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Résumé de l'article

The awards studied under the present heading have been rendered during the months of March, April, May and June of this year. The points which we found to be of most interest in these awards are covered under the various subjects mentioned.

# ARBITRATION JURISPRUDENCE

*The awards studied under the present heading have been rendered during the months of March, April, May and June of this year. The points which we found to be of most interest in these awards are covered under the various subjects mentioned.*

## 1—WAGES

We would like first of all to refer to five arbitration awards which determine the wage conditions for public transport enterprises, either goods or people. These awards concern the following companies: *Inter-City Transport Ltd.*<sup>1</sup>; *Quebec Transport Reg'd.*<sup>2</sup>; *La Commission de Transport de Montréal*<sup>3</sup>; *La Compagnie d'Autobus Victoire Ltée*<sup>4</sup>; *La Compagnie Laval Transport Inc.*<sup>5</sup>

- (1) Department of Labour, Document No. 566, pages 3 and 4; date of award: March 12th, 1952. Dispute between "Inter-City Transport Limited" and "Transport Drivers, Warehousemen and Helpers Union". Council members: President: Judge J. Alfred Gaudet; employer's representative: M. C. Reynolds; employees' representative: Philip Cutler.
- (2) Department of Labour, Document No. 565, page 3; date of award: March 12th, 1952. Dispute between "Quebec Transport Reg'd." and "Transport Drivers, Warehousemen and Helpers Union". Council members: President: Judge J. Alfred Gaudet; employer's representative: M. C. Reynolds; employees' representative: Philip Cutler.
- (3) Department of Labour, Document No. 571, page 7; date of award: March 28th, 1952. Dispute between "La Commission de Transport de Montréal" and "La Fraternité Canadienne des Employés de Chemins de fer et autres transports". Council members: President: Achille Pettigrew; employer's representative: Robert Lafleur; employees' representative: Guy Merrill Desautniers.
- (4) Department of Labour, Document No. 578, page 1; date of award: April 21st, 1952. Dispute between "La Compagnie d'Autobus Victoire Ltée" and "La Fraternité Canadienne des Employés de Chemins de fer et autres transports". Council members: President: Gaston Pouliot; employer's representative: Jacques Trahan; employees' representative: Jacques Chalouit.
- (5) Department of Labour, Document No. 610, pages 3 and 4; date of award: June 19th 1952. Dispute between "Laval Transport" and Association Amalgamée des Employés de Tramways Electriques et Chauffeurs d'Amérique". Council members: President: Judge Rene Lippe; employer's representative: Jacques Trahan; employees' representative Lucien Tremblay.
- (6) *Ibidem*, Document No. 565, page 3.

The following remarks, that may be read in the award of *Quebec Transport Reg'd.*, seem worthy of notice:

*"It has been proved before the Council that in the case where transport companies operate under a Union contract, the method of payment of wages is usually based on the mileage driven.*

*The proof presented by the witnesses operating transport companies in the territory to which the present decision must be applied, establishes that all the companies, except one, pay wages on a weekly basis.*

*The Council is obliged to take into consideration the wage rates which prevail in this district.*

*The Council is convinced, for the purposes of this decision, that the only practical method for calculating the rates is necessarily that based on the mileage driven, considering the difficulty of establishing the degree to which each company could be otherwise affected."*<sup>6</sup>

In the award of the *Commission de Transport de Montréal*, the president of the Council, the Hon. Judge Laetare Roy, expresses what he thinks of the comparison between Montreal and Toronto as far as wages are concerned.

After having recalled an arbitration award rendered June 9th, 1950 by the

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Council presided by the Hon. Judge Georges Héon, to decide a similar dispute and in which the distinguished Judge has cast doubt on the comparisons made by the Union concerned at that time in regard to wages paid to Toronto and those paid in Montreal, Judge Roy declared the following:

*"It is correct that we may not, in every case, accept as serious proof the fact in Toronto or elsewhere higher wages are paid than in Montreal. Business industry has not an international character, and it would not be correct to compare wages paid in other countries with the purpose of fixing and determining those that should be paid in Canada. But it is not the same when it concerns the establishing of an effective comparison between the different Provinces in the country, as to wages paid workers, and, especially if we consider only the two Eastern Provinces, Quebec and Ontario, the two richest and most industrialized Provinces in the country. This comparison is not and must not be arbitrary, but helps us to find an equitable solution to the problem before this Arbitration Council. After all, the standard of living does not differ to any extent in one or the other of these two provinces.*

