# THE ROACH REPORT (1950)

In October of 1949, the Ontario Government appointed Mr. Justice Wilfred D. Roach as a commissioner under the *Public Inquiries Act* to "inquire into and report upon and make recommendations regarding the Workmen's Compensation Act upon subjects other than detail administration."

Roach heard from both labour and employer groups at public hearings and in writing. His report was released on May 31, 1950. Overall, he took the view that faithfulness to the Meredith principles demanded a narrow scope for workers' compensation. Care had to be taken to insure that any benefits provided to injured workers were solely compensatory in nature. Any attempt to expand the Act into "social legislation" was to be vigorously resisted.

Roach summarizes his view the Meredith principles and of the purpose of the Act at pp. 11-12 of his report. He states:

> The benefits [of the workers' compensation scheme] to the employers need only be enumerated without any comment. The employers in Schedule 1 are given immunity against individual liability and are provided with a system of mutual insurance which is the cheapest form of insurance. The smaller employers avoid the risk of financial ruin as a result of accidents to their employees. The cost to the employers in both shedules 1 and 2 is made as certain as possible having regard to the vagaries of accidents, and within certain limitation they are enabled to reckon that expense in their costs of operation. It is deceptive, however, to say that the employers as a class bear the whole cost of compensation. A considerable part of that cost is passed on to the consuming public by including it in the sale price of the commodities which they produce or the services which they sell.
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> The employees benefit by having their compensation certain and secure. They may quarrel with the amount but they are not left in doubt as to what it shall be or whether they shall receive it. Also they receive it whether or not the accident was caused wholly or in part by their own negligence. Further, in the case of permanent partial or permanent total disability, as will later appear, they receive it for life even though they may live beyond the age at which, due to the natural infirmities of advanced years, they would, even if uninjured, have to cease their labours. It is not correct to say that they make no contribution because in fact they do. In cases of less serious injuries resulting in incapacity for less than the waiting period, they forego compensation for that period and in the case of the more serious but non-fatal injuries that receive compensation equal to only part of their earnings.
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> The public benefit from the fact that the worker, through disabled, is enabled to retain his self respect. The compensation which he receives is not charity. He has in fact purchased it. If the accident results in death the dependants of the worker do not become public charges. Society as a whole benefits but the public, too, pays a proportion of the cost. Its share is that part of the cost which is passed on to it by the employer and such part as may be contributed out of the Consolidated Revenue Fund of the Province towards the operation of the Act under the provisions in the Act with respect thereto.
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> This Act should be considered for what it is and was originally intended to be, namely, a scheme by which compensation is provided in respect of injuries to workers in industry.

It is not a system for dispensing charity. It is not unemployment insurance. It is not social legislation for the purpose of elevating the standard of one group at the expense of another.

I will have occasion to point out later that certain amendments which have been introduced into the Act since it was originally passed are really in the nature of social legislation and a departure from the original scheme and purpose of the Act. The effect of those amendments has been to impose upon industry burdens which should be borne by society generally.

If the true purposes and objectives of the Act are adhered to, justice will be done as between industry and labour. If, on the other hand, those purposes are lost sight of, or this Act from time to time be regarded as convenient place into which to put legislation which in substance is social and not compensatory, it may become very much distorted. In the result, labour will continue to be relieved from unjust burdens from which it suffered too long under the common law but an injustice will be done to industry by placing on its shoulders burdens which should be borne by society generally.

Roach examined numerous specific issues relating to benefits and revenue and made detailed recommendations regarding amendments to the Act. Notable observations and recommendations included:

- reducing the waiting period for benefits from seven days to four
- increasing the maximum annual compensation to $4,000
- retaining the 75 per cent compensation rate then in effect
- that compensation for permanent partial disability continue to be based on degree of impairment rather than actual earnings
- retaining minimum compensation amounts, even though they are inconsistent with the purely compensatory purpose of the Act
- the Act adequately ensured timely payment of claims
- not funding advocates to assist workers with claims
- no reduction in compensation for workers whose injuries are aggravated by a non-compensable pre-existing condition
- requiring that an injured worker obtain a medical certificate before being permitted to return to work
- adding to Schedule 3 lung cancer for workers exposed to fumes from coal, tar or pitch and silicosis for miners or other workers exposed to silica dust
- interjurisdictional claims are a problem and the Board needs to be empowered to enter into agreements with other provinces to deal with such issues
- increases to benefits for past accidents intended to offset increases in the cost of living should be funded by the government, not employers
- there should be no right of appeal to the courts
- Schedule 2 should not be eliminated and its employers moved into Schedule 1
- that the Board be given authority to establish and enforce workplace safety standards, including health and safety committees, and to carry out education
- experience-rating should not be adopted unless it could be shown that it did not weaken collective liability