embraced traditional values. The Coalition breakup occurred, ironically, just as the Royal Commission II report was being released[38] The now 'Liberal' Coalition government was in a minority position and, having been elected on a Coalition platform, was now in a 'lame duck' position. Premier Johnson, at least publicly, did not feel that he had the mandate to deal with issues of a substantial nature. The 1952 Throne Speech stated, "Because of some changes in personnel since the last election, only matters of a nature considered essential for maintenance of public service" would be presented to the Legislature.[39]

Reports of inquiries into Hospital Insurance and the Industrial Conciliation and Arbitration Act had been released almost simultaneously with the Royal Commission II report, but the 'lame duck' government acted only on the latter.[40] A rather short series of amendments to the W.C.A. were passed in March 1952, that essentially only boosted the compensation and allowance payment rates to workers and dependents. These 'caretaker'

amendments were probably in response to the emphasis that labour had placed on these issues in Royal Commission II. The bill increased widows' pensions to $75 per month, dependent childrens' allowances to $20 per month, the minimum payment to $15 per week and the maximum payment to $3,600. In addition, the compensation rate had been upped to seventy percent and the per diem maximum was eliminated.[41]

The biggest controversy was whether or not the new payment rates should be retroactive for previous cases. Commissioner Sloan had suggested that if this were to be the case, the government should pay for it and not industry.[42] At first, the government refused to have the increases retroactive, but quickly reversed itself after pressure from the C.C.F. and labour groups. These new figures were all in accordance with Chief Justice Sloan's recommendations. So, at least in the area of compensation payment rates, Royal Commission II's recommendations had been adopted. Of course, there were still the other major issues to deal with, as well as a long list of minor ones. However, they would be dealt with another day and, as it would turn out, by another government.

A summer election in 1952 saw the election of the upstart Social Credit for the first time in B.C. The margin of victory was slim and the Socreds had only a minority government. In the wake of this election, the three established parties all changed leaders. Another election was held in 1953 and the result was the first majority Social Credit government. Shortly after this election, Labour Minister Lyle Wicks announced a roundtable conference involving labour, industry and the government to discuss views on changes to the W.C.A.[43] At the conference, the C.M.A. presented a brief asking that no alterations to the Act be made, owing to already high costs to industry of compensation payments in B.C. compared to elsewhere. Representatives of the B.C. T.L.C. and the B.C.F.L. disagreed and asked for further increases in the allowance rates, as well as a one hundred percent compensation rate, a W.C.B. hospital and a hefty raise in the penalty that could be applied to derelict employers.[44]

A couple of months later, the government introduced the second series of W.C.A. amendments since Royal Commission II. Among the major changes were a new medical review panel with binding powers; a raise in the compensation rate to seventy-five percent; retroactive increases to pensions of workers injured before March 18, 1943; an increase in the maximum payment to $4000 per year; optional coverage to domestic workers; coverage to workers suffering from diseases due to all dust conditions, and chiropractors and other non-conventional medical practitioners being classified as physicians.[45] The government had now fully acted on Chief Justice Sloan's major recommendations as the Commissioner had wished. Although the bill was initially well received, there was concern expressed by both management and labour about the abolition of W.C.B. members' tenure and the possible politicization of the Board. This particular amendment, which had not been an issue at all in Royal Commission II, appears to have been a creation of the Social Credit caucus. The debate in the Legislature over the bill was without much controversy. The opposition did express disapproval about those workers who had become pensioners between 1943 and 1949 and did not receive the retroactive increases. Nonetheless, the bill was unanimously passed by the House.[46] C.C.F. leader Arnold Webster called the new W.C.A. "one of the most enlightened Acts in the province" and complimented Wicks on the changes.[47]

Just a year later, in 1955, the government introduced another set of amendments to the W.C.A. This bill could almost be called an addendum to the previous year's amendments. The most significant element of the 1955 bill were further detail on the structure and procedures of the medical appeal board. The other important change was an increase in dependent children's allowances.[48] Newspaper accounts suggest that there was little controversy in the Legislature over this bill. At this time, the only notable agitation was coming from fishermen's unions who expressed dissatisfaction over the voluntary coverage scheme involving them.[49]

However, sustained consensus in B.C. on workers' compensation issues would continue to be elusive. In early 1956, a woman named Beatrice Zucco, whose dying miner husband had been denied a W.C.B. silicosis pension on a controversial medical issue, staged a round-the-clock vigil with her two young children outside the steps of the Legislature. The protest received front page and daily newspaper coverage in B.C. At first, Labour Minister Wicks refused to meet with her. But eventually he relented.[50] The fact that Zucco's husband died during the protest only heightened public awareness of the vigil. The protester got the W.C.B. to review the case but it was rejected again. Zucco and her children resumed the protest which was now receiving national coverage. The Board was now seen by the public as a cruel, insensitive bureaucracy that was out cheat workers and their families by manipulation of legal and medical technicalities.[51]

In response to the second Zucco vigil, Wicks announced that an order-in-council had been passed authorizing an inquiry to be held into all aspects concerning silicosis and the W.C.A.[52] However, there is no evidence that this inquiry ever took place. In any event, the protester was not satisfied with the proposed inquiry and demanded the right to sue the Board for a silicosis pension. This right was not granted even though the protester had all the opposition parties and the media in her corner. Beatrice Zucco eventually ended her protest but left a legacy. That legacy, as will be shown, was the catalyst for the creation of Royal Commission III.[53]

In February of 1957, on the heels of the Zucco protest, a large labour conference expressed a general dissatisfaction with the W.C.B. It accused the Board of being too "legally formalistic", too slow in administrative duties and too quick to reject workers' claims.[54] Six months later, a government backbencher called for a royal commission on the Board, just five years after the release of Royal Commission II's report. Agitation against the Board continued. A delegation representing 150,000 workers travelled to

Victoria to meet with the Cabinet over the W.C.B. Their brief asked for the firing of W.C.B. Chairman Edwin Eades, who had only been on the job for two years. The brief also called for the loosening of the definition of "accident" because the Board was "obsessed", it claimed, with proving its existence in most cases. Several administrative suggestions were also made.[55] A delegation of railway workers met with the Cabinet a month later and echoed these sentiments, as well as asking for increases in compensation and dependent allowances because of inflationary pressures.[56]

During this time, at the annual Social Credit League convention, a resolution was passed giving support to the idea that Labour Minister Wicks appoint members to a workers' compensation inquiry. A resolution asking the Legislature's Standing Committee to probe it was rejected because of fears that the C.C.F. would turn it into a political football.[57] A couple of months later, in response these rumblings, a spokesman for the C.M.A. and fifteen major employers, presented a brief to Cabinet on behalf of them asking that no changes be made to the W.C.A. It accused agitators opposed to the operation of the Act of forgetting the underlying principles behind it and not realizing the generous benefits British Columbia workers were receiving in comparison to those in other provinces.[58]

Industry got their wish, at least temporarily, because despite the clamor, no changes in the Act took place in 1957. In October, 1958, a resolution was passed at the annual B.C.F.L. Conference that called for the firing of Eades. Contempt was also expressed for the appeal system.[59] In response to this latter criticism, Wicks, a month later, told the annual Social Credit Convention, "We have a kind of appeal procedure here but it's not working. It's working out in other parts of Canada but not here."[60] A month later, in what was now becoming an annual event, the C.M.A. sent a brief to Victoria expressing general satisfaction with the W.C.A. and the W.C.B. The brief also expressed support for Chief Justice Sloan's Royal Commission II report.[61] That same

day, a delegation representing the railway unions asked the Cabinet for increases in benefits, claiming that B.C. was the only province in Canada that had not raised them in the last three years. Dissatisfaction with the Board was also expressed.[62]

W.C.B. Chairman Eades, who had rapidly become one of the least popular men in B.C., decided to speak out. He blamed workers' problems on the Act, calling it "outmoded" and stated that the Board would not only welcome an inquiry but that it should occur. He further stated that criticism of the Board was misdirected, that it was the Act that needed an overhaul.[63] With labour blaming the Board and the Board blaming the Act, the government decided to move on both fronts. The Bennett Socreds introduced the fourth set of post-Royal Commission II amendments in March, 1959. This extensive bill raised most of the compensation and allowance rates, reduced the retroactive period from six days to three, extended coverage to a number of types of industrial workers previously not covered, overhauled the contentious appeal board procedures to more closely resemble Chief Justice Sloan's vision of it, eased statutory restrictions on diagnosis of silicosis (to the extent that Beatrice Zucco could now receive a widow's pension) and changed the definition of "accident".[64] In general, the Board, at least in theory, now had more statutory latitude to give injured workers the benefit of the doubt.