*It is obvious that each decision is a decision applicable to that case and on this subject we cannot establish an inflexible barometer. Each industry has its own particular characteristics and requirements. The revenues and the risks often differ, and, moreover, the profits are not always identical in character.*

*However, Montreal is the metropolis of the country, its population reaches 1,400,000 inhabitants, its business is varied and flourishing, its industry is well equipped and its financial and economic influence extends all over the country.*

*We note the arguments brought forward by the distinguished president of a recent arbitration council and emphasized by the Commission in its factum. Only we must be guided by the proof submitted during the course of the present arbitration.*

*It is true that there is a difference in wages between Montreal and Toronto in certain industries, but this*

*difference has a tendency to grow less every day. A few industries or commercial enterprises in Toronto benefit from substantial financial reserves, but this does not make up an irresistible argument, and bus drivers have a right, just as other wage-earners of large enterprises, to an increase in wages, at least equivalent to the increase in the scale of prices.<sup>7</sup>*

Finally, in the case of the *Compagnie d'Autobus Victoire Limitée*, the arbitration council, after having recognized that the employees' requests for increases in wages are not without foundation, declares that *"the nature of the franchises granted to this Company entails a distribution of the work which makes it difficult for the employee to gain a regular and sufficient weekly pay."*

Following this argument, it is mentioned in the arbitration award that the proof made by the Company of its absolute incapacity to pay any wage increase has been very clear. The president in his majority report adds the following:

*"This information of the administration has a particularly confidential character and it does not appear to be either necessary or opportune to reveal it, nor to support our conclusions with too many particulars."*

Any increase in wages is therefore refused, the Union representative dissenting.<sup>8</sup>

In the award rendered in the case of *The Montreal Hat & Cap Manufacturers' Association* it is proposed that a new formula for adjusting wages to the cost of living index be established. Here are the terms in which this formula is presented:

*"Instead of a clause of automatic adjustment in accordance with the variations in the cost of living index, the collective agreement may establish that the negotiating agent, the Union, would have the right at any time, to re-open the discussions in regard to wages during the term of the collective agreement, if there were an in-*

(7) *Ibidem*, Document No. 571, page 7.

(8) *Ibidem*, Document No. 578, page 1.

*crease in the cost of living index after April 1st, 1952."*<sup>9</sup>

In another case, that of the *Dominion Textile Co. Ltd.*<sup>10</sup>, the representatives did not reach any agreement on the question of increase in wages, the employer's representative recommending \$0.06 per hour; the union representative \$0.20 per hour; the president of the council, \$0.13 per hour.

The president of this council explains that in coming to this decision, he has taken into consideration the interests of the following groups: a) the Company's employees; b) the Company's shareholders and c) the consumers.

In his award, the judge gives as a reason for his decision, the difficult economic conditions in which the entire Canadian textile industry finds itself. He states that proof has been presented of the considerable drop in orders in the last six months, of the heavy inventories being carried and the necessary slow-down in production. As the principal explanation of the present situation, the distinguished judge states as follows:

*"One of the principal reasons is without contradiction the fact that the retailers and the consuming public laid in stock last year much more than normally required, in the expectation of an increase in prices caused by the Korean War."*<sup>11</sup>

Among other things, the president notes, that, in spite of the fact that the American textile industry pays higher wages to its employees, that is a differential of about \$0.32 per hour, the American competitors sell on the Canadian market similar products to those manufactured by the Company in this case at a lower price than the latter.

(9) Department of Labour, Document No. 574, page 2; date of award: April 1st, 1952. Dispute between "Montreal Hat & Cap Manufacturers Association" and "Cap Makers Union". Council members: President: Joseph H. Fine; employer's representative: Isadore Golden; employees' representative: Maurice Silcoff.

(10) Department of Labour, Document No. 587, page 10; date of award: March 13th, 1952. Dispute between "Dominion Textile Company Limited" and "United Textile Workers of America". Council members: President: Judge Rene Lippe; employer's representative: A. Stewart McNichols; employees' representative: Jacques Perreault.

