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[Aller au sommaire du numéro](#)

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FRED WINSOR

“Solving a Problem”: Privatizing Worker’s Compensation for Nova Scotia’s Offshore Fishermen, 1926-1928

ON 6 AUGUST 1926 A LARGE portion of the Lunenburg schooner fleet was fishing off Sable Island. Catches were good as the vessels topped off their loads before the voyage home. What happened next is best described by two fishing captains present at the time:

That’s what you call a fishermen’s luck. You’re anchored in the middle of the ocean and you got to take it as it comes. When you take your clothes on the vessel, you never know if you’re a comin’ back. Yes, when you think it over you never know if you’re a comin’ back. Well the weather-glass gave no warning. It showed nothing at all. At nine o’clock there was an ordinary breeze but at ten o’clock the sea come ahead of the wind and you knew there was somethin’ back of it driving it. We got everything below. By that time the breeze was here and you couldn’t walk along the deck. You had to get a rope and haul yourself along. We had twenty-four hundred quintals of fish when the gale come and the vessel was like a log. At twelve o’clock she broke adrift and she went two to three hours in eighteen to nineteen fathoms of water. The riding sail filled on the lee side. That hove her down and she was very slow comin’ back, so slow it looked kinda suspicious at one time if she was ever comin’ back. We put out oil and that helped some, but I never see a worse blow at sea.

Describing what happened to his heavily laden vessel in the same storm another captain said:

The sea would break from the bottom and strike us. The deck was swept clean by the gigantic sea. It took our boats and all our moveable gear. It smashed the skylight, the cabin doors and the cabin table. The stove and everything else was smashed. The cabin was half filled with water and the men washed around in the cabin and beat to pieces. Two men were washed overboard. We just saved them that was all. Nine men were injured with broken ribs and injured limbs and one man at the pump was half beaten to pieces with the terrific seas. George Locke, one of our best fishermen, was so badly injured that he has since died.¹

1 *Herald* (Halifax), 9 October 1926.

Privatizing Worker's Compensation 95

The crews of the *Sylvia Mosher* and the *Sadie Knickle* were not so fortunate as these men. Both schooners went down in the storm and on these two vessels alone 47 men perished. It took more than two weeks to confirm that these vessels had been lost since, as was the case with all schooners, they did not have radios on board and could neither receive advance warning of storms nor send any distress signals.

The 1926 disaster was an immense tragedy for the men and women caught in its grip, but it sparked only minor changes in the fishery. Only William Duff, publisher of the Lunenburg *Progress-Enterprise*, argued for the installation of transmitting and receiving radio equipment aboard all the Lunenburg schooners.² There were a few requests that the federal government place a rescue ship out on the fishing banks to come to the aid of mariners in distress, but these were ignored. Even more telling was the absence of any investigation into the catastrophe. In the same storm, a Norwegian freighter, the *Ringhorn*, was lost off Scatarie Island on the east coast of Cape Breton, and five of the ship's crew died in the attempt to reach land. The loss of this foreign freighter gave rise to an inquiry within eleven days of the sinking, but no inquiry was ever held into the far larger disasters in the Nova Scotia schooner fleet.³ The following year, the Lunenburg vessel owners sent the fleet out to the fishing grounds, having learned nothing from these events. Once again none of the schooners was equipped with radios or improved safety equipment. Consequently, although the disaster which followed was "natural", its magnitude was inevitable because of the failure of the industry or the government to respond to the lessons of 1926.

The storm that hit the Northeast Coast of North America on 24 August 1927 was not a normal gale, but a storm of exceptional force, the worst in the history of the 20th century schooner fishery. As it swept up the coast it devastated the Lunenburg fleet as well as fishing fleets from the other Maritime ports and Newfoundland, and also struck inland throughout the region. In Nova Scotia alone, damage was estimated at approximately a million dollars.⁴ On 30 August, some six days after the storm, over 75 vessels from the Lunenburg fleet had still not been heard from. It was finally learned that four schooners had gone down, the *Mahalia*, the *Joyce Smith*, the *Clayton Walters*, and the *Una J. Corkum*. In the same vicinity as these vessels the *Columbia*, a banking schooner fishing out of Gloucester, Massachusetts, was lost with all hands, a crew of 20. In all 88 men belonging to the Lunenburg salt banker fleet lost their lives, while many others

2 *Progress-Enterprise* (Lunenburg), 1 September 1926.

3 *Herald*, 18 August 1926.

