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The Project of the Provincial Labour Code

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Article abstract

The project of the Labour Code presented to the Quebec Legislature with the Bill No. 5 is now history. As this legislative project had considerable scope, various opinions on the subject were expressed and it was withdrawn. We are therefore publishing, as a matter of record, the declaration of the Honourable Antonio Barrette, Minister of Labour, at the time Bill No. 5 was withdrawn, as well as that of the Canadian and Catholic Confederation of Labour and of the Ecclesiastical Commission of Social Studies. It will be noticed that the text of the Ecclesiastical Commission of Social Studies was not sent to the newspapers but to the Members of the Legislative Assembly. The Members of this Commission are: the Revd. Paul Emile Bolté, p.s.s., Professor of Social Sciences in the Faculty of Theology at the University of Montreal; the Revd. Father Emile Bouvier, s.j., Director of the Industrial Relations Section of the University of Montreal and moral adviser of the « Association Professionnelle des Industriels »; the Revd. Father Jacques Cousineau, s.j., moral adviser of the Central Council of the National Syndicates of Montreal and of various Federations affiliated to the Canadian and Catholic Confederation of Labour; the Revd. Gérard Dion, Assistant-Director of the Department of Industrial Relations of Laval University, moral adviser of the employers' associations of the Diocese of Quebec; the Revd. Omer Genest, moral adviser of the National Catholic Syndicates, Diocese of Chicoutimi and the Revd. Henri Pichette, general moral adviser of the Canadian and Catholic Confederation of Labour.

tion: 2; Trade: 15 and Services: 19. If we compare the total of this group to the former one, it would appear that we may conclude that none of these nineteen decrees has such advantages: Baking Industry in Granby, Construction Industry in Lake St. John (two decrees), Joliette, St. Hyacinthe, St. Jean, Eastern Townships, Terrebonne and Trois Rivieres; Trade in Sherbrooke and in Magog; Services — barbers and hairdressers in Rouyn and in Sherbrooke. We note however, that of this number, fourteen decrees concern seasonal enterprises, i.e. nine in Construction and five in Stevedoring. We must also state that Ordinance No. 3 does not apply to workers engaged in the construction of buildings. These last decrees are therefore not inferior on this point to the Minimum Wage Commission's ordinance.

On the other hand it is interesting to observe that twenty-two decrees of which ten in Manufacturing, one in Transportation, seven in Trade and four in Services give two weeks paid vacation and more than that, one decree in the Mining industry gives three weeks to the employees subject to it. The workers covered by these twenty-three decrees therefore benefit by much more generous advantages than those set forth by any other regulation.

However, it must be observed that in spite of the general tendency to establish a more favourable system, forty-eight decrees give only one week

annual vacation with pay without obliging the employer, in case of the termination of labour contract, to give a compensating indemnity for the vacation accumulated, as specified by Ordinance No. 3 for those employees under its jurisdiction.

More than this, we find ten decrees which permit compensation of double the salary in place of paid vacation. Such a provision cannot be interpreted as a guarantee of annual paid vacation. This is a premium for work rather than a right to annual vacation with pay.

In spite of the imperfections that can be found in these regulations, it can be seen that the present situation shows great progress, especially if we compare it with the year 1940, when only four decrees called for annual paid vacation. Seven years later, i.e. in 1947, sixty-one decrees included such provisions. The year 1948 brought an appreciable gain of sixteen new regulating measures without considering that some decrees added to the advantages already granted.

Let us mention also, in concluding this brief analysis, that among the establishments contemplated by the decrees, a great many apply a much more advantageous policy than that legally required, going up to four weeks of annual paid vacation or granting annual payment of vacation to their employees on a graduated scale.