(11) *Ibidem*, Document No. 587, page 10.

Any increase in wages granted, would reduce the differential and would make American competition more difficult for Canadian products.

It is probably one of the principal reasons why the president of the council has recommended to the Union the setting up of the bonus plan suggested by the Company.

The president of the council emphasizes also that some employers of the United States in the textile industry have recently renewed their collective labour agreement with their employees represented by responsible unions; but, this renewal does not show any increase in wages and, in certain cases, shows even a reduction for the industries manufacturing textile substitutes.

The president recognizes, however, that the wages paid in the United States are much higher than those paid here.

We believe it is our duty to quote, furthermore, these words of the president of the council which are most explicit in the case of the textile industry:

*"Moreover, it is necessary to consider the fact that we have refused to grant the additional demands of the union of an economic nature for the reasons already mentioned. Finally, your president is of the opinion that if the Dominion Textile Company Limited is the leader in the Canadian textile industry in regard to production, it is only just that this Company should also be the leader in regard to wages and working conditions in general. We must also note the fact that the agreement which we are recommending that the two parties sign, is for the period of one year from the date of signature, and that it is impossible to foresee at present what will be the economic conditions during this period of time. There is no doubt that in the present period, both parties must make sacrifices, the Union in consenting to accept less than its original demands and the Company by going to the extreme limit of its capacity to pay, without, however, affecting its financial structure, to grant its employees an increase in wages, as this human capital is without contradiction the*

*most important asset of the Company.*"<sup>12</sup>

The increases in wages in the case of Hospitals always present some difficulty. In the case of the *Hotel Dieu de Sherbrooke*<sup>13</sup>, the president of the council reports that the direction of this institution, which, although important, has not yet been in existence ten years, pleaded incapacity to pay, while at the same time not maintaining that the wages demanded by the employees were exaggerated.

The employer maintained that the difficulties encountered by a newly-founded institution of such a size and the good working conditions offered to the personnel, this Hospital being a very modern institution, should justify lower wages than those paid in similar institutions.

The president of the council states that such a reason cannot be admitted because, in such a case, it would be the employees who would be obliged to pay a large part of the burden of hospitalization. This burden, because of the public character of this institution, belongs rather to society as a whole. In accordance with the majority opinion of the members of the council, it is the more fortunate classes that must be asked to pay for this.

To come back to the textile industry, we refer our readers to the case of *Duplan of Canada Limited*<sup>14</sup>. It is interesting to note that the remarks of the president of the council are just about the same as those already reported concerning Dominion Textile Company Limited. The employer's representative presented a minority report in this award.

In the case of the *H & R Arms Company Limited*<sup>15</sup>, some interesting considerations are contained in the majority report as well as in the minority report of the arbitration council. Some special questions have arisen, as the Company in question, newly-established in the Province of Quebec, is, not legally, but actually, a subsidiary of an important American company.

The majority report carries the discussion on the industrial relations phase. It proposes a compromise on the question of wages without expressing an opinion on the amount of the increase to be granted. In other words, the award gives the advantage to the union concerned of signing a collective agreement with this Company; to negotiate again an increase in wages for the duration of the agreement. This proposition, says the award, would have the result of placing the union in a better position to negotiate a labour agreement.

In the minority report of the employees' representative, the discussion is carried on in a more absolute and much higher sphere. There is considered the Canadian-American economic relations and the attitude that should exist between our Federal and Provincial governments in relation to the entry of American capital into the Province.

The minority report adds that a company newly-established in the country with American backing, should not be able to submit as proof, the statement of its receipts and expenditures to prove incapacity to pay the wages claimed by their employees. Evidently these wages should be at the level of the wages paid in other industries of the place and of the district where such a company decided to establish.

We wish under this heading of wages, to emphasize one more case, that of the *Scieries Saguenay et Al*<sup>16</sup>.

(12) *Ibidem*. Document No. 567, page 11.