The general reaction to these major changes was positive. Victor Midgley, Second Vice President of the B.C.F.L. said, "On the face of it, we consider the amendments an improvement." He further stated, "They are in line with what we have been seeking".[65] A.W. Toone, Secretary-Treasurer of the Victoria T.L.C. called the changes "a step in the right direction". Business was supportive of the compensation allowance increases but had reservations about the retroactivity of the payments. Archie Cater, President of the Vancouver Board of Trade said the increases in pensions were "thoroughly desirable" but expressed doubt about the retroactivity.[66] Similarly, Charles

Mitchell, President of the B.C. Mining Association said that he was sympathetic to increased allowances for dependents but that the retroactivity compensation structure was unrealistic.[67] On the same day that the bill passed the Legislature, Labour Minister Wicks announced that a royal commission would be held to specifically determine why only 1,300 of 7,000 eligible fishermen had been covered under the 1955 voluntary provisions of the Act.[68] Again, this proposed inquiry never took place.

Despite the generally well-received 1959 amendments, as before, the consensus on workers' compensation issues quickly broke down. Fishermen's unions rapped the government on inaction in their regard. The mining industry, alarmed at a quickly developing huge deficit in the Silicosis Fund, lashed out at the Board for being too liberal in its resolution of workers' claims. Paradoxically, one of the largest mining unions also criticized the Board and asked for complete probe of the Act in 1960, with emphasis on silicosis issues.[69] Mines Minister Kenneth Kiernan responded by stating that a royal commission on the silicosis issue "would not solve the problem" and that a national inquiry was needed.[70]

A few months later, however, new Labour Minister Leslie Peterson, who along with his government, had just been re-elected in 1960, dropped strong hints that a full workers' compensation probe was imminent. On March 9, 1961, Peterson stated in the Legislature that the possibility of appointing a Commission had been under consideration for some time. He further said, "I would not be surprised if such an appointment were made before the next session." In reference to Royal Commissions I and II, Peterson said that they had resulted in definite improvements in both the Act itself and its administration. It was reported that during the debate on estimates for the Labour Department that day, considerable criticism was directed at the Board.[71]

It was not until a year later that Royal Commission III was appointed, and it

appears to have been created after heavy pressure on the government from labour groups, particularly mining unions, to make good on its promise of a year before. It was during the Throne Speech of the 1962 Legislative Session that the parameters of Royal Commission III were spelled out. Alexander Campbell DesBrisay, Chief Justice of the B.C. Court of Appeal, was selected as the sole commissioner. Chief Justice DesBrisay was one of industry's chief counsellors in Royal Commission II. In the Speech, Peterson stated that the main issues to dealt with included the amount of compensation paid, the effect on industry of bearing costs, appeal procedures, silicosis, and the relationship of the medical profession to the W.C.B. He expected that the inquiry would make "a thorough review of all matters affecting workmen's compensation." Peterson said that virtually every trade union in the province had asked for the probe and he agreed with them that there was "much room for improvement".[72]

If it can be assumed that, as in Royal Commission II, agitation by labour was primarily responsible for the creation of Royal Commission III, then an analysis of comments made during its hearings confirms the notion that it was discontent with the Board itself, and not so much the Act, that was the impetus behind the third commission. Edward O'Neal, representing the 110,000 member B.C.F.L., charged that the number of rejected claims by the Board had taken a sharp increase recently and that the new W.C.B. under Eades was the main reason for this. He further stated that the report of Royal Commission II was not the problem, but a mean-spirited, insensitive Board that would not give detailed explanations for rejections of claims, was.[73] Sam Brown, who represented 10,000 Teamsters's workers, said that his union had little dispute with the Act but had much with the Board.[74] J.A. Rennie, representing 60,000 railway workers, made considerable reference to Chief Justice Sloan's criticisms in Royal Commission II, of the Board's dispatch of ambiguous letters to injured workers whose claims had been rejected.[75] Other union representatives at the hearings quoted his comments on the

attitude of the W.C.B. The late Chief Justice Sloan was also treated kindly by industry representatives for the most part.

Perhaps N.D.P. leader Bob Strachan best summarized the situation during the hearings when he said, "...I think the gist of the evidence that has been presented to this commission heretofore indicates that there is a substantial body of opinion in this province which holds the belief that there has been a deterioration in the operations of the W.C.B. in this last five or six years."[76] Indeed, the Royal Commission III final report lent support to these sentiments. It stated, "The Workmen's Compensation Board is no different from other administrative bodies which are possessed of more or less absolute power. Unless someone is constantly looking over its shoulder, it will tend to lapse into a laissez faire attitude and to be content with things as they are."[77]

These types of comments support the notion that Chief Justice Sloan's Royal Commission II recommendations were considered appropriate. When O'Neal was asked to criticize Chief Justice Sloan over an issue the two disagreed on, he replied, "...I think that any legislation or any statute must move forward with the times. We must move forward. The things that were true in 1942 or 1952 or even 1913 may not be true or applicable today. We must move forward with the times and make progress and legislation must be bent to accommodate forward trends of the times."[78]

Thus, once again, Chief Justice Sloan's recommendations appear to have been a success. An analysis of his recommendations yields, again, a fairly balanced set of compromises not heavily favoring labour or industry. The initial public views of his report were reasonably positive and non-controversial. The retrospective views of the late Chief Justice and his Commissions by both and industry and labour in Royal Commission III were very positive. In fact, during the hearings, the debate often boiled down to whose interpretation of his well-respected judgements was more accurate. In his

book, Bill White called him one of labour's few friends in the judicial arena in the 1950's because of his work in Royal Commission II. He stated, "We wanted a reduction in the seven-day waiting period, increased compensation payments, increased pensions, increased widow's allowances, allowances for travel and therapy increased...Many of these demands were also recommended by Sloan in his report, and quite a few of them did get put into practice."[79]

In fact, a look at Table II verifies White's opinion on the record of the adoption of the recommendations. As with Royal Commission I, only a handful of the recommendations were not adopted. Perhaps the most important of these was the agricultural workers' coverage issue. But this was not a major issue in Royal Commission III. Two of the rejected suggestions had to do with the Board's inspection of factories and plants. Again, these were not major demands on behalf of labour.

CONCLUSION

It appears, as in the case of Royal Commission II, that SCENARIO #1 provides the best explanation for the creation of Royal Commission III. As mentioned, Table II indicates that the vast majority of Royal Commission II's recommendations were enacted by B.C. governments. The handful of ones that were not, were not considered important or did not generate controversy. However, these recommendations were not adopted in as smooth a manner as were those from Royal Commission I. The amendments in 1952 were a 'caretaker' response by the fading Coalition government, while the bill in 1954 was the rookie Social Credit government's first attempt to get involved with the Act. The 1955 bill was essentially a follow-up one and the 1959 amendments were the second major changes in the second inter-commission period. By the time of the creation of Royal Commission III, the great majority of Chief Justice Sloan's recommendations were in place.

The fragile consensus on workers' compensation in B.C. repeatedly broke down for several reasons. The contentious medical appeal board issue was certainly one reason. The difficulty in establishing such a tribunal was not unforeseen by Chief Justice Sloan who stated in his 1952 report, "...of necessity it will take a little time to 'shake down' and to discover and iron out the wrinkles."[80] Yet, it was his view of how such an appeal board should be set up that was eventually striven for by the government. Certainly the silicosis related issues were also a problem that was just as controversial and seemingly never-ending.

It was after four sets of W.C.A. amendments, however, that the government realized that it was not only the Act that was a problem, or perhaps even the main problem, but so was an apparent change in the administration and attitude of the Board itself. It was Beatrice Zucco and her much publicized protest that first brought this change to light. The new 1955 Board and its policies extended to and affected many other W.C.A. issues and herein lies the root of labour's discontent. Amendments designed to alter the administrative procedures of the Board and give it more leeway in settling claims in a less controversial manner, failed due to bureaucratic discretion. The Board had the judicial power of independence from the executive and, thus, this discretion was protected. The Social Credit government, which had abolished tenure for Board members in 1954, could have perhaps forestalled Royal Commission III by dismissing members of the Board. However, to do so would have set a dangerous precedent. The abolition of W.C.B. members' tenure was roundly condemned in the first place. The government's assurances that the Board would not be politicized would have been shattered. Future governments could then hire and fire W.C.B. members at their whim, a development that would politicize the Board to the extent that it would be regarded as an ineffective, patronage-ridden body. Given the importance of the W.C.B. to society, such a development would be intolerable.

This is not to assert that there were no major issues involving the Act itself. But these issues could probably have been resolved with another set of amendments emanating from the Cabinet and Legislature as in most public policy issues. The quasi-judicial stature of the Board, however, meant that only a royal commission could provide a substantial review of the Board's operations, procedures and attitude.

CHAPTER 6

EXPLAINING THE END OF THE COMMISSIONS

As mentioned in the Introduction, with the report of Royal Commission III, came the end of the series of Royal Commissions on workers' compensation in B.C. The objective of this final chapter is to provide an explanation of why this series of commissions ended. In order to do this, it is useful to analyze the issues and circumstances surrounding Royal Commission III as has been done for its predecessors.