DOCUMENTATION

THE PROJECT OF THE PROVINCIAL LABOUR CODE

The project of the Labour Code presented to the Quebec Legislature with the Bill No. 5 is now history. As this legislative project had considerable scope, various opinions on the subject were expressed and it was withdrawn. We are therefore publishing, as a matter of record, the declaration of the Honourable Antonio Barrette, Minister of Labour, at the time Bill No. 5 was withdrawn, as well as that of the Canadian and Catholic Confederation of Labour and of the Ecclesiastical Commission of Social Studies. It will be noticed that the text of the Ecclesiastical Commission of Social Studies was not sent to the newspapers but to the Members of the Legislative Assembly. The Members of this Commission are: the Revd. Paul Emile Bolté, p.s.s., Professor of Social Sciences in the Faculty of Theology at the University of Montreal; the Revd. Father Emile Bouvier, s.j., Director of the Industrial Relations Section of the University of Montreal and moral adviser of the « Association Professionnelle des Industriels »; the Revd. Father Jacques Cousineau, s.j., moral adviser of the Central Council of the National Syndicates of Montreal and of various Federations affiliated to the Canadian and Catholic Confederation of Labour; the Revd. Gérard Dion, Assistant-Director of the Department of Industrial Relations of Laval University, moral adviser of the employers' associations of the Diocese of Quebec; the Revd. Omer Genest, moral adviser of the National Catholic Syndicates, Diocese of Chicoutimi and the Revd. Henri Pichette, general moral adviser of the Canadian and Catholic Confederation of Labour.

THE HONOURABLE MINISTER OF LABOUR

The very day of the opening of the Session, in the name of the Government, I had a draft labour code distributed to the Members of the Legislature.

On several occasions, the Honourable Prime Minister and myself declared that this was but a project liable to be amended, and that we were quite willing to receive, study and consider all constructive suggestions that might be set forth.

In the Speech from the Throne, read by His Excellency the Lieutenant-Governor at the opening of the Session, it was said:

« A draft labour code will be submitted to you and my Government will receive with pleasure all good suggestions, of a constructive nature, which may be submitted to it, for it is its wish that the Province be provided with the best labour code, respectful of the rights of the individual and safeguarding the commonweal. »

I cannot insist too much on the fact that the measure was but a project and not an act. As soon as the elected Members of the Legislature had been given a copy of the draft, other copies were forwarded to labour unions and employers' associations and, lastly to all those who requested copies thereof.

We wanted, as we still want, to take all the necessary time to study this important legislation.

I regret that certain persons, before taking sufficient time to study and fully understand the project, condemned

it in a radical fashion, making no suggestion despite the repeated invitations of the Premier and the Minister of Labour.

This legislative project is the result of extensive studies by competent, conscientious and personally disinterested persons. A project prepared with so much care deserves better than a premature criticism devoid of consideration and study.

Since this legislative project, for it is not an act, has been submitted to the Members who had the right, as representatives of the people in a democracy, and under a parliamentary system, to be first informed thereof, words have been uttered and threats have been made.

Useless to say that a Government and a Legislature, conscious of their responsibilities, cannot be influenced in their decisions and in the exercise of their powers by such regrettable actions.

Happily, we have also received from qualified persons suggestions and recommendations of a constructive nature, of which we will take account. Because of such representations and constructive suggestions, even though we have the power to proceed further, with such amendments as the Legislature may think just and appropriate, we wish to give an additional proof of our good will and of our desire to bestow upon the Province the best and most matured legislation. Therefore, to give us time to study all suggestions received and those to come which might prove to be constructive, appropriate and advisable, it is my desire that the said project be not submitted to the Legislature at the present Session and, so as not to make unnecessary changes on the agenda, I withdraw it in the name of the Government.

THE ECCLESIASTICAL COMMISSION OF SOCIAL STUDIES

The Ecclesiastical Commission of Social Studies is a group of priests appointed by the Archbishops and Bishops of the Province of Quebec. It concerns itself with the study of the problems of labour relations in regard to the social doctrine of the Church.

This Commission, on its own responsibility, feels that it must, under the present circumstances, recall certain fundamental points of the Christian social doctrine, from which all legislation on labour relations, particularly in the Province of Quebec, should be inspired.