(13) Department of Labour, Document No. 573, page 4; date of award: March 27th, 1952. Dispute between "Hotel Dieu de Sherbrooke" and "Alliance des Infirmiers de Sherbrooke". Council members: President: Raymond Beaudet; employer's representative: Lucien Hebert; employees' representative: Pierre Vadeboncoeur.

(14) Department of Labour, Document No. 587, page 8; date of award: May 14th, 1952. Dispute between "Duplan of Canada Limited" and "Le Syndicat National Catholique du textile de Montmagny Inc." Council members: President: Judge Joseph Bilodeau; employer's representative: Pierre Letarte; employees' representative: Louis-Philippe Pigeon.

(15) Department of Labour, Document No. 603, pages 8 and 9; date of award: June 14th, 1952. Dispute between "H. & R. Arms Company Limited" and "Association des Employés d'armes à feu de Drummondville". Council members: President: Jean H. Gagne; employer's representative: Jean Massicotte; employees' representative: Pierre Vadeboncoeur.

(16) Department of Labour, Document No. 609, pages 6-7-8; date of award: June 12th, 1952. Dispute between "Scieries Saguenay et Al" and "Différents syndicats de la Région du Lac St. Jean". Council members: President: Judge René Lippe; employers' representative: Arthur Matteau; employees' representative: Oslas Fillon.

The particularity of this case is that it covers nine employers grouped in the districts of Chicouimi and La'Ve St. John. This initiative of the employers represented by the *Association Professionnelle des Industriels* did not have as an aim, the securing of a decree by law.

We believe that such an initiative favours the conception of collective negotiation on an industry-wide scale in a given district. As the president says, in a unanimous report:

*"It is in the interest of the parties that an identical agreement be signed by the Union and all the employers, as much for the non-economic clauses as for those of an economic nature, including the classification and the fixing of basic rates, except for the differential between districts as explained hereafter."*

We believe that such a formula while securing for the employers and for the employees the same advantages that a decree extended by law would leave to them the entire responsibility of the application of the collective agreement in their respective enterprises and a larger share in the negotiations of such agreements.

In addition to these particularities, this arbitration award contains, in our opinion, some very interesting considerations on the way of looking at the establishment of a differential in the wages paid by enterprises situated in the same district but at different places. We can also see how the particular case of an employer, who, because of special circumstances, cannot pay the same wages as his competitors, is treated. This shows us that a formula of negotiation of a collective agreement on an industry-wide scale in a given district could still keep enough flexibility to establish reasonable differentials in the fixing of wage rates. It could also cover the particular cases which might arise, as, for example, the financial difficulties of a given employer.

## 2—RETROACTIVITY

As we know, the principle of retroactivity is applied differently in the arbitration awards. The period during which the increase in wages will be retroactive is connected with that of the

length of the agreement made by the two parties.

In the following two cases, that of *Quebec Newspaper Co.*<sup>17</sup> and that of *Dominion Textile Co.*<sup>18</sup>, the entire retroactivity back to the date of the expiration of the former agreement is granted the parties in dispute.

We quote here the very words used by the president of the arbitration council, the Hon. Judge René Lippé, by which this retroactivity is granted in the case of the Dominion Textile Company.

*"Your council is unanimous in recognizing the principle of retroactivity of wages. Mr. Jacques Perreault, employees' representative and the president of your council are of the opinion that the increase in wages on which the parties will settle when signing the agreement between them should be retroactive to the date of the former agreement for the employees who have been continually in the employ of the Company since that date or from such subsequent date for the employees who entered the employ of the Company after September 5th, 1951 and who are still in its employ. Mr. A.S. McNichols, employer's representative while admitting the principle of retroactivity wishes to make some reservations as to the quantum because of the present economic situation, reservations which he explains in his separate report. Consequently, your president recommends that the Company pay retroactively to each of its employees that has been continuously in its employ either since September 5th, 1951 or since any other subsequent date, an amount of 13 cents per hour for each hour worked by its employees either since September 5th, 1951 or since any other subsequent date of their employment by the Company as mentioned before.*

*This retroactivity should be paid by the Company in the month following*

(17) Department of Labour, Document No. 564, page 3; date of award: Feb. 26th, 1952. Dispute between "Quebec Newspaper Co." and "L'Union typographique". Council members: President: Joseph Marier; employer's representative: Adrien Villeneuve; employees' representative: Jacques De Billy.

