

**LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
5TH COUNCIL, 27TH SESSION**

**REFERENCE FOR ADVICE
NO. 7-27**

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NORTHWEST TERRITORIES

REFERENCE FOR ADVICE

LABOUR LEGISLATION, N.W.T.

The Commissioner requests the advice of the Council on the introduction of labour legislation in the Northwest Territories.

Labour Legislation, N.W.T.

Previous Council Consideration

A general discussion of labour legislation was last held by Council members at the 1960 Summer Session when consideration was given to the need for new Ordinances or Regulations on this subject. The conclusions of the members were that due to the seasonal and marginal nature of so much of the employment in the Northwest Territories, it would be difficult to arrive at suitable standards; that the relatively small labour force scattered over a wide area made enforcement of legislation costly and difficult; and finally, since there were no flagrant abuses, new legislation should be deferred until the areas requiring attention became more apparent.

Organized labour in the Northwest Territories has continued to ask the Commissioner to establish minimum standards for wages, hours of work, overtime and vacation pay. Labour legislation in the Provinces is, of course, undergoing continual change, and in areas such as annual vacations which are now universal across Canada, it seems appropriate for Council again to consider these matters. The Council of the Yukon Territory spent considerable time discussing a labour code at both the Fall, 1963, and the Spring, 1964 Sessions, without reaching any conclusion. This paper is firstly, to clarify the responsibility of the Territorial Council for labour laws and secondly, to propose the aspects of labour legislation which should be considered.

Division of Authority - Federal/Territorial

First, the division of authority between the Federal and Territorial Governments must be understood. At the time of Confederation, labour legislation had not yet been considered and responsibility in this area was not specifically conferred on the Provinces but was included under such general headings as authority for local works and undertakings and property and civil rights. However, since the B.N.A. Act gave specific jurisdiction to the Federal Government in certain fields, we find that certain industries fall within the federal jurisdiction for labour legislation control. In the N.W.T., these industries would include navigation - shipping - railways - aircraft and aerodromes - radio broadcasting and works declared for the advantage of Canada - raw materials for atomic energy. Throughout Canada, approximately 500,000 employees are engaged in these industries. The division between Federal and Provincial (Territorial) jurisdiction has not always been crystal clear and as late as 1935, the Federal Government enacted a General Minimum Wage Act - a Limitation of Hours of Work Act and a Weekly Day of Rest Act all of which were declared ultra vires by the Supreme Court of Canada. The Federal Government had to have the British North America Act amended to authorize the Unemployment Insurance Act (1940) and the Old Age Security Act (1954).

N.W.T. - Protective Labour Laws

The first concern of the Provinces, or the Territorial Government in providing labour laws is to correct conditions of employment that may have an adverse effect on a large number of residents. This practice was followed by the Northwest Territories Council and the first labour laws endeavoured to require employers to provide safe and healthful working conditions for their employees. In this field, the Northwest Territories has enacted such Ordinances as:

Workmen's Compensation Ordinance,
Mining Safety Ordinance,
Public Health Ordinance and Regulations,
Steam Boilers and Pressure Vessels Ordinance, and
Wages Recovery and Mechanics Lien Ordinances.

The Council should now consider legislation to provide for safe and healthful working conditions in shops, factories and office buildings and in such industries as construction and transportation. Major amendments are also required to bring the Steam Boilers and Pressure Vessels Ordinance and the Workmen's Compensation Ordinance up-to-date.

The Ordinances set out in the above paragraph include all of the N.W.T. legislation in the labour field. There are two other areas of labour laws for which the N.W.T. has no legislation. The one concerns labour standards and the other labour relations. These will be dealt with separately to emphasize how they differ both in nature and in the method of administration.

Labour Standards Legislation

Labour Standards Laws are those that provide minimum standards under which an employer may hire a workman. These are laws which should be enforced on all employers by the Territorial Government, including such well-known matters as minimum wages - hours of work - overtime pay - vacation pay and statutory holidays. At present, all of these conditions are a matter of arrangement between an employee and his employer. Unfortunately, the workman seldom looks beyond the wage rate and hours of work when making his employment arrangements and if there is no legislation requiring minimum standards for other matters, the employee will not receive these benefits. When there is a working agreement between the employees and the employer, as exists in most of the mining operations in the Northwest Territories, these matters form the substance of the agreement.

Employment conditions in the Northwest Territories do not, of course, lend themselves to establishing minimum standards in all of the questions referred to as labour standards. The seasonal nature of so many of the working opportunities encourages long hours during summer months to compensate for lack of employment at other times. It is not always practical to require overtime pay for these extra hours. Many residents have minimal experience in wage employment and fair payment for their efforts is less than any minimum wage that could be established by law and still have meaning for the rest of the workers. The two specific fields that the Northwest Territories Council should consider for early legislation are Vacations with Pay and Statutory Holidays.

Labour Relations Legislation

Finally, the most difficult phase of labour legislation - Labour Relations - must be dealt with. This legislation is required when industries advance to the stage where employees unite in some form of organization, society or union and designate an agent to act for all workmen in negotiating an agreement with their employer. The agent is, of course, invariably a union and in provincial jurisdictions when the workers in any industry apply to the provincial government, usually represented by a Labour Relations Board, and have the selected agent certified as their bargaining agent. The employer must then meet with that agent to discuss a contract or working agreement.

The Northwest Territories has no Labour Relations Legislation and, of course, no Labour Relations Board. However, the Federal Government does have both a Board and a Federal Act - the Labour Relations and Disputes Investigation Act - for dealing with industries that fall under federal jurisdiction. Several such industries in the N.W.T. have negotiated and filed agreements with the Federal Labour Relations Office. This Office has extended its services to other industries in the N.W.T., where both the employer and the employees agree to follow the requirements of the federal legislation. Most of the mining companies are operating under working agreements negotiated through this Federal Office. Very briefly, this includes accepting applications from workers to have a bargaining agent certified and registered, assisting in negotiating contracts and registering same, providing conciliation services in the event of dispute, and finally, arbitration if agreement is not reached. It should be clearly understood that for mining and other industries that do not come under federal jurisdiction, these agreements are only possible when both the employees and the employer agree. A group of workmen in, for example, the fur garment industry, could not force their employer to negotiate an agreement. Another limitation is that all negotiating and certifying must comply with the federal legislation.

The operation of a Labour Relations Board is highly technical and requires highly-qualified and highly-paid staff. It would not be at all practical for a small territory like the Northwest Territories to operate its own Board.

There is, however, a provision in the Federal Act that the Federal Labour Relations Board can enter into an agreement with a Provincial Government (Territorial Government) to administer its labour relations legislation provided the legislation is relatively similar to federal laws. To have a Labour Relations Code applicable in the N.W.T., the Territorial Government could enact an Ordinance similar to the Federal "Labour Relations and Disputes Investigation Act", and enter into an agreement with the Federal Department of Labour to administer the Ordinance.

Summary

In summary, it is proposed that the following labour legislation would improve the conditions and regulations of labour in the Northwest Territories:

1. Shops, Factory and Office Buildings Ordinance;
2. Safe Employment Practices Ordinances;
3. Vacations with Pay Ordinance;
4. Statutory Holidays Ordinance; and
5. Labour Relations and Disputes Ordinance;

and that major amendments are needed to:

1. Workmen's Compensation Ordinance; and
2. Steam Boilers and Pressure Vessels Ordinance,

to bring them up-to-date. It will take a great deal of work and time to prepare this legislation in draft form and Council is invited to give its views on any priorities or aspects of this proposed legislation which would be appropriate at this stage.

April 29, 1964.