The third Commission was established by an order-in-council on February 1, 1962. The hearings began on October 1, 1962 and ended more than two years later on November 24, 1964. The testimony was recorded on more than 32,000 pages. More than 250 people testified during the hearings and they brought with them over 900 exhibits and more than 100 briefs.[1] The length of the hearings period was extended due to the sudden death, of Commissioner DesBrisay during the proceedings. His replacement was another member of the B.C. Court of Appeal, Justice Charles Tysoe. Neither appointment, as with Chief Justice Sloan's, generated much controversy. Given Chief Justice DesBrisay's experience as an industry counsellor in Royal Commission II, he seemed like a logical candidate. After his death, interest groups seemed most concerned with making a quick appointment in order to resume the hearings as soon as possible.[2]

Whether or not it was because of Chief Justice DesBrisay's death, there was little impatience with Royal Commission III unlike with its predecessor, although there were some unsuccessful calls for an interim report before Justice Tysoe resumed the hearings. Another notable change from the previous inquiry was that there were a lot fewer individuals who stepped forward and had their personal cases heard. This non-occurrence was intended by the Commission staff who carefully screened proposed speakers and the nature of their testimony.[3] Nonetheless, as mentioned, there was no

shortage of witnesses. The B.C. labour movement had expanded and fragmented considerably since 1952, so more union representatives took the stand.[4] The industrial sector was also less centralized and thus it sent more representatives to testify. Although members of the medical profession were again prominent, there were fewer participants from it in Royal Commission III than in its predecessor.

Although the length of the Royal Commission III hearings was similar to that of Royal Commission II, there were more major, classic labour-management conflicts in the former. Several of them were continued from Royal Commission II. Many of them were again related to monetary allowance and benefits rates. An example was widow's pensions.. Widows of killed workers, following the 1959 amendment, received $90 per month at the time of the hearings. Most union representatives asked that this amount be raised to $100, and a couple of them seeking $125. Although some employer represenatives opposed any increase, several agreed with the $100 figure. Commissioner Tysoe recommended $115.[5] It should be kept in mind with this and other monetary issues, that many of the witnesses testified more than two years in advance of the Commissioner's written conclusions, thus two years' inflation had to be taken into account. Nonetheless, on this issue, Justice Tysoe sided with labour.

Another of these recurring monetary issues involved allowances for dependent children. Dependent children of killed workers received $35 per month up to the age of sixteen, and to the age of eighteen if they were in post-secondary school. Many union representatives wanted the rate raised to $40, with a couple of them asking for $50, and the age extended to nineteen or twenty-one. Most industry representatives opposed any increase in payments, but were more or less silent on the age issue. Not only did Justice Tysoe suggest that the normal rate be raised to $40, but he also recommended $50 per month to those dependent children between the ages of eighteen to twenty-one in school, and $45 per month to those between sixteen and eighteen pursuing education.[6] Here, the Commissioner strongly favored labour.

At the time of the hearings, a killed worker's family received $250 for funeral expenses, a figure that had not changed since the previous Commission. Most union representatives asked that the figure be raised to $350. Most business spokesmen expressed no objection to this and a few of them even suggested the increase. Justice Tysoe recommended the raise and satisfied labour's demand.[7] Another major and recurring issue concerned the maximum that an injured worker could receive in a year, which was $5000, a sum that was established in 1959. Many industry representatives insisted that this figure remain, while many labour spokesmen wanted the ceiling abolished as they did in Royal Commission II. After performing a cross-Canada analysis and taking inflation into account, the Commissioner suggested that the ceiling be raised to$6,500. It can be said that Justice Tysoe compromised on this issue.[8]

There were two other major monetary issues in Royal Commission III. The minimum period of disability for an injured worker to receive compensation for the first three days off work, had been shortened from fourteen to six to three days. Many union representatives asked that the 'waiting period' be eliminated altogether, while industry representatives asked that it remain. Commissioner Tysoe determined that elimination of the 'waiting period' would result in too great a financial burden for industry and thus sided with it by recommending no change.[9] The other major monetary issue involved the compensation rate. As was the case with previous Commissions, this was a contentious issue. Labour representatives demanded that the rate be increased by anywhere from eighty-five to one hundred percent. Their main argument was that the cost of living had risen so rapidly that the injured workers' standard of living was in jeopardy. Industry representatives unanimously asked that the rate not be changed. Justice Tysoe quoted from the late Chief Justice Sloan's 1952 report and indicated that those thoughts were still valid on the issue. After comparing the B.C. rate with those in other jurisdictions and reminding his readers of the underlying principles of the W.C.A.,

Commissioner Tysoe sided with industry and recommended no change.[10]

There were also important non-monetary issues, such as 'limited liability'. A clause was inserted during the 1959 amendments that deemed that the W.C.B. would only be liable for compensation for that part of an injury that was sustained on the job. Hence, they would not be responsible for any part of an injury that occurred or was aggravated off the job. Almost all union representatives asked that this clause be removed, not because they disagreed with the principle involved, but because the administration of the clause was causing so much controversy that elimination would solve the problem. Some industry representatives asked that the clause remain intact. After a lengthy review of his consultations with a number of medical doctors, the Commissioner recommended a re-wording of the clause to lessen the apparent ambiguity of its meaning. Thus, the Commissioner compromised.[11] The issue of eye glasses and dentures involved another controversial 1959 amendment. The new change had made it more difficult for workers to get the Board to provide compensation for broken spectacles and dentures. Unions almost unanimously asked that this amendment be repealed. Industry was somewhat indifferent on this issue. Justice Tysoe favored labour's views here.[12]

The issue of the medical appeal board was, of course, one of the main reasons for the Bennett government's decision to hold the Commission and it was undoubtedly one of the most controversial issues leading up to Royal Commission III. Yet, rather surprisingly, there were few substantial suggestions in this regard put forth by either industry or labour representatives at the hearings. Several of the former stated a desire to maintain the status quo. The suggestions put forth by labour were either minor or very general in nature. Commissioner Tysoe made a number of recommendations to give the appeal board more autonomy and a greater capacity to act more efficiently in dealing with claims.[13] However, he also quoted Chief Justice Sloan's warning in the 1952 report

that labour and industry had better expect another period of trial and error.

In the 1959 bill the government, for reasons unknown to Commissioner Tysoe, altered the definition of "accident'" by adding an adjoinding phrase to it. This was, according to union representatives, making successful arguments of cases by injured workers more difficult. Industry representatives were less vocal on the issue. Commissioner Tysoe criticized the government over this amendment and recommended its repeal as labour had demanded.[14] The issue of 'light work' also resurfaced in Royal Commission III. As in Royal Commission II, most union representatives argued strongly to have this proviso deleted. They reasoned that 'light work' for a temporarily partially disabled worker was difficult to find. Thus, such a worker who made a legitimate, unsuccessful attempt to find temporary alternative employment was being unjustly penalized. Industry, though not as vocally, favored the status quo. Justice Tysoe sided with the latter, claiming that the advent of unemployment insurance precluded the need to significantly alter the relevant section.[15]

As with Royal Commission II, a number of other miscellaneous subjects came up. As before, many of these had to do with legal issues concerning the Board administration and powers, and medical issues pertaining to developments in medical science. Many of these subjects were again in the realm of lawyers and doctors. Most of labour's bitterness did not pertain to the Act; rather, as one might expect, stinging criticism was reserved for the Board and its policies.

As his predecessor had done, Justice Tysoe appears to have handled the major issues in a manner that did not clearly favor either industry's or labour's demands. If anything, the labour movement got more of what it wanted than industry did. As mentioned, however, the Commissioner's generosity on the compensation benefits and allowance issues should be kept in perspective, given that three years of inflation had

occurred from the start of the hearings to the issuing of the report. Not unexpectedly, the Commissioner also recommended that future benefits and allowances be tied to the cost-of-living, a prosposal unprecedented in North America. Rather surprisingly, only a couple of union representatives made this suggestion. Justice Tysoe, on balance, was as responsive to labour's views, if not more so, than Chief Justice Sloan. His empathetic view, prominently expressed during the hearings, about labour's frustration with the administration of the Board was an example of this. There was a trend in Royal Commissions I and II that was also apparent in Royal Commission III, though less so,: industry representatives again had a clearer vision of the 'big picture'. Their briefs and testimony were more extensive and wide reaching than those of their labour counterparts. However, more labour representatives delved into numerous issues than before. Perhaps their experience with the previous Commissions had an effect upon their conduct. For example, two of the miners' union representatives delivered extensive briefs, whereas none of them had done so in the past.