4 *Ibid.*, 26 August 1927. Cyril Robinson, in his *Men Against the Sea, High Drama in the Atlantic* (Hantsport, N.S., 1971), pp. 131-3, captures the savagery of this storm in his vivid description of the ordeal of Roland Knickle, captain of the *Andrava*, one of the Lunenburg schooners to survive the gale off Sable Island.

were maimed or severely injured. At least another ten small boat fishermen were lost along the coast of Nova Scotia and large numbers of men off the coast of Newfoundland, although newspaper accounts of the number conflict because of the lack of communication between the vessels and the land.⁵

It took up to a month before the fatalities were confirmed. The families of the men who died had then to face the loss of a loved one and the principal wage earner in the household. Fortunately, for most of the dependents, they were eligible to receive monetary compensation from the Nova Scotia Workmen's Compensation Board.⁶ Offshore fishermen in Nova Scotia had been included under the Nova Scotia Workmen's Compensation Act since 1920. However, the government's response to the plight of the relatives of some who died in 1927 was miserly.⁷ Widows received \$30.00 a month for life or until they remarried and \$7.50 a month for children under the age of 16 years. Many widows, whose husbands were Newfoundlanders, received nothing at all.⁸ Moreover, there is a bitter irony to the fact that all the suffering and the loss of lives in the gales of 1926 and 1927 resulted in a worsening rather than an improvement in the compensation available to fishermen and in the safety conditions under which they worked. Inadequate as was the compensation given to the families after the deaths in 1926 and 1927, it required a large payment from the funds of the Workmen's Compensation Board. Because of the relations of production, economic conditions in the industry, and the political climate of the time, worker's compensation for offshore fishermen was privatized, thus removing any economic pressure on the Lunenburg fish merchants to improve their safety record.

Although European workers had successfully demanded worker's compensation at the turn of the century, in North America these programs did not gain general favour until the period after 1910. Before this time, damages for workers injured or killed could only be won through private costly court cases. Although accidents very often resulted from employer negligence, few workers or their heirs could succeed in proving the employer at fault and receive compensation.⁹

5 *Herald*, 29-30 August 1927.

6 The name of the Nova Scotia Workmen's Compensation Board was changed to the Nova Scotia Worker's Compensation Board in the mid 1970s. When not referring specifically to the Workmen's Compensation Board in the particular time period the author uses the term worker's compensation.

7 Workmen's Compensation Board of Nova Scotia, *Annual Report* (1921).

8 From the turn of the century, many of the crew members on the offshore fishing vessels operating out of Nova Scotia, and particularly Lunenburg, were residents of Newfoundland. As a result they were not covered by Workmen's Compensation if they were injured or killed while working aboard the vessel. At least 19 of those who died in the 1927 disaster were determined to be Newfoundland residents. The families of these men did not receive any compensation from the Workmen's Compensation Board in Nova Scotia and were relegated to receiving piddling relief payments from the Newfoundland Government.

9 James Weinstein, *The Corporate Ideal in the Liberal State* (Boston, 1968), p.41.

Privatizing Worker's Compensation 97

Michael Piva has pointed out that in Canada the establishment of Workmen's Compensation Boards was essentially an attempt to placate workers in the struggle between labour and capital.¹⁰ Dianne Pothier has pursued a different tack, adopting the position that worker's compensation was essentially a compromise between capital and labour.¹¹ Under this compromise, workers were relieved of the responsibility of proving fault on the part of the employer; in return, they had to give up the right to sue both their own employer, and any other employer covered by the act. Employers, on the other hand, had to accept responsibility for injuries that occurred on the job. This responsibility included bearing the total cost of the insurance payments established for each industry or sub-class by the Workmen's Compensation Board. The employer then had an economic incentive to provide a safe workplace, since the rates set for each industry reflected the level of danger involved in that type of employment. Thus workers were offered a speedy remedy on a no fault basis in exchange for their acceptance of partial compensation.¹²

In Nova Scotia, a government administered worker's compensation program can be traced to the endeavors by organized labour in 1907-1908. Through the efforts of John Joy, leader of the Longshoremen's Union in Halifax, and a vigorous campaign by labour with the support of Dr. Kendall, a maverick Liberal Member of the Legislative Assembly from Cape Breton, the first Workmen's Compensation Act was enacted in 1911.¹³ But offshore fishermen and most other industrial workers were not included until the revised act of 1915.¹⁴ In 1914 the Meredith Commission in Ontario examined the question of worker's compensation and recommended the creation of a new worker's compensation act which was passed in 1915.¹⁵ This Ontario act served as the basis for the revised

10 Michael Piva, *The Condition of the Working Class of Toronto 1900-1921* (Ottawa, 1979), pp.107-8.

11 Dianne Pothier, "Workers' Compensation: The Historical Compromise Revisited", *Dalhousie Law Journal*, 7, 2 (April 1983), p. 312.