(18) Ibidem, Document No. 567, page 11.



*the date of the signature of the agreement between the two parties."*

In another case, that of *Vapor Car Heating Company of Canada Limited*<sup>18</sup>, the members of the arbitration council, in a majority award, the employer's representative dissenting, granted retroactivity in spite of the fact that the parties were coming to their first agreement. The president of this arbitration council, in his report emphasizes that the council having been constituted January 23rd of the present year, this retroactivity should not go back beyond January 1st of the same year. In the text of the award, this decision seems to have been connected with involuntary bad faith on the part of the negotiating agents. Here is how the president expresses himself on the subject.

*"Furthermore, although the negotiations may appear to have been somewhat protracted, the majority members of your Council have taken into consideration the fact that this is the first labour agreement ever negotiated by the Employers, which may account for some initial diffidence on their part, where such diffidence might amount to some degree of bad faith on the part of more seasoned negotiators."*

In another case, where it also concerned a first agreement, that of *Scieries Saguenay et Al*<sup>20</sup>, the members of the council did not grant any retroactivity. The president of the council emphasized that the argument of incapacity to pay has also been considered in this decision.

In the case of *Duplan of Canada Limited*<sup>21</sup>, in spite of the fact that the Company in question put forth strong proof of its incapacity to pay, in spite of the fact that the Company pretends to be tied down by its policy of fixing prices six (6) months in advance, the president of the council, the Hon. Judge Bilodeau, and the employees' representa-

tive decided, in majority, to grant a retroactive effect to the increase in wages provided for, to be calculated from the expiration of the present labour agreement. The only remedy reached, is to recommend an extension of the term of the labour agreement which will be entered into for twenty (20) months instead of for twelve (12).

In another case, that of the *Compagnie de bois de Ste Agathe Ltee*<sup>22</sup>, the council members, unanimously, and with the aim of helping the parties reach a reasonable agreement in the application of the arbitration award decided to grant a fixed sum of \$25.00 as compensation to all wage-earners of this Company having at least one year of continuous service with the Company prior to the date of the arbitration award. This compensation is granted to replace retroactivity.

The question of retroactivity in relation to the proof of incapacity to pay presented by the Company involved, has been discussed in the case of a public transportation enterprise, that of *Laval Transport Inc.*<sup>23</sup>. Retroactivity has not been granted and here are the terms expressed by the council members on the subject as voiced by the president, the Hon. Judge René Lippe.

*"We recognize unanimously the principle of retroactivity. However, we believe that, at present, it is impossible to pay any retroactivity whatever. We do not believe, after studying the balance sheet and other documents placed before your arbitration council that the Company has the means to do so. We wish also to emphasize the fact that we have taken into consideration in fixing the new rates of wages the fact that no retroactivity has been paid. Evidently, this has not been the only factor but one of the factors that we have studied on this question."*

Retroactivity is also refused in another case for the same reason, the Com-

(19) Department of Labour, Document No. 590, page 4; date of award: May 14th, 1952. Dispute between "Vapor Car Heating Company of Canada Limited" and "United Steelworkers of America". Council members: President: Roger Oulmet; employer's representative: George Gilbert Walsh; employees' representative: Romeo Mathieu.

(20) *Ibidem*, Document No. 609, pages 11 and 12.

(21) *Ibidem*, Document No. 587, page 4.

(22) Department of Labour, Document No. 606, page 2; date of award: June 13th, 1952. Dispute between "La Compagnie de Bois de Ste. Agathe Limitee" and the "Union des Travailleurs du bois ouvre de Ste. Agathe des Monts". Council members: President: Jean Filion; employer's representative: Gaston Cloutier; employees' representative: Gerard Poltras.