There were also a couple of trends that were not apparent in the previous Commissions. Unlike the first two Commissions, some sectors of the labour movement had legal counsel representing them, specifically the B.C. Federation of Labour and the B.C. Association of Professional Firefighters.[16] The most prominent of these counsel was Thomas Berger, who would later go on to be a Canadian Supreme Court Justice as well as a royal commissioner himself. Though industry also retained legal counsel, it did not do so to the extent it had in the past. Thus, lawyers had less impact and involvement in Royal Commission III than in the previous inquiries. As Justice Tysoe stated in his final report, with few exceptions, "...questioning on behalf of labour and industry has been done by laymen..."[17]

The fact that much of the Commission proceedings took place without legal counsel representing industry is an indication of a sense of indifference on their behalf that had not existed during Royal Commissions I and II. This sense of their indifference or sotto voce is apparent when reviewing their behaviour towards the major issues. Because of the dearth of legal counsel at the proceedings, on many issues, no strong opinions were expressed by either industry or labour. Thus, in contrast with the previous hearings, the Commissioner and his counsel often lectured industry and labour representatives as if they were in a classroom. Hence, what significant controversy existed in Royal Commission III, was confined to a relatively few issues of which the ones analyzed in this chapter constituted the majority.

After the hearings ended it was anticipated that a long wait would ensue before the final report was released, especially since Commissioner Tysoe had to thoroughly re-evaluate the late Chief Justice DesBrisay's part of the Commission. As well, unlike previous Commissions, the burden of sorting out the masses of tangled legal issues largely fell to Justice Tysoe and the Commission counsel, owing to the lack of substantial input by lawyers representing industry and labour. Thus, the government was repeatedly asked in the Legislature by opposition members, and even some Social Credit backbenchers, to at least raise workers' compensation pensions and benefits before the report was ready.[18] After much pressure, the government agreed to do so, at least publicly.[19] However, the Socreds did not follow up on this promise. Labour Minister Peterson claimed that he had asked for an interim report from Justice Tysoe but was told that that would be impossible.[20]

A preliminary report was delivered to the Cabinet almost a year after the final hearing in November, 1965. Upon reviewing it, Premier Bennett announced that, "The B.C. government will carry out every recommendation of that report." He also claimed

that the Cabinet was drafting legislation in preparation for carte blanche adoption of the recommendations.[21] The government immediately increased the benefits and pensions, as recommended by Commissioner Tysoe in this report, through an order-in-council. These included raising widow's pensions from $90 to $115 per month, allowances for dependent children from $35 to $40 a month for those between sixteen and eighteen years of age (and to $50 monthly for those between eighteen and twenty-one if attending post secondary school), minimum compensation to injured workers from $25 to $30 per month and the maximum annual payment to an injured worker from $5,000 to $6,500.[22] All increases were to be retroactive and also tied to the consumer price index.

Opposition leader Robert Strachan applauded the increases and claimed that the move was a "final vindication of a long campaign by the New Democratic Party". He stated that the retroactivity aspect was employed because an N.D.P.-led attack had made the government concede the point.[23] Pat O'Neal Secretary of the B.C. Federation of Labour was more cautious, calling the order-in-council "a step in the right direction" but also he stated, "No matter how progressive these measures are they will provide little real benefit unless deficiencies in administration are corrected."[24] On the other hand, N.D.P. M.L.A. Leo Nimsick accused the government of electoral politicking by announcing the increases during a federal election campaign in which the Social Credit was actively involved.[25]

Justice Tysoe's final report was released to the Legislature and public in late January, 1966. The reaction of labour to the Royal Commission III report was quite positive. B.C. Federation of Labour President Al Staley said that he hoped that "the new Act would embody most of the terms and suggestions made in the report..." The Secretary-Treasurer of that organization, Ray Haynes, stated, "In a brief we presented to the government we endorsed in the main the suggestions of Mr. Justice Tysoe. We are hopeful the government will move in this direction."[26] Jack Moore, Regional President

of the I.W.A. also said that he hoped the new Act would include the recommendations of the Tysoe Commission.[27] Industry's public reaction was confined to expressing dismay at the pensions and benefits being tied to the consumer price index, especially with the rapidly rising inflation rate in the late 1960's. R.S.S. Wilson, Chairman of the B.C. Canadian Manufacturers' Association, said, "...because of the serious ramifications these increases will have on B.C. industry the government should accept its responsibility and assume the annual costs of these benefits." Charles Mitchell of the B.C. Mining Association said, "Very few people realize that the total impact of all these things amount to a tremendous amount of dollars." William Norris, Executive Secretary of the Automotive Transport Association commenting on the built-in escalator clause stated, "Everybody is giving concessions to labour and nobody will deny them."[28]

The real controversy concerning Royal Commission III would not involve Justice Tysoe or his recommendations, but rather the Bennett government's handling of them. Although the final report had been presented in the Legislature, the government announced a couple of months later that amendments to the W.C.A. would be delayed until the next session.[29] With such a delay being at least six months, a bitter debate in the House ensued with the N.D.P. orchestrating a filibuster. Organized labour groups, already angry at the Socreds over other issues, threatened a general strike to protest the delay.[30] Despite this intense pressure, the government did not back down. During the next session in 1966-67, then, it was widely expected that the Socreds would finally enact amendments based on Commissioner Tysoe's report. Yet, surprisingly, this did not happen. Even though new workers' compensation legislation was already before the Legislature and expected to be passed, the government announced that a new bill would be delayed for another year. The new bill, which was given first reading, loosened the terms under which a worker could claim that an injury had taken place from an industrial accident, covered volunteer workers, and shifted the onus on the Board to disprove a

worker's claim rather than the reverse, which had been the case.[31]

This further delay, not surprisingly, created much controversy in the House. Aside from the expected wrath from the opposition, there was disapproval expressed by government backbenchers. Many of them asked for a Special Session of the Legislature specifically to debate and pass the new workers' compensation bill.[32] However the besieged Cabinet rejected this idea. Peterson indicated that a completely re-written W.C.A. was necessary and as such, a Legislative Committee's study was needed. The labour movement was decidely skeptical. Stated Staley, "There is only one reason why the government is shelving this legislation. They are allowing time for the employers with their vested interest to use the coming year to lobby and cut the guts out of Justice Tysoe's proposals."[33]

This time, however, the government made good on its promise. In March, 1968, after a Legislative Committee had studied it for months, a completely re-written W.C.A. was introduced and passed in the Legislature. The new Act adopted virtually all of Justice Tysoe's recommendations as the opposition and organized labour had demanded (see Table III). A brief by the B.C. Federation of Labour, presented to the Committee when it was putting the finishing touches to the new Act, expressed objection only to the insertion of a so called "morality clause" which could deny an injured worker compensation if he/she was using it for gambling or he/she was "leading an immoral or improper life".[34] Liberal leader Ray Perreault said that the government should be congratulated for its handling of the legislation, particularly for the manner in which it went to the Committee for a detailed study. He further stated that this was "the way parliamentary procedure in a democracy should work."[35]

With a brand new Act in place, agitation over workers' compensation in B.C. waned. At the annual B.C. Federation of Labour convention in 1971, the only major

changes that were demanded were elimination of the three day waiting period and upgrading of first aid features.[36] The former demand was complied with in 1972 when the Social Credit government, with an election in the offing, passed a small bill to amend the W.C.A. The bill also raised pension bases, extended the time limit for a worker to file a claim, and imposed a time limit on doctors for submitting bills to the W.C.B.[37]

The Social Credit lost the 1972 election and with a new N.D.P. majority government in power, the adversarial relationship that had existed between labour and previous B.C. governments temporarily ended. With the labour movement now having some of its own rank in power, the dialogue between them and the N.D.P. government was now more open and less formal. The new Labour Minister was Bill King, a man whose family had a history of extensive ties with labour unions.[38] The lack of controversy now surrounding the Act was indicated by King who recently stated that the issue of workers' compensation was not a high priority for his government or the labour movement during the N.D.P. reign.[39] Nevertheless that government did pass a bill in 1974 that, among other things, changed the name of the statute to the "Workers' Compensation Act", increased pensions, completely revised the formula for calculating pensions, mandated employer and union representatives to accompany W.C.B. inspectors on job-site tours, and increased penalties and restrictions on employers in relation to work place safety conditions.[40] These amendments were meant to address the last of the labour complaints concerning the Act.

In addition to this bill, the N.D.P. government appointed Terence Ison as Chairman of the W.C.B., a move welcomed by labour. A brief by the B.C. Federation of Labour during the deliberations of the 1974 bill stated, "...the administration of the Workers' Compensation Act has improved since the election of the New Democratic Party in August of 1972. We attribute part of that improvement to the appointment of Brother George Kowbel as Commissioner and the appointment of Terry Ison as

Chairman of the Board. Not only has dialogue between the labour movement and the Worker's Compensation Board commenced but the employees of the Board are becoming more aware of the principles and philosophy of worker's compensation."[41]

Thus, ten years after the release of the Royal Commission III report, it can be said that the series of major inquiries into workers' compensation in B.C., which had spanned a quarter of a century, had come to a rather quiet, uncontroversial end. This is not to assert that interest group disputes over the Board or the Act were over forever. For example, as soon as the Social Credit government defeated the N.D.P. in 1975, Ison was dismissed after pressure from employer groups, though his resignation was pending, along with that of other top staff members. This event provoked howls of outrage from the labour movement who immediately agitated over what they claimed was deterioration in W.C.B. operations.[42] But unlike the past, there were no calls for another royal commission.