1. Exact notion of the right of association which goes beyond the individual conception of liberty.

2. Real protection of the exercise of the right of association. This protection is shown in actual fact by the possibility of organizing at least federations of unions and by the possibility of including union security clauses in collective agreements.

3. Right for all to obtain justice by measures to protect salary and working conditions, by the negotiation of collective agreements and by recourse to conciliation and arbitration which would take place in normal conditions of efficiency and impartiality.

4. Reducing to reasonable limits the competition between enterprises, regardless of their organization, their size and their place of operations.

5. In the establishment of administrative commissions, respect of the balance of power, mainly the distinction between the legislative, executive and judicial.

6. Peaceful cooperation between employers and employees, city and rural districts and their various respective institutions.

The Commission feels that a Provincial labour code has become more and more timely and necessary in order to coordinate and improve the existing legislation in regard to labour relations, but without criticizing the intentions of the authors of Bill No. 5; « An Act enacting the Labour Code of the Province of Quebec », it regrets to state that this projected law, as it was presented at the opening of the Provincial Session in January, 1949, does not sufficiently take into consideration the points brought out and does not meet all the present requirements of social justice.

To the Members of the Quebec Legislative Assembly.
The Ecclesiastical Commission of Social Studies,
January 26, 1949.

by J. C. LECLAIRE, P.D.
President.

THE CANADIAN AND CATHOLIC CONFEDERATION OF LABOUR

The Canadian and Catholic Confederation of Labour has studied in its details Bill No. 5 — a draft of the labour code submitted to the Legislative Assembly of the Province of Quebec. Undoubtedly, our readers in want of an opinion about this historical debate will appreciate knowing the conclusions arrived at through this study. The President and Legal Adviser of the C.C.C.L. have drawn up a censure of this Bill in fifteen clear and precise points as follows:—

1.—Bill No. 5 constitutes a flagrant violation of the freedom to organize as generally understood;

2.—Bill No. 5 abolishes union security, with the exception of voluntary check-off;

3.—Bill No. 5 contains abusive provisions regarding the integrity of associations and allows the possible interference of the Labour Relations Board at any due and undue time;

4.—Bill No. 5 contains unjustifiable exclusions, which are an impediment to the right of association, i.e. exclusion of enterprises having less than ten employees in rural municipalities, exclusion of certain cooperative societies, etc.;

5.—Bill No. 5 reforms in a retrogressive way the arbitration boards and grants to the president of the board almost an absolute power to render alone a decision without taking into consideration the viewpoint of the other members of the board;

6.—The inclusion in Bill No. 5 of provisions from the Civil Code in matter of hiring individual services, is restoring an absolute power in favor of the employer, so that seniority provisions, for instance, might all be illegal. Many disputes, namely those connected with hiring, sus-

pension or discharge, are consequently dependent on the final decision of the employer;

The restriction in Bill No. 5 referring to union activities becomes almost inoperative in any practical way;

7.—Furthermore, the inclusion in Bill No. 5 with an absolute sense of the principles governing the Civil Code, introduces the rules of non-stipulation for others; and if the « Rand » formula had not yet been excluded by some other clauses, it would be surely excluded with regard to Civil Code;

8.—Bill No. 5 renders almost impossible in all cases the use of the right to strike;

9.—Bill No. 5 contains a series of vexatious procedures that can only place the life of labour unions in continual danger;

10.—Bill No. 5 creates new obligations for labour unions which are equivalent to a real control of said unions by the state;

11.—Bill No. 5 establishes a Labour Relations Board which, besides absolute and abusive powers, makes it an instrument of the government;

12.—Bill No. 5 contains everything necessary to have any worker classified as communist;

13.—The duration of collective agreements favours companies' unions in particular;

14.—Lower penalties in favour of the employer and higher penalties against the employees represent a poor social orientation;

15.—Nothing in Bill No. 5 is in favour of the existence and maintenance of labour unions. Everything is directed towards the disappearance of free unions.¹

(1) *Le Travail*, février 1949.