12 Under the terms of the new act passed in Nova Scotia in 1916, workers would be eligible to receive "partial compensation" (a percentage of their wages) if unable to work due to an injury received on the job. This would be different from receiving "full compensation" which would mean receiving the same wage while injured as while working. The "partial compensation" received was based at that time on the industrial wages of the day, unlike present day workers' compensation rates which reflect current day social welfare rates.

13 Geoff Clare, "The Workmen's Compensation Movement in Nova Scotia", unpublished paper, Dalhousie University, April 1976, pp. 38-40.

14 *Ibid.*, p.49.

15 For an in-depth study of the Workmen's Compensation Act of Ontario and the Meredith Commission see R.C.B. Risk, "This Nuisance of Litigation: The Origins of Worker's Compensation in Ontario" in David Flaherty ed., *Essays in the History of Canadian Law, Vol.II* (Toronto, 1983), pp.418-91. The Workmen's Compensation Act of Ontario and the recommendations of the Meredith Commission served as the basis for similar acts in other Canadian provinces.

Workmen's Compensation Act in Nova Scotia. A board was established to administer the act in Nova Scotia similar to that in Ontario.¹⁶

There can be no question that fishermen needed some form of worker's compensation. The August Gales of 1926 and 1927 were dramatic events in which many men were lost at one time, but each year and every voyage brought brutally hard work, discomfort, and the dangers of death or disabling accidents. Fishermen who worked offshore during the early part of the 20th century usually worked aboard one of two types of vessels, a dory schooner or a "side" or "beam" trawler. On both types of vessels conditions were extremely dangerous. Dory schooners were 120-140 foot wooden sailing vessels with a crew of between 20-25. They usually carried six to eight "dories", small wooden boats approximately 16-18 ft. long, which put out from the schooner each day with one man or two men in each boat.¹⁷ The fishermen tended "trawls", long lines of baited hooks, and while waiting for the fish (primarily cod) to come on the trawls, would also "jig" for cod. After the fish were caught, the catch was brought back to the schooner where it was gutted and split on the deck of the schooner, then salted in the hold. Conditions aboard were primitive. Living and working on a schooner as a dory fisherman meant sharing a very confined space for up to three or four months at a time with 20 to 25 other men. The limited storage facilities meant that crew members could only have one spare change of clothes with them for the duration of the voyage, and it was impossible to use any of the fresh water aboard for washing either oneself or one's clothes. All fresh water was required for cooking and drinking purposes.¹⁸

Trawling or handlining for cod in a dory left fishermen at the mercy of a hostile marine environment. To remain in contact with their schooners, dory fishermen could rely only on the foghorn in foggy weather, and without radios or any other means of communicating with the land, unexpected storms caught many schooner fishermen unprepared.¹⁹ With no engines, the schooners were less able to operate safely in a storm than powered vessels. It was only after the disasters of 1926 and 1927 that Lunenburg schooners finally began using radios and auxiliary diesel engines.²⁰ But injured crew members were forced to wait until the return of

16 One of the three commissioners on this Board was John T. Joy, the President of the Halifax Longshoremen's Union, who had led the initial attempts to secure this kind of legislation.

17 Some of the schooners used a "one man" dory system with one man hauling trawl. Although this was found to be not as productive as the two man dories, some schooners used this method into the 1920s.

18 Interview with Fred Crouse, schooner fisherman, Audio Cassette tape, Fisheries Museum of the Atlantic, Lunenburg. For more information on living and working conditions on the fishing schooners, see Peter Barss, *Images of Lunenburg County* (Toronto, 1978).

19 Interview with Lewis Firth, schooner fisherman, Written Transcript, Lunenburg, Nova Scotia, Fisheries Museum of the Atlantic, p.4.

20 It is not clear if installing radios and engines aboard the schooners was done more to protect the investment (i.e. the catch and the vessel) than to aid the crew.

Privatizing Worker's Compensation 99

the vessel to port or they were transferred to another vessel heading into port, as there was no equivalent to modern air-sea rescue. With the schooners splitting and salting the catch, their captains had no incentive to come into port for weeks. The captains made their decisions on the fate of injured crew members with little if any medical training.²¹ Fire-fighting and life-saving equipment on the schooners was non-existent. Unexpected fires were fought by throwing water on them and if this proved unsuccessful, the crew abandoned ship in the dories and hoped for the best.

