

STATE CONTROL OF INSURANCE

By W. D. Aiken

The question of revising the Workmen's Compensation Law in the Province of Quebec has come up from time to time and it has been frequently said that efforts will be made by certain interests to introduce a system of monopolistic State insurance following the lead of other Provinces.

The report of the Departmental Committee appointed to inquire into a system of compensation for injuries to workmen in Great Britain comes as a timely addition to the literature on the subject.

The Committee was a formidable one in comparison with many of the Commissions which were appointed to investigate the subject on this Continent. The evidence before the Committee was also of a most reliable and complete kind.

The purpose of the investigation was two-fold. Firstly to inquire into the desirability of establishing a system of State insurance or State control and secondly to report what alterations should be made to remedy defects in the existing law.

No doubt considerable prejudice had already been created in the minds of those concerned with Workmen's Compensation in England by the results of investigations of the subject elsewhere particularly in the United States. These earlier investigations have all been more or less remarkable for the amount of unreliable data submitted, the lack of preparedness to publish the true facts on the part of those who had access to them, the wanton and even ludicrous assertions of some witnesses whose evidence was given prominence and above all the illogical conclusions of the Commissions on many points.

The British Committee were no doubt faced in the very beginning with the findings of these earlier commissions and notwithstanding the great constitu-

tional danger involved in State insurance, repeated recommendations for such a form of law must have had weight. In tackling the problem, the British Committee found themselves faced with three separate questions. Firstly the organization of a monopolistic State fund, secondly the organization of a competitive State fund and thirdly State control of the rates and administration of Stock and Mutual Companies.

The question of a monopolistic State fund immediately introduces great difficulties under the Constitution. These difficulties were only overcome in some of the American States by the deliberate act of changing the written constitution. In Britain the Constitution is unwritten and is based upon the traditional rights of the people which cannot be altered at the will of the Government in power for the time being.

The first step towards the inauguration of monopolistic State Insurance schemes on this continent was the cutting off of the old common law right (in Britain this would incidentally involve the repeal of the Employers' Liability Act which still stands on the Statute Books for the benefit of injured workmen). The reason for this preliminary is clear.

It will be readily conceded that it would be folly for any Democratic State to take up the argument of the employer in the endless series of legal disputes which follow upon personal injury claims.

It was apparently as clear as day-light to the framers of the State monopoly laws on this Continent that the first step was to make disputes impossible, more particularly the carrying of any dispute to the law courts. The Common Law which entirely depended upon the right of access to the law court with the injured man would have to go. The result was the suppression of the Common

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