The ending of the series of commissions would have come as a surprise to many interested parties. There was a significant body of opinion, held by both labour and industry during Royal Commission III, that the series of commissions on workers' compensation would continue ad infinitum and some of them even favored mandating this. B.C. Mining Association representative John Bourne stated, "The Mining Association urges that you recommend that the Act be reviewed by a Royal Commission within ten years from the date of the report of the previous Royal Commission...I would point out that it has been thought fit in the past to have such a commission at intervals of approximately ten years." He added, "The Mining Association is opposed to a review by a Committee of the Legislature. Political pressures, rather than a reasoned approach could prevail."[43] Harvey Murphy, Vice-President of the National Organization of Mine, Mill and Smelter Workers, stated, "When the first commission made its report, it was generally understood, I would say, that the Act would be gone into at given periods...I

got that understanding and I think a good many people did -- every ten years there would be a further investigation."[44] When asked about the idea of a legislative committee performing such a probe he replied, "I am not interested in making compensation a political football which it would become. We want a commissioner who has the confidence of the people and the standing."[45] Indeed, Justice Tysoe himself would have been surprised that his Commission would be the last. He stated at the end of the hearings, "I do not suppose I shall achieve my hope and that is that this can be a Royal Commission to end all Royal Commissions on workmen's compensation, but we might be able to go a far way towards it!"[46]

The question of why the Justice's hope, that no fourth commission take place, was fulfilled can only be speculated on. After all, it is usually a simpler task to try to explain why a certain event happened than why it did not. Certainly the election of an N.D.P. government had much to do with this question. Not only did the labour movement have increased access to government and the Cabinet, but it actually had some of its own kin involved in the important decisionmaking process. Thus, B.C. labour did not need to agitate for a royal commission on worker's compensation to enlighten the government as to their concerns and problems. Members of the N.D.P. government, because of their ideology and backgrounds, were readily aware of them. Their 1974 bill addressed virtually all of labour's outstanding complaints. In Ison, they appointed a Chairman of the Board with reputedly leftist leanings. The B.C. labour movement probably had not had such a positive relationship with a W.C.B. Chairman since Edward Winn, the first one.

Of course, this development was only temporary. The Barrett government lost the 1975 election and the socialist party failed to form another government for sixteen years. The relationship between subsequent Social Credit governments and organized labour quickly resumed its former nature. Ison was controversially dismissed as W.C.B.

Chairman, a move very unpopular with B.C. labour. However, despite the rapid resumption of the old antagonistic labour-government relationship, there was now the realistic possiblity of future N.D.P. governments again. The labour leaders in the mid-1960's, who predicted the series of royal commissions on workers' compensation continuing, did not foresee the realistic possibility of a majority N.D.P. government in the near future. At the time, B.C. had a multi-party political landscape and the possibility of the N.D.P. ever winning a majority of seats or garnering the support of one of the other parties seemed remote. However, with the collapse of the smaller Liberals and Conservatives came a two-party polarization in which an N.D.P. majority would be possible in virtually all subsequent provincial elections. Thus, from labour's perspective, perhaps the anticipation of a future N.D.P. government precluded the need to agitate for another lengthy, time consuming royal commission on workers' compensation.

The recent cynical views expressed towards royal commissions, alluded to at the beginning of this paper, have also probably been a reason for the ending of the series. There seems to have evolved a feeling in Canadian society that royal commissions are too lengthy, time consuming, expensive and politically motivated. The recent negative views expressed towards the Spicer Commission are a good example of this. These sorts of opinions on commissions perhaps help explain why their prominence in B.C. has declined over the years. A particularly intense political partisanship in B.C. politics has evolved since the 1972 election. Thus, from organized labour's perspective, the prospect of a Social Credit government appointing a royal commission on workers' compensation and then positively acting on its recommendations has probably seemed dubious.

Besides the surrounding political issues, there was, of course, the matter of the Act itself. In this regard, Royal Commission III had much to do with the ending of the series. As with its predecessors, the third Commission must be considered a successful one. Commissioner Tysoe's recommendations received fairly widespread approval and

praise. His suggestions were well in line with labour's demands. He was probably even more generous to them than Chief Justice Sloan was. Despite the two years' delay, virtually all of Royal Commission III's recommendations were adopted in a completely new W.C.A. Justice Tysoe's suggestions and the new Act were so well regarded, that the B.C. W.C.A. won an international award for having the most progressive workers' compensation act in the world in 1971.[47] The few outstanding labour complaints concerning the Act were resolved by the N.D.P. government's bill in 1974. Thus, despite the fact that lobbying, advocacy and changes involving the W.C.A. would continue to be an ongoing process, as with most statutory acts, the problems and controversy would not be seen as important enough to demand or warrant an exhaustive royal commission to deal with them.

If one looks at some of the major issues in the three Royal Commissions, they have either been resolved or ceased to be controversial. Although organized labour has never achieved its demand for 'blanket coverage', virtually all B.C. workers have become covered. There does not seem to have been any recent controversy over the scheduled disease list. The workers' compensation benefits and pensions have become as generous as anywhere in the world, and being tied to the cost of living has precluded periodic demands to have them raised. Chiropractors and practitioners of other treatments have achieved equal status with medical doctors in terms of compensation coverage. The controversial 'waiting period' has been eliminated altogether. With the advent of unemployment insurance in a revised form, the 'light work' issue has disappeared. The compensation rate has remained at seventy-five percent, but the labour movement seems to have accepted this figure as permanent, perhaps because of the generous benefits injured workers now receive. Even the controversial medical appeal board issue seems to have ceased to operate as a subject of frequent debate.

Aside from the W.C.A., there has of course been the issue of the Board itself, a

subject of much controversy over the Royal Commission years.[48] However, despite the unrest caused by the dismissal of Ison, there has been little controversy surrounding the composition of Board since then. One notable change in this regard has been the length of tenure served by Board members. Since the end of Royal Commission III, W.C.B. members have usually stepped down from their post after about three or four years. Gone are the days when they would spend a decade or two in their positions. Thus, with high turnover on the Board, if controversy builds over a member, usually the Chairman, his term is sufficiently short to avoid calls for a royal commission to examine his position.

CHAPTER 7

THE COMMISSIONS IN RETROSPECT

The many cynical views that have been and are currently held towards royal commissions - that they are ineffective, ignored by governments, stall progressive views rather than promote them and are a tool of political manipulation - are not supported by this study. Granted, this paper only covered three out of the hundreds of commissions that have been held in Canadian history. Nonetheless, the evidence gathered here is a contribution to the small body of literature that supports the notion that royal commissions can have a significant impact on public policy. It should be noted, however, that virtually all such literature so far has focussed on national royal commissions emanating from Ottawa. This paper is perhaps the first comprehensive study of any B.C. royal commissions.

The public contribution of the three royal commission on workers' compensation in B.C. cannot be underestimated. In fact, it would not be inaccurate to state that these inquiries have been the prime policy engine for occupational safety and health issues in this province. This cannot be said for any other public policy area in B.C. The question of why workers' compensation has been so heavily affected by royal commissions can only be speculated on. Perhaps the answer lies in the public views held toward alternatives, specifically Legislative Committees. Throughout this Royal Commissions period, spanning a quarter century, spokesmen from both labour and industry repeatedly mentioned the need to keep workers' compensation from becoming a political football. Why it was deemed appropriate to have other policy issues shaped by political partisanship is another question, but certainly the efforts to keep workers' compensation out of the traditional and conventional political realms are probably an indication of the perceived importance of it as a public policy issue to both employers and employees. If this is the case, these efforts were effectively an indictment of the traditional British

Columbian political process, a view that many today are expressing.

From the governments' perspective, prominent in all three commissions appears to have been the strategy of blame avoidance, as articulated by R. Kent Weaver.[1] He argues that governments in pluralist democracies, with ever wary eyes on re-election strategies, take actions that put a higher priority on minimizing blame from their constituents than maximizing credit from them. The key assumption here is that voters are more apt to punish governments at the polls for failures than reward them for successes. The appointment of the commissions can be associated with several blame-avoidance strategies, but they probably best fit into the category of "passing the buck". In other words, politicians deflect blame by forcing others to make choices, thereby yielding discretion over potentially unpopular, major cost-producing decisions. Clearly, the evolving workers' compensation issues of the time were of major importance to B.C. society. Governments, not wanting to face rapidly growing labour sectors that were hostile at election time, could minimize blame on themselves by dropping it in the laps of the the non-partisan commissions, particularly if the changes did not solve the problems. Although there were considerable deliberations before Royal Commissions II and III's recommendations were all adopted, there is no evidence that governments seriously attempted to introduce changes that were at significant variance with the non-partisan proposals. To do so would have increased the amount of blame from labour, if the amendments resulted in failure.