(23) *Ibidem*, Document No. 610, page 4.

pany's incapacity to pay. The council members are unanimous on this subject. It is the case of the *Association Patronale des Manufacturiers de Chaussures du Quebec* jointly with the *Wilmont Shoe Company Ltd*<sup>24</sup>. However, the president of the council emphasizes that:

*"The question of retroactivity has been decided in the present case on grounds of means and not of principle."*

### 3—WAGE INCENTIVE PLAN

In the arbitration award concerning the *Dominion Textile Company Ltd*.<sup>25</sup>, there is dealt with a request by the Company in question in regard to the setting up of a wage incentive system. This award is a majority one, the employees' representative dissenting. Here is the terms in which this request is granted:

*"The majority of your council is of the opinion that this wage incentive plan is not a bad thing in itself. In fact, if it is well applied, it will allow the Company to produce more while decreasing its cost price, to maintain more stability in employment, which is a sound policy and will also allow the worker to make a higher wage without "speed-up" of tasks. Consequently, it is the majority opinion of your council that what might be dangerous for the workers is a bad application of the plan, and not, as we have said, the plan itself. However, we are of the opinion that the clauses of the agreement that we are recommending for signature to the parties, contain all the necessary precautions."*

The president of the council then explains how the employees may make a loyal trial of this wage incentive plan without being victims of any injustice on the part of the Company towards them.

He emphasized among other considerations that it has been proved out-

side of this arbitration that the textile industry is at present going through a most difficult financial crisis of which the causes are varied.

The president then mentioned that the most important competition that the Canadian industry must face comes from the United States. However, in the majority of the American factories, such system of wage incentive has already been set up.

Finally, the president of the council and the employer's representative make suggestions for setting up this plan:

*"The employer's representative and the president of this arbitration council recommend that the Company, before putting its programme of wage incentive plan in force, bring together the Union's stewards and the Company's personnel responsible for the carrying out of this plan in order to explain the basic principles of the plan. Furthermore, we recommend that the Company consider very seriously the opportunity of training one of its employees in each factory concerned, a union member, in time-study work. This employee would be chosen by the Union and should be accepted by the Company. We believe that such an arrangement would permit the union members to better understand time-study work, and, furthermore, would assure them more adequate protection in case they would have grievances against the fixing of standards."*

Under this same heading, we may note another arbitration award which deals with job evaluation and the classification of employees. This is the case of the *Vapor Car Heating Company of Canada Limited*<sup>26</sup>. The president of the council explains the problem of an enterprise in which a poor job evaluation and a poor classification of employees work against the best interests of both parties.

We note that in this award the council members have decided unanimously that the occupational classification should be left to management concerned: they add that, if this classification is very much to their disadvantage, it could form the subject of grievances.

(24) Department of Labour, Document No. 607, page 12; date of award: June 10th, 1952. Dispute between "L'Association Patronale des Manufacturiers de Chaussures du Quebec" jointly with the "Wilmont Shoe Company Limited" and "Le Syndicat des Travailleurs en Chaussures de Montreal". Council members: President: Judge Rene Lippe; employer's representative: Marcel Cazavan; employees' representative: Marc Lapointe.

(25) Ibidem, Document No. 567, page 6.

(26) Ibidem, Document No. 590, page 3.



Under this heading of job evaluation, let us emphasize the award rendered in the dispute between *Canadian Industries Limited* and its employees' union<sup>27</sup>. In this case, the council members unanimously decided that the Union's request that the Company give it a complete description of the 350 or more jobs filled by the employees, should be refused, because of the disadvantages such a method might have for the Company.

#### 4—UNION SECURITY

We shall only mention here a few cases which drew our attention. In the arbitration award concerning *Simmons Limited*<sup>28</sup> the council members recommended that the employees be given a choice to sign either a voluntary revocable or a voluntary irrevocable check-off, saying that while some employees are ready to agree to irrevocable terms, some are not.

In the case already quoted of *Scieries Saguenay et Al*<sup>29</sup>, the employees requested the imperfect union shop with obligatory and irrevocable check-off but refused to grant any other form whatever of union security saying that the majority of the council is of the opinion that in virtue of the laws in force, it is not possible to force the employers to accept such a clause if they do not wish to do so.