Although living conditions on the trawlers were somewhat less severe than life aboard dory schooners, the dangers were almost as great.²² Unlike dory schooners, which were seasonal and operated from March to December, the side trawlers fished throughout the year. In winter the severe icing up of the superstructure imperiled the stability of the craft. Nothing guaranteed that any fire-fighting and life-saving equipment would be on board, for no regulations required vessels to carry such equipment. In most cases the safety equipment on board the ship at the time of construction — a life ring, a couple of life boats, a few fire buckets, and some axes — was all the vessel carried. The individual safety of the crew members appears to have been of little importance. Hard hats, steel-toed boots or personal flotation devices were unheard of. Such devices were not beyond the level of existing technology; survival suits for pilots attempting trans-Atlantic crossings were then being manufactured by the Miner Rubber Company in Quebec. Yet none of their survival suits were available to schooner and trawler fishermen even though this same company produced wet gear and rubber boots for the fishing industry.²³

The side or “beam” trawler was usually a steel-hulled, steam-powered vessel of British construction. It towed a net that was held open by two “doors”. This type of gear was originally known as a “beam” trawl but had been modified for efficiency to become an “otter trawl”.²⁴ The net of the otter trawl was set out, usually over the starboard side of the fishing vessel,²⁵ while it steamed port side to the wind. After the net was played out, the doors were let down, and the two ground warps — wire ropes or cables attached to the wings of the net — were let out at a distance that would permit the net to be towed along the bottom. After

21 Personal Interview with Loraine Weagle, schooner fisherman 1920-1927, Dayspring, Nova Scotia, July 1987.

22 *Progress-Enterprise*, 17 March 1920.

23 Unpublished “Background Testimony” to the *Royal Commission Investigating the Fisheries of the Maritime Provinces and the Magdalen Islands* (Ottawa, 1928), MG 6, vol. 7, p. 2610, Public Archives of Nova Scotia (PANS).

24 Ralph F. Symonds and Henry O. Trowbridge, *The Development of Beam Trawling in the North Atlantic* (Quincy, Mass., 1947), pp.2-5.

25 When on board a vessel and facing the bow “starboard” is the right side of the vessel and “port” the left side.

about two hours the crew hauled back the net using the huge winches on board to haul in the ground warps.²⁶ Then, two crew members knocked the pin out of the towing block which held the ground warps together near the aft gallows. Once this pin was removed the “doors” of the trawl were hauled up and the net was pulled aboard by hand until the wings and belly of the net were on board. A large strap was placed around the funnel shaped end of the net, known as the “cod end”, and a hook attached to a wire cable, known as a “jilson”, was placed through the large strap wrapped around the cod end and winched aboard. The knot in the cod end was then untied, and the fish dumped in the fish pens on board the deck of the trawler. The knot was then retied and the net reset over the side. This whole procedure of “hauling back” the trawl was done while the vessel was “side on” to the wind with the port side of the vessel in the wind and the starboard side in the lee.²⁷ In calm weather this procedure worked well. But in stormy weather, or while there was a considerable “swell” on, working on deck and hauling back the trawl were dangerous tasks. The cod end would swing back and forth in the air, usually with 2-3000 pounds of fish inside. The crew would scramble around on deck trying to control the net to get it lowered on deck and dumped. At the same time there was always the possibility (on a vessel broadside to the wind) of a wave coming in over the side and washing one of the crew members overboard.

A vivid sense of the fishermen’s precarious work world emerges from newspaper accounts in the years 1915-1920. The number of vessels sinking, in trouble, running aground, or breaking down is staggering.²⁸ There are regular reports of persons being washed overboard, or crushed by cargo, and the loss of human life appears to have been accepted as part of the life of a sailor. Only with the large disasters, such as a large vessel going down with all hands, was there any outcry. Despite the dangers they faced, offshore fishermen in Nova Scotia initially did not receive coverage under the 1915 Workmen’s Compensation Act because of a legal technicality; even though they were working for Nova Scotia employers, they were not working on Nova Scotia soil. The provincial government finally extended coverage to fishermen by passing an amendment in May 1919 stating that an employee-employer covenant made in Nova Scotia could permit the Compensation Act to apply beyond the province’s borders.²⁹ This decision must

26 Frederick William Wallace, *Roving Fisherman (an Autobiography)* (Gardenvale, P.Q., 1955), pp. 310-32.

27 Personal Interviews with Ned Ingram, North Sydney, August 1987; Gerald Collins, Mulgrave, July 1987; and Lewis Riggs, Louisbourg, August 1987; all trawler fishermen who fished on side trawlers.