The series of Commissions took place notwithstanding significant formal and informal consultations between government, labour and industry during the two inter-commission periods. In the first period, several labour delegations presented briefs directly to the Cabinet. In the second period, the new Social Credit government held what surely must have been one of the earliest multistakeholder forums, described in Chapter 1, in B.C. history in 1953, when industry and labour representatives were both

invited to Victoria. In fact, the major bill in 1954 was in some part based on this unprecedented conference. After this event, various labour delegations were able to meet with the Cabinet over workers' compensation issues with great frequency. Seeing this increased access for labour, industry representatives stepped up their efforts at lobbying the Cabinet. However, the direct consultation route failed to achieve the sustained consensus that was desired by all parties.

The preceding indicates that Justices Sloan, Tysoe and, to a lesser degree, DesBrisay, must be considered important historical figures in the evolution of B.C. workers' compensation policy. Despite their lack of connection to labour interests, the three men were balanced and fair in their judgements and recommendations. Their sense of non-partisanship and genuine desire to achieve a consensus on issues with such high stakes are to be admired in retrospect as they were at the time by labour and industry. B.C. governments, though not necessarily with the greatest of expedience, adopted most of their recommendations accordingly.

The Justices' contribution to workers' compensation policy is also significant in another unique sense. While one does not normally associate the Canadian judiciary with having a significant impact on social policy, as in the United States, this was very much the case in B.C. with workers' compensation, in a different way of course. By extension, their ideas also had impact elsewhere since the B.C. act has been studied by many other jurisdictions over the years.

The question of why from among all the Canadian provinces only in B.C. has workers' compensation been so heavily affected by royal commissions, is an interesting one. Almost all other Canadian provinces have held at least one royal commission on workers' compensation, but never more than two and never in such a short time span as in B.C.[2] As has been seen in this paper, the three Commissions appear to have been

created almost solely because of labour agitation. Organized labour has always been strong in B.C., relative to elsewhere in Canada.[3] Perhaps labour groups in other Canadian jurisdictions had been lobbying for major inquiries on workers' compensation, but their lack of power in comparison to their B.C. counterparts made their efforts fall short.

Perhaps the most prominent substantial aspect of the three commission debates was lesson-drawing, or in other words, "action-oriented conclusions about programs elsewhere".[4] Since, broadly speaking, the realm of occupational safety and health issues in North America falls into the domain of Canadian provinical and American state jurisdictions, the Commissions had over sixty models to comparatively analyze, where the multitude of socio-economic characteristics of the populations were relatively similar. The Commissioners explicitly engaged in lesson-drawing by travelling to, and analyzing data from, many of these jurisdictions. Given the lack of high-technology communication instruments taken for granted today, such efforts during this time period were considerable. The Commissioners particularly drew comparisons with the province of Ontario and the Pacific coast states of Washington, Oregon and California. On the other hand, it cannot be said that emulation was as prominent. The commissioners, industry and labour all agreed that a workers' compensation act was closely associated with the quality of life for a society in general. Given that B.C. was so well endowed with natural resources and wealth, the Commissioners felt that it was appropriate that the worker benefits and safety standards be amongst the highest, rather than just be at average levels with its neighbors on the continent.

The positive impact of the B.C. royal commissions on workers' compensation should not lead to the conclusion that these major inquiries are the ideal public policy engine or that they are likely to return to the sort of general prominence they once experienced. The associated financial costs and lengthy time periods they span probably

preclude a comeback. These two problems were certainly evident in Royal Commissions II and III. There are also other shortcomings of royal commissions mentioned in Chapter 1. However, as this paper has shown, royal commissions can be a very effective public policy generator under certain circumstances. Their strengths, particularly the non-partisan, independent stature of the Commissioner and the virtually unlimited public hearings, were elements that were considered necessary to handle the issue of workers' compensation in B.C. In that sense, however, the Commissions' success helped lead to their demise. The lengthy time periods necessary for all participants to have their say and thus put the Commissioner in a position to make appropriate recommendations, ultimately led to the heavy Commission costs as well as general impatience.

For a period of time, however, and a critical one, the much maligned royal commission was the prime policy generator for what was and is, many argue, one of the most important public policy issues in an industrial society. Thus, workers and their families in B.C. today, who enjoy workers' compensation benefits and services that are as generous and progressive as anywhere in Canada and the world,[5] owe that institution of the Canadian parliamentary system a debt of gratitude.

TABLE I

ROYAL COMMISSION I--RECOMMENDATIONS AND THEIR CONSEQUENCES 1942-1949

ISSUE	RECOMMENDATION	LEGISLATION	ADOPTED
Compensation rate	no change	no change	yes
Maximum allowance	$2000 to $2500	$2000 to $2500	yes
Minimum allowance	$10/wk to $12.5/wk	$10/wk to $12.5/wk	yes
3 day waiting period	no change	no change	yes
Retroactive period	no change	no change	yes
COLA bonus	no change	no change	yes
Increasing age of dependent children receiving WC if father dies	16 to 18 if in school	16 to 18 if in school	yes
Allowance for dependent children if father dies	$7.5/mo to $10/mo	$7.5/mo to $10/mo	yes
Maximum payment to family if father dies	$70/mo to $80/mo	$70/mo to $80/mo	yes
Orphan Allowances	$15/mo to $20/mo until 18	$15/mo to $20/mo until 18	yes
Payment on top funeral expense	$100	$125	yes
Maximum payment if widow remarries	eliminate it	eliminated	yes
Parents of unmarried killed worker to get compensation	if dependents	if dependents	yes
Parents of unmarried killed worker to be able to sue employer	no	no	yes
Maximum allowance for dependent parents	$30/mo to $40/mo	$30/mo to $40/mo	yes
Monetary increases to be retroactive	no	no	yes

Average earnings method	no change	no change	yes
Hospital WCB rates	no change	no change	yes
Per diem allowance for medical visits by injured workers	yes	yes ($2.5/day)	yes
Allow WCB to revise workers' contribution	yes	yes	yes
Allow WCB to evaluate real earinings potential	yes	yes	yes
Provision for rehabilitation	yes	yes	yes
Blanket coverage for everyone	no	no	yes
Partial WC for hernia	yes	yes	yes
Silicosis coverage widened	yes	?	?
Silicosis coverage for coal miners, not sand blasters	yes	yes	yes
Add pneumoconiosis as industrial disease	yes	yes	yes
All silicotics to receive minimum compensation	no	no	yes
Reduce period of residence in B.C. for miners to get silicosis compensation	no	yes	no
Eliminate 5 year period for silicotic to file claim	allow exceptions	allow exceptions	yes
Compensation & vocational rehabilitation to non-disabled who are advised to leave mining	yes (66% of earning differential)	no	no
Immediate notification of X-rays to silicotic	yes	no	no
Stricter mine safety laws to prevent silicosis	no	no	yes
Miners' committee to assist WCB	no	yes	no
Civic employees to get compensation for silicosis	yes	no	no
Change method of average earnings by longshoremen	no	no	yes

Establish industrial hygiene bureau	yes	yes	yes
Logger's Association merit scheme for logging industry	yes	yes	yes
Unify & simplify accident prevention services across BC	yes	no	no
Elected labour representative on WCB	no	no	yes
Labour advocate postion in WCB	no	no	yes
Establish medical appeal board	no	no	yes
WCB priority on payments limited to 3 years	yes	yes	yes
Speeding doctors' response to WCB administrative duties	no	yes	no
Send cheques to injured workers twice monthly	no	no	yes
Establish Victoria office	no	no	yes

Note- In cases where question marks are provided, it was not possible to positively determine whether or not the said recommendations took place. In some cases, the wording of relevant statutes was ambiguous or simply beyond the legal interpretative skills of the author. In others, there was no documented proof that the changes took place or did not.