In the case of *Ivanhoe Frigon, jr.*<sup>30</sup>, the arbitration council members recommend unanimously the acceptance of a clause of voluntary and irrevocable

check-off. We give here the reasons that brought the members of this council to make this decision:

1. *Considering that the request of the Syndicat is not inflexible since the employee himself must give voluntarily his authorization to his employer.*

2. *Considering that the principle of irrevocability of check-off of union dues is, up to a certain point, admitted by our labour legislation, since, according to the Professional Syndicates Act, a union has the right to insist on the dues of its members three months after they have resigned.*

3. *Considering that the request of the Syndicat is not exaggerated and that it is even less from a union security point of view, than that which is generally granted by other arbitration councils. (A summary of all the arbitration awards for the year 1950 shows that these councils have not granted to the unions less than the voluntary but irrevocable check-off.)*

4. *Considering that this clause does not cause the employer to pay out anything and does not cause him any serious inconvenience.*

5. *Considering that the reasons of trouble and extra work invoked by the employer do not appear to be sufficient since the employer must now make other deductions from the pay of their employees for unemployment insurance, income tax, etc.*

#### 5—RECOMMENDATIONS OF DIRECT NEGOTIATION DURING THE COURSE OF ARBITRATION

In the arbitration awards that we have studied, we note that in certain cases the council members have suggested that the parties re-open direct negotiations and try again to come to an understanding before continuing procedures. This would seem to indicate that the parties involved had not exhausted the preliminary stages provided by the law before coming to arbitration.

(27) Department of Labour, Document No. 604, page 3; date of award: June 6th, 1952. Dispute between "Canadian Industries Limited" and "United Mineworkers of America". Council members: President: J. Alfred Gaudet; employer's representative: Raymond Caron; employees' representative: Charles A. Lussier.

(28) Department of Labour, Document No. 560, page 2; date of award: June 21st, 1952. Dispute between "Simmons Limited" and "L'Union Industrielle des Ouvriers en Litterie". Council members: President: C. H. Cheasley; employer's representative: P. Vaillancourt; employees' representative: G. Walsh.

(29) *Ibidem*, Document No. 609, page 4.

(30) Department of Labour, Document No. 591, page 2; date of award: May 5th, 1952. Dispute between "Ivanhoe Frigon, jr." and "Le Syndicat catholique des employes de Magasins d'Amos". Council members: President: Normand Grimard; employer's representative: J. E. St. Onge; employees' representative: Pierre Vadeboncoeur.

As references, we shall only quote two cases here, that of *Crane Limited*<sup>31</sup> and that of *L'Etoile du Nord Limitée*<sup>32</sup>.

We are quoting below the contents of the interim recommendation given in the case of *L'Etoile du Nord Limitée* by the members of this arbitration council presided by Judge Georges H. Héon. This interim recommendation suggests that the parties re-open direct negotiations.

*"The arbitration council constituted to settle the present dispute, after two meetings held to-day, in the chambers of the president, the Hon. Judge Georges H. Héon, in the Court House, recommends unanimously without prejudice to the rights of the parties or to the council's mandate, the following:*

*Whereas during the course of the two meetings, the council has learned officially that some important amendments are to be made to the decree relating to the printing trades;*

*Whereas the council has verified to-day, that the proposed amendments will be published in the Official Gazette this week;*

*Whereas these amendments are of a nature to change the situation of the parties to the dispute and the award that the council is called upon to make.*

*That it be recommended to the parties:*

*1—To re-open immediately free negotiations on the requests submitted to the council at the place and time that will be mutually suitable to them;*

*2—That the parties report to the president or to the council's clerk, on or before March 31st, 1952, on the progress of their negotiations, mentioning specifically the questions that have been settled and those where no agreement has been found possible;*

*3—That the council will hold itself at the disposition of the parties during these negotiations in order to aid them, if the parties both require it;*

*4—That the council, once these new negotiations are terminated, will make its award on the demands, if any, on which the two parties do not come to a settlement."*

(31) Department of Labour, Document No. 575, page 4; date of award: April 7th, 1952. Dispute between "Crane Limited" and "United Steel Workers of America". Council members: President: Maurice Fortin; employer's representative: H. McD. Sparks; employees' representative: Bernard Rose.

(32) Department of Labour, Document No. 576, pages 3 and 4; date of award: April 5th, 1952. Dispute between "L'Etoile du Nord Limitée" and "Le Syndicat National Catholique des employés d'Hébdomadaires de Joliette". Council members: President: Georges H. Héon; employer's representative: S. H. Miller; employees representative: G. A. Gagnon.