28 *Herald, Record* (Sydney) and *Progress-Enterprise*, November — April, 1915 to 1920. According to Jack Zinck in *Shipwrecks of Nova Scotia*, Vol. II (Hantsport, 1977), there were at least 83 schooners, ranging from 10 to 725 gross registered tons, and 24 other vessels of various types lost during this period.

29 Section 8 (8,a), Workmen’s Compensation Act of Nova Scotia, *Statutes of Nova Scotia* (Halifax,

Privatizing Worker's Compensation 101

be understood as resulting from the general pressure from labour in the province, since the fishermen themselves had little power to affect government decisions.³⁰ Perhaps the Nova Scotia legislature was also influenced by the fact that the fishing fleet of Gloucester, Massachusetts, went on strike in July 1919, and activists from Gloucester had been in touch with fishermen in Yarmouth.³¹

The Nova Scotia Workmen's Compensation Act was essentially an insurance program. The Workmen's Compensation Board set insurance rates, based on the amount of risk, by type of industry or employment. These were known as sub-classes. The thinking behind creating these sub-class divisions was that they would act as an incentive for employers in a particular industry to provide a safer work place since by reducing the number of accidents the assessment rate was reduced.³² In the fishing industry however, this concept was totally ignored and the vessel owners did not attempt to make their vessels any safer than they had been prior to their industry coming under Workmen's Compensation.³³

In 1921 an amendment made to the Workmen's Compensation Act set the maximum yearly compensation for fishermen covered under the act at 55 per cent of \$780 or \$429 per annum,³⁴ considerably less than the figure of 55 per cent of \$1200 per year, or \$660 annually, which was the maximum set for workers in all other industries.³⁵ Despite these lower amounts of compensation, the numbers of men dying or suffering injury in the fishery caused the rates in that sub-class to be high (\$5 for every \$100 of wages paid). From 1920 to 1925, 54 people in the fishing sub-class died on the job. Another 123 were temporarily disabled and 13 were permanently partially disabled.³⁶ Following the 1926 gale, the considerable payments made to the families of the Nova Scotians who died or were injured

1919), ch. 61, pp.261-5.

30 At the same time the Nova Scotia Government was passing this amendment, both Halifax and Amherst were in the middle of major strikes (in Amherst it was a general strike) and the Winnipeg General Strike was in progress.

31 *Herald*, 26 July 1919.

32 David S. Beyer, *Industrial Accident Prevention* (Boston, 1917), p. 2.

33 Interview with Lewis Firth, Lunenburg schooner fisherman, Written Transcript, Fisheries Museum of the Atlantic; personal interview with Loraine Weagle, Dayspring, Lunenburg County, retired schooner fisherman; personal interview with Ellsworth Greek, Blue Rocks, Lunenburg County, retired schooner and scallop dragger fisherman.

34 The reasons for the amendment to the Workmen's Compensation Act reducing the amount of compensation for fishermen is not clearly spelled out, but it is probably a reflection of declining salt fish prices on the international market which in turn greatly reduced fishermen's incomes.

35 These ceilings for determining the amount of compensation were challenged in the courts in 1930; the County Court found in a fisherman's favour, but the Supreme Court of Nova Scotia overturned the ruling and found for the company and the lower rate of compensation. *Maritime Fish Company vs Cohoon*, *Dominion Law Reports*, 1 (1930), pp. 809-13.

36 Workmen's Compensation Board of Nova Scotia *Annual Reports* (Halifax, 1917-1925).

severely depleted the funds of the Board for the sub-class.³⁷ In January 1927, therefore, the Workmen's Compensation Board announced sharply increased insurance rates for the fishing industry. The rate announced was 10 per cent or \$10 for every \$100 of wages paid, twice what it had been the previous year.³⁸

The vessel owners and the captains reacted swiftly. Within two weeks of the announcement by the Workmen's Compensation Board, the vessel owners organized meetings with the provincial government. They argued that, since it was not compulsory for them to participate under the Workmen's Compensation Act, they would stop doing so and threatened to tie the vessels to the wharves in Lunenburg and leave them there until the Workmen's Compensation Board lowered its rates.³⁹ In the face of this opposition the government gave in and guaranteed that the compensation rate for 1927 would remain at five per cent, still one of the highest for any industry.