TABLE II

ROYAL COMMISSION II --RECOMMENDATIONS AND THEIR CONSEQUENCES 1952-1962

ISSUE	RECOMMENDATION	LEGISLATION	ADOPTED
Agricultural workers to be covered	yes	no	no
Domestic servants not to be excluded	yes	yes	yes
Office personnel to be covered	no	no	yes
Blanket coverage for everyone	no	no	yes
Rheumatism, lumbago, sciatica, arthritis added as industrial diseases	none of them	none of them	yes
Industrial deafness added to schedule	yes	yes	yes
Anthracosis added as industrial disease	no	no	yes
Posting of workplace conditions at all times	yes	yes	yes
Educate & protect coal miners from silicosis	yes	no	no
Compulsory aluminum dust therapy coverage	no	no	yes
Statutory silicosis amendments (6 separate proposals)	1 of 6 [8 (6) (d)]	1 of 6 [8 (6) (d)]	yes
Delete waiting period for tuberculosis	no	no	yes
Eliminate time limit for hernia operation & alter the proviso	yes	yes	yes
WCB allowed to blacklist doctors	yes	yes	yes
Allow leeway for number of specialists the WCB consults	yes	yes	yes
Allow coverage for visits to chiroprodists	yes	yes	yes

Allow coverage for visits to chiroprodists	yes	yes	yes
Set up medical appeal board	yes	yes	yes
-composed of chairman & 2 specialists	yes	yes	yes
-to have final & binding authority	yes	yes	yes
-its jurisdiction	functional disability	functional disability & errors & continuance of WC	partially
-employers & employees allowed to appeal	yes	yes	yes
-its conclusions to have retrospective effect	no	no	no
-procedural discretion	appeal board. control	appeal board control	yes
-costs for appeal board to come out of Accident Fund	yes	yes	yes
-to have full powers of WCB	yes	yes	yes
Allow compensation soley on basis of physical function loss	yes	yes	yes
Compensation rate	66 2/3% to 70%	66 2/3% to 75%	partially
Maximum allowance	$2500 to $3600	$2500 to $5000	yes*
Minimum allowance	$12.5/wk to $15/wk	$12.5/wk to $25/wk	yes*
Widow's pension	$50/mo to $75/mo	$50/mo to $90/mo	yes*
Children's allowance if father killed on job	$12.5/mo to $20/mo	$12.5/mo to $35/mo	yes*
Orphan's allowance	$20/mo to $30/mo	$20/mo to $40/mo	yes*

Other dependents' allowance	$55/mo to $75/mo	$55/mo to $90/mo	yes*
Funeral allowance	$150 to $250	$150 to $350	yes*
Subsistance allowance maximum	eliminate	eliminated	yes
Average earnings method	no change	no change	yes
Waiting period	no change	no change	yes
Classification change for coal companies	no	no	yes
Classification change for automobile sales companies	no	no	yes
Coverage for independent fishermen	no	no	yes
Allow WCB to pay medical costs for workers on non-B.C. Canadian vessels	yes	yes	yes
Extend coverage to student trainees	yes	yes	yes
Ease WCB lien restrictions on employers who owe money	no	no	yes
Employer's class to pay a sum into Rehabilitation Fund if killed worker left no dependents	no	no	yes
Increase penalty to employer for non-observance of regulations	$50 to $500	$50 to $500	yes
Allow WCB inspectors to close down factories or plants	yes	no	no
Employer must give WCB statistics on demand	yes	no	no
WCB inspectors to be accompanied on plant tours by a designated labour member	yes	no	no
Allow other Departments' officials to inspect plants/factories on behalf of WCB	yes	yes	yes
Upgrade status & training of first aid attendants	yes	no	no
Mandatory radio contact for work crews	yes	?	?

Institute air ambulance service	no	?	?
Annual provincial grant to Division of Industrial Hygiene	yes	no	no
Eliminate maximum expenditure from Accident Fund for vocational rehabilitation	yes	yes	yes
Expand Councellor's role	yes	?	?
WCB allowed to set production limits on an employer	no	no	yes
Appoint legal advocate	yes	partially	partially
Expand definition of 'physician'	yes	partially	partially
Allow non-residential family members to be covered	yes	yes	yes
Allow WCB to add diseases to schedule	yes	yes	yes
Give more power to WCB in employee vs. employee cases	yes	yes	yes
Allow minors working illegally to get compensation rather than the guardian	yes	yes	yes
WCB pays in cases of defunct medical plans	yes	yes	yes
Fix time limit for claim the same for diseases as accidents	yes	yes	yes
Allow WCB to determine if contractors are employees	yes	yes	yes

* - taking inflation into account

Note- In cases where question marks exists, it was not possible to positively determine whether or not the said recommendations took place. In some cases the wording of relevant statutes was ambiguous or beyond the legal interpretative skills of the author. In others, there was simply no documented proof that the changes took place or did not.

TABLE III

ROYAL COMMISSION III--RECOMMENDATIONS AND THEIR CONSEQUENCES 1965-1974

ISSUE	RECOMMENDATION	LEGISLATION	ADOPTED
Compensation rate	no change	no change	yes
Change average earnings method	yes	partially	partially
Maximum payment	$5000/yr to $6500/yr	$5000/yr to $6600/yr	yes*
Minimum payment	$25/wk to $30/wk	$100/mo to $150/mo	yes*
Widow's pension	$90/mo to $115/mo	$90/mo to $124/mo	yes*
Children's allowance if father killed on the job	$35/mo to $40/mo	$35/mo to $43/mo	yes*
Children's (16-18) allowance if father killed on the job and attending school	$35/mo to $45/mo	$35/mo to $49/mo	yes*
Adult (18-21) children's allowance if father killed on the job and attending school	$50/mo	$54/mo	yes*
Orphans (1-16) and invalid children's allowance if father killed	$40/mo to $45/mo	$40/mo to $48/mo	yes*
Orphans' (16-21) allowance if in school	$55/mo	$60/mo	yes*
Tie all compensation and payments to cost of living	yes	yes	yes
Provincial government to pay half of Accident Fund	yes	yes	yes
Funeral allowance	$250 to $350	$250 to $350	yes
Optional private insurance	no	no	yes

Blanket coverage for everyone	no	no	yes
Coverage for independent fishermen	no change	no change	yes
WCB to get more power to penalize negligent employers	no	?	?
Inspectors to be accompanied by labour representative on plant or factory tours	yes	yes	yes
Allow first aid attendents to apply plasma and narcotics	no	?	?
WCB allowed to close down employer if it finds first aid facilities insufficient	yes	yes	yes
Give WCB authority to supervise training of industrial first aid attendents	yes	yes	yes
Increase WCB medical staff	yes	?	?
Change method of fees to case where more than one doctor is involved	no	?	?
Guaranteed payment to doctor for first report	yes	?	?
WCB to pay for replacement of hearing aids damaged on the job	yes	yes	yes
Increase specificity of definition of doctors' duties in WC cases	no	no	yes
Allow WCB to compensate injured sailors on federal vessels	yes	yes	yes
Ease restrictions on WCB for subsistence allowance	no	no	yes

Change definition of 'accident' and the use of it	yes	yes	yes
Shift burden of proof from worker in proving a claim	no	no	yes
Three day waiting period	no change	no change	yes
Set up enhanced disability fund	yes	yes	yes
Limited liability	specify clause	clause specified	yes
Set up WCB/medical committee to look at limited liability cases	yes	?	?
Revise disease schedule	yes	yes	yes
Put all industrial diseases on schedule	yes	no	no
Coordinate WCB and legislative additions to disease schedule	yes	no	no
Ease restrictions on hernia cases	yes	yes	yes
Change definition of silicosis	no	yes	no
Delete residential qualifying time for silicosis	no	no	yes
Compulsory Aluminium dust therapy	no	no	yes
Seperate clause for radiation cases	yes	yes	yes
Permit WCB to compensate worker before 12 months of disablement	yes	yes	yes
Permit WCB to give medical aid to worker not disabled	yes	yes	yes

Make inspectors' dust counts readily available and public	no	no	yes
Compulsory check-up for miners	no	no	yes
Emphysema, bronchitis, lung cancer, heart failure added to the disease schedule	no	no	yes
Curb WCB power to force workers to be medically examined	no	no	yes
Make age a factor in award assessments	yes	?	?
Eliminate loss of function calculation method in temporary partial disability cases	yes	yes	yes
Change formula of compensation for temporary disability cases	no	no	yes
Change average earnings method	no	no	yes
Change method of compensating for permanent partial disability	no	no	yes
Mandate disclosure of WCB files to workers	no	no	yes
Appoint compensation "Consultant"	yes	yes	yes
Judicial or independent review of Board decisions	no	no	yes
Restructure Board of Review	yes	partially	partially
Allow WCB to appeal to Medical Review Panel	yes	yes	yes

Allow dependent of deceased to appeal to Medical Review Panel	yes	yes	yes
Chairman of Medical Review Panel to get legal advice	yes	yes	yes
Statement of non-medical facts to be issued to Chairman of Medical Review Panel	yes	yes	yes
Chiropractors involved in Medical Review Panel	no	no	yes
Time limit for Review application	yes	yes	yes
Change terms of the Panel's certificate criteria	yes	yes	yes
Mandate Panel to send certificate to worker, doctor	yes	yes	yes
Various minor amendments to Medical Review Panel Section	yes	yes	yes
Set up complaints department	yes	yes	yes
Broaden scope of medical aid provisions	yes	yes	yes
Alter 'rights against employers' section	yes	yes	yes
Put more specific requirements on worker to report injury	yes	yes	yes
Make WCB pay if contractors default on payments	no	no	yes
Allow WCB lien to extend to contractors or sub-contractors	yes	yes	yes
Extend WCB lien from 3 years to 5 years	yes	yes	yes
Guarantee certain rights for workers returning from injuries	no	no	yes

Cover volunteer ambulance drivers, firemen, etc.	yes	yes	yes
Cover teachers & professors	yes	yes	yes
Allow individuals to purchase compensation coverage	yes	no	no
Cover pneumoconiosis victims who worked in other than the metalliferous mining industry	yes	no	no
Cease payments to child under 16 if he/she marries	no	no	yes
Eliminate maximum payment for widows who re-marry	no	no	yes
If worker receives compensation for 2 injuries it does not exceed total disability payment	yes	yes	yes
Provision for re-occurrence of disability	yes	yes	yes
Mandate employer to report fatality immediately	yes	yes	yes
Give more leeway for WCB to punish negligent doctors	yes	yes	yes
Give WCB custody of Silicosis Fund	yes	yes	yes
Give WCB authority administer agreements with other jurisdictions	yes	yes	yes

* - taking inflation into account

Note- In cases where question marks exist, it was not possible to positively determine whether or not the said recommendations took place. In some cases the wording of relevant statutes was ambiguous or beyond the legal interpretative skills of the author. In others, there was simply no documented proof that the changes took place or did not.

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38. Ibid, p. 138.
39. Ibid, p. 139.
40. Ibid, p. 138.
41. Legislative Assembly of the Province of British Columbia, Revised Statutes of British Columbia 1952, c. 15.
42. British Columbia, Report of the Commissioner Relating to The Workmen's Compensation Act and Board, p. 362.
43. Vancouver Sun, 24 October 1953, p. 29.
44. Vancouver Province, 13 November 1953, p. 29
45. Legislative Assembly of the Province of British Columbia, Revised Statutes of British Columbia 1954, c. 54.
46. Victoria Colonist, 8 April 1954, p. 28.
47. Ibid, p. 28.
48. Legislative Assembly of British Columbia, Revised Statutes of British Columbia 1955, c. 91.
49. Vancouver Province, 23 March 1955, p. 14.
50. Victoria Colonist, 28 February 1956, p. 2.
51. From reviewing letters to the editor and editorials in B.C. newspapers during the Zucco protest.
52. Victoria Colonist, 15 August 1956, p. 21.
53. The impact of the Zucco protest can be measured by the fact that Chief Justice Tysoe, in his final report, felt compelled to spend significant time discussing the case. He essentially defended the W.C.B.'s handling of the miner's case under the existing rules.
54. Vancouver Province, 9 February 1957, p. 21.

55. Vancouver Sun, 17 September 1957, p. 1.
56. Vancouver Province, 20 November 1957, p. 3.
57. Victoria Colonist, 27 October 1957, p.3.
58. Victoria Colonist, 20 December 1957, p. 31.
59. Vancouver Sun, 22 October 1958, p. 1.
60. Vancouver Sun, 3 November 1958, p. 19.
61. Vancouver Province, 19 December 1958, p. 10.
62. Victoria Times, 19 December 1958, p. 30.
63. Victoria Colonist, 22 October 1958, p.1.
64. Legislative Assembly of the Province of British Columbia, Revised Statutes of British Columbia 1959, c. 95.
65. Victoria Times, 5 March 1959, p. 19.
66. Vancouver Province, 6 March 1959, p. 2.
67. Ibid, p. 2.
68. Vancouver Province, 8 March 1959, p. 15.
69. Victoria Times, 20 January 1961, p. 13
70. Vancouver Sun, 12 November 1960, p.3.
71. Victoria Times, 10 March 1961, p. 5.
72. Victoria Times, 2 February 1962, p.12.
73. Workmen's Compensation Board,Proceedings of the Public Inquiry in the Matter of the Workmen's Compensation Act (Vancouver, BC: Workmen's Compensation Board 1965) Vol. 2, p. 187-221.
74. Ibid, Vol. 60, p. 8675.
75. Ibid, Vol. 7, p. 909.
76. Ibid, Vol. 35, p. 5046.
77. British Columbia, Commission of Inquiry, Workmen's Compensation Act (Vancouver, Queen's Printer 1966), p. 16.
78. Workmen's Compensation Board, Proceedings of the Public Inquiry in the Matter of the Workmen's Compensation Act, Vol. 3, p. 350.
79. Howard White, A Hard Man to Beat, p.108.
80. British Columbia, Commission of Inquiry, Workmen's Compensation Act, p. 368.

CHAPTER 6

1. British Columbia, Commission of Inquiry, Workmen's Compensation Act, Report of the Commissioner, (Victoria, BC: Queen's Printer 1966), p. 5-6.
2. Victoria Times, 28 December 1963, p. 17.
3. Vancouver Sun, 28 September 1962, p. 7.
4. Martin Robin, Pillars of Profit, p. 215.
5. British Columbia, Commission of Inquiry, Workmen's Compensation Act, Report of the Commissioner, p. 37.
6. Ibid, p. 42-43.
7. Ibid, p. 68.
8. Ibid, p. 35.
9. Ibid, p. 199.
10. Ibid, p. 27.
11. Ibid, p, 221.
12. Ibid, p. 148.
13. Ibid, p. 367-394.
14. Ibid, p. 187.
15. Ibid, p. 288.
16. Ibid, p. 16.
17. Ibid, p. 16.
18. Vancouver Province, 11 March 1965, p. 22.
19. Vancouver Province, 12 March 1965, p. 1.
20. Vancouver Sun, 11 March 1965, p. 13.
21. Vancouver Sun, 26 October 1965, p. 1.
22. Victoria Times, 3 November 1965, p. 25.
23. Ibid, 3 November 1965, p. 25.
24. Ibid, 3 November 1965, p. 25.
25. Vancouver Sun, 19 November 1965, p. 5.
26. Vancouver Sun, 8 March 1967, p. 3.
27. Ibid, 8 March 1967, p. 3.
28. Ibid, 22 March 1967, p. 31.

29. Victoria Colonist, 17 March 1966, p. 11.
30. Vancouver Sun, 17 March 1966, p. 10.
31. Vancouver Sun, 15 March 1967, p. 29.
32. Victoria Colonist, 21 March 1967, p. 1.
33. Vancouver Sun, 21 March 1967, p. 15.
34. Victoria Colonist, 7 March 1968, p. 18.
35. Victoria Times, 6 March 1968, p. 17.
36. B.C. Federation of Labor, Submission on Workmen's Compensation in British Columbia to the Minister of Labor, (Vancouver, BC: B.C. Federation of Labor 1971).
37. Legislative Assembly of British Columbia, Revised Statutes of British Columbia 1972, c. 64.
38. His brother, Albert King, had been one of labour's most prominent spokesperson during the series of royal commissions on worker's compensation.
39. Interview with Bill King.
40. Legislative Assembly of British Columbia, Revised Statutes of British Columbia 1974, c. 101.
41. B.C. Federation of Labor, Submisson on Workers' Compensation in British Columbia to the Minister of Labour, (Vancouver, BC: B.C.Federation of Labor, 1974), p1.
42. International Woodworkers of America, Submission on Workers' Compensation in British Columbia to the Minister of Labor (Vancouver, BC: International Woodworkers of America 1976), p. 2.
43. Workmen's Compensation Board, Proceedings of the Inquiry into the Workmen's Compensation Act, (Vancouver, BC: Workmen's Compensation Board 1966), p. 29, 167.
44. Ibid, p. 4466.
45. Ibid, p. 4468.
46. Ibid, p. 30,570
47. British Columbia, Hansard, 15 October, 1971, p. 373.
48. Although the W.C.B. covers such areas as safety standards and workplace exposure standards for hazardous chemicals, in addition to compensation issues, the Royal Commissions did not deal with them much. It can only be surmised that lack of technology (i.e. exposure measuring instruments) and scientific research in these areas at this time precluded much discussion in this regard. Labour seemed much more interested in cure than in prevention. They seemed satisfied to defer to the expertise of W.C.B. plant inspectors.

CHAPTER 7

1. R. Kent Weaver, "The Politics of Blame Avoidance", Journal of Public Policy, Vol. 6 Part 4, 1986, p. 371-398.
2. From a review of Lise Maillet, Provinicial Royal Commissions and Commissions of Inquiry.
3. Richard U. Miller & Fraser Isbester, Canadian Labor in Transition, (Prentice-Hall: Scarborough, ON, 1971), o. 103
4. Richard Rose, "What is Lesson-Drawing?", Journal of Public Policy, Vol. 11 Part 1, 1991, p. 3-30.
5. H.Allen Hunt, Peter S.Barth & Michael J. Leahy, Workers' Compensation in British Columbia: An Administrative Inventory at a Time of Transition, (W.E.Upjohn Institute Employment for Research, Kalamazoo, MI, 1991), p.xxv

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