Although it had given way to the pressure from the vessel owners on rates, the provincial government decided to appoint a Royal Commission on 29 June 1927, to investigate the Workmen's Compensation Act as it applied to offshore fishermen and lumbermen.⁴⁰ This investigation was underway when the disaster of August 1927 occurred. Despite the scale of this disaster, the Commission on fishermen's compensation remained out of the public eye until 12-13 October 1927 when it convened a single hearing in Lunenburg. The chairman of the Commission was Carl D. Dennis, an accountant from Amherst, who appears to have had no previous experience in the fishing industry and no prior experience with the Workmen's Compensation Act. According to his report, several groups appeared before the Commission, including a group representing vessel owners and captains from Lunenburg, but no representations were made on behalf of the crews of the Lunenburg schooner fleet. No ordinary crew member of any offshore vessel appeared before the commission to give testimony. In his report Dennis remarked on this anomaly, but he put it down to a lack of interest on the part of the crew members.⁴¹

The vessel owners and captains, plagued by uncertain prices and the loss of six vessels and 138 men in the two big storms, told Dennis at the Lunenburg hearing that if they were not removed from the Workmen's Compensation Act they would close down the industry in Lunenburg and go out of business, as they could not

37 Workmen's Compensation Board of Nova Scotia, *Annual Report* (Halifax, 1926), p. 8.

38 *Progress-Enterprise*, 26 January 1927.

39 It is questionable whether the owners could challenge the authority of the Workmen's Compensation Act of Nova Scotia, particularly Section 3, and Section 8(3), to determine if participation was compulsory. *Progress-Enterprise*, 9 February 1927.

40 Carl D. Dennis, *Royal Commission on Ratings of the Lunenburg Fishing Fleet and the Lumber Industry as Applied by the Workmen's Compensation Board* (Halifax, 1927).

41 Dennis, *Royal Commission on Lunenburg Fishing Fleet*.

Privatizing Worker's Compensation 103

afford to pay the rates set by the Board.⁴² Dennis sympathized with the vessel owners and captains. Although he recognized that fishing, as practiced aboard the schooners from Lunenburg, was a dangerous occupation, his recommendations indicated his basic ignorance of the underlying concepts of worker's compensation by pointing to a lack of willingness on the part of the fishermen to pay some of the cost and querying why employers paid the full rate. He emphasized that other maritime countries had not included fishermen under worker's compensation, but there is no evidence which countries were examined or what consultations, if any, were held with individuals in other countries. He completely ignored questions of safety and accident prevention, two of the pillars in the philosophy behind the thinking of the Workmen's Compensation Act. From the newspaper accounts of the Commission hearings, it seems apparent that the Nova Scotia Accident Prevention Association (the group charged with developing health and safety policy for the province) never made any submissions on possible steps to improve health and safety on fishing vessels, and there is no reason to believe that the Royal Commission ever attempted to solicit a submission from the association. No one raised the issue of placing proper fire-fighting or life saving equipment on board the vessels.

With such a cursory and one-sided investigation, the findings were predictable. When the report was released in December 1927, it recommended that the fishing industry be relieved of the deficit run up by the fishing sub-class and the high rates the accident record would require under Part I of the Act. Dennis recommended that the Workmen's Compensation Board set a rate of 11 per cent of wages paid for the fishing sub-class, and noted that Lloyd's of London would offer a scheme at this rate.⁴³ He assumed that over a period of eight or nine years of low accident rates the deficit in the fishing sub-class would be eliminated, and the rate would be permitted to drop. In reaching this conclusion, Dennis accepted the evidence of the Lunenburg captains and vessel owners, who had stated in their brief to the commission that the disasters of 1926 and 1927 were unusual, and had not occurred in the 40 years previous. In fact, while the "natural" disasters themselves were unusual, because of the considerable loss of life in a very short time period, the records of the Workmen's Compensation Board show that the incidence of injury and loss of life in the fishing industry had been high even before these disasters.⁴⁴

In January 1928, the Workmen's Compensation Board announced the insurance

42 *Herald*, 20 January 1928.

43 Dennis, *Royal Commission on Lunenburg Fishing Fleet*.

44 Between 1920 and 1925 there were 162 injuries and 54 deaths in the Nova Scotia offshore fishery as recorded by the Workmen's Compensation Board. The rate set by the Compensation Board for this period was five per cent (\$5 for every \$100 of wages). This was a high rate for worker's compensation in any occupation.

rate proposed for the fishing sub-class for that year. True to its philosophy of setting rates that reflected the level of risk to the worker in the industry, the Board determined the necessary rate to be \$20 per \$100 of wages paid, or 20 per cent. The recommendation of the Board was much higher than Dennis' because the rate by the Board reflected what the safety record of the fishing industry had been and what premiums the industry needed to pay to get the kind of insurance coverage provided by the Board. According to the model of worker's compensation adopted by other industries such an increase should supply the economic incentive for the industry to provide a safer workplace.

The Lunenburg captains and owners reacted as they had a year earlier and in their submission to the Dennis Commission. They stated that the rates were too high to afford, and threatened once again to leave their vessels tied to the wharves. Given the importance of the fishing industry to the economy of Lunenburg County, the captains and the owners could count on the support of local politicians, who were closely connected with the industry. The vessel owners' lobbying group included the provincial Member of the Legislative Assembly for the riding, W.H. Smith, and the federal Member of Parliament, W.G. Ernst.⁴⁵ The government responded quickly. After meeting with the captains and the owners, on 30 January 1928 the provincial government agreed to a scheme apparently recommended by the vessel owners under which compensation for fishermen would be provided by a private insurance company. In a letter from Premier E.N. Rhodes to M.M. Gardner of Lunenburg, who represented the captains and vessel owners, the provincial government outlined the steps it was prepared to take. The government would enact a law removing the fishing industry from the operation of Part I of the Workmen's Compensation Act, but making compulsory the purchase of insurance up to a maximum liability of \$50,000 or \$60,000 per vessel. The rate for vessel owners would remain fixed at 5 per cent, and the government would pay any additional amount necessary to purchase insurance. In addition, the vessel owners were to be released from the obligation to repay the deficit already built up with the Compensation Board.⁴⁶ These recommendations were passed into law in March 1928. Although still covered by the Workmen's Compensation Act, offshore fishermen were now placed under a new section of the Act, Part III, which provided that instead of the Workmen's Compensation Board setting the rates, collecting the premiums, and paying the claims, a private insurance company would assume these duties.⁴⁷ No other group of workers in Nova Scotia was subjected to such treatment.

45 *Herald*, 20 January 1928.

46 *Herald*, 30 January 1928.

47 Workmen's Compensation Act, Part III, Sections 91-120, *Statutes of Nova Scotia* (Halifax, 1928), ch. 42, pp. 182-92.

Privatizing Worker's Compensation 105

This decision placed fishermen in a position where they were outside whatever public scrutiny the Workmen's Compensation Board could provide, and yet were denied the opportunity to sue the vessel owners through the courts for unsafe conditions. Under the new plan fishermen were no longer eligible for burial expenses, medical aid, artificial prosthesis, or the right to rehabilitation.⁴⁸ These now became the responsibility of the fisherman or his family. If a fisherman wanted this coverage he could pay for it himself through the Sick Mariners' Fund, a medical insurance plan for mariners.⁴⁹ Even more clearly than previously, under the private compensation scheme coverage was limited to those fishermen and their immediate families who were resident in Nova Scotia.⁵⁰ Fishermen from Newfoundland who came to Nova Scotia to work on the offshore fleet but whose families remained at home were excluded. Although a fisherman or his family had the right to appeal decisions concerning eligibility or the amount of an award, the system was stacked against them. County Court Judges heard such cases and acted as arbitrators.⁵¹ A fisherman wishing to appeal an award faced the daunting choice of hiring an expensive lawyer or presenting the case himself. A financially insecure fisherman in an isolated fishing village might well find it difficult to obtain access to a lawyer and even if he did, his chances of affording such legal aid were slim.

In general, inadequate as compensation had been for the fishermen under the Workmen's Compensation Board, their coverage and the difficulty of getting an impartial hearing for claims was worse under the private scheme. Vessel owners or managing owners had a direct interest in keeping the rates low and their expenses down; reducing awards meant reducing costs. Fishermen who attempted to challenge the decisions of the insurance company faced the possibility of blacklisting. The interests of the vessel owners took precedence over any interests that might be expressed on behalf of the fishermen within this private structure. Thus, privatization of the insurance scheme relieved the vessel owners from any heavy costs resulting from death or injury to fishermen. Moreover, additional

48 Terms and Conditions of 1928 Private Insurance Policy from William Currie Agencies Ltd., F. E. Zwicker Papers, Section (H), MS 4, 37, File 319, Dalhousie University Archives.

49 A holdover from the days prior to Confederation, the Sick Mariners Fund was initially a medical aid plan for all injured seamen. Administered after Confederation by the Department of Marine and Fisheries, after 1945 it was transferred to the Department of National Health and Welfare.

50 Terms and Conditions of 1928 Private Insurance Policy from William Currie Agencies Ltd., F.E. Zwicker Papers, Section H, MS 4, 37, File 319, Dalhousie University Archives.

51 "Maritime Fish Corporation vs Cohoon" in *The Labour Gazette* (April 1930), pp. 475-6. The case of Maritime Fish Corporation vs Cohoon best exemplifies how the system worked. Cohoon appealed a decision on worker's compensation to the County Court Judge in Antigonish. The Judge found in his favour. The Maritime Fish Corporation appealed the decision to the Supreme Court of Nova Scotia and had the County Court Judge's decision reversed.

subsidies were provided by the government to the vessel owners with this change. The debt that had been incurred by the fishing industry to the Workmen's Compensation Board as a result of claims exceeding premiums over the previous seven years, amounting to \$357,680, was written off. The provincial government further subsidized the Lunenburg fleet by a direct payment of \$13,690 from the Provincial Treasury in 1928 to William Currie Agencies Limited of Halifax, a private insurance company.⁵² This subsidy was geared specifically to the 74 vessels of the Lunenburg fleet — no other vessels involved in the offshore fishery in Nova Scotia, such as the side trawlers or the schooners from ports outside of Lunenburg, were included.⁵³ Although a private insurance company now judged the validity of the claims, the Workmen's Compensation Board was still used to register claims, and the Board's forms were used.⁵⁴ The work completed by the Board was done without fees levied against either the employers or the private insurance companies. How this practice was justified inside the Workmen's Compensation Board is not clear, but it constituted another form of government subsidization of the private insurance plan.⁵⁵

The *Halifax Herald*, in an editorial on 30 January 1928, cited the decision taken by the Provincial Government to remove fishermen from Part I of the Workmen's Compensation Act as "Solving a Problem".⁵⁶ Although this editorial was written in the aftermath of the greatest single disaster to occur in the history of the offshore fishing industry in Nova Scotia, it did not see that the problem was to make the vessels safer, but emphasized the need to keep the fleet fishing. There is no record of any formal inquiry into health and safety conditions on the vessels. Radios for communication with the land were placed aboard the schooners after this disaster but this was technology that had been available and in use in the fishing industry for the previous 15 years.⁵⁷ Instead of examining the causes for

52 The private insurance plan operated through large insurance companies known as Protection and Indemnity Associations ("P" and "I" Clubs) in Britain, associated with Lloyds of London, and initially represented in Nova Scotia by William Currie Ltd. of Halifax. After many complaints of this company's inefficiency the Lunenburg vessel owners replaced it in 1932 with the Lunenburg Fishermen's Mutual Relief Association, organized and run by the owners themselves. Correspondence between Zwicker and William Currie Agencies, F.E. Zwicker Papers, Section (H), MS 4, 37, File 357, 376, Dalhousie University Archives.

53 *Public Accounts of Nova Scotia 1927-1928*, pp. x-xi, Legislative Library, Province House, Halifax, Nova Scotia.

54 Correspondence from Workmen's Compensation Board to E.H. Armstrong, 13 September 1929, E.H. Armstrong Papers, MG 2, vol. 7, F2/2094, PANS.

55 Correspondence from Workmen's Compensation Board to E.H. Armstrong, September/October 1929, E.H. Armstrong Papers, MG 2, vol.7, F2/ 2094, 2108, 2111, 2113, PANS. Workmen's Compensation Board form with the name of William Currie's Agency typed in on the form, F.E. Zwicker Papers, Section (H) MS 4, 37, File 319, Dalhousie University Archives.

56 *Halifax Herald* editorial, 30 January 1928, E.N. Rhodes Papers, MG 2, vol. 635, No. 32006, PANS.

57 One of the causes for the Newfoundland sealing disaster of 1914 is attributed to the failure of all

Privatizing Worker's Compensation 107

the disaster, the provincial government and the Lunenburg vessel owners developed rationalizations which not only explained away its occurrence but also relieved the fishing industry of any burden of responsibility.

The Nova Scotia government, in its privatization of compensation and neglect of safety in the fishing industry seems to have hoped responsibility for safety measures in the fishery would be assumed by the federal government. In the 1928 Speech from the Throne the provincial government stated that "it is their expectation that the federal government will assume the full burden of their responsibility which arises out of its jurisdiction over and control of the fisheries".⁵⁸ This optimism arose out of the appointment of the 1927 MacLean Royal Commission by the federal government to investigate problems in the East Coast fisheries.⁵⁹ Although the MacLean Commission held meetings all over the Maritimes, it was mainly concerned with the inshore fishery and heard testimony from only offshore fishing captains; no crew member from any offshore vessel gave testimony before the Commission. But since the Commission was conducting its hearings at the same time as the controversy over the rates for worker's compensation for the fishing sub-class, both the vessel owners and captains from Lunenburg and the provincial government made representations. However, when the MacLean report was released in 1928, it stated that the question of federal jurisdiction for workers' compensation for fishermen was outside its mandate. The hope of the provincial government that the federal government would take the problems of both safety and an adequate compensation system for fishermen off its hands was never to be realized. In fact, neither the federal nor provincial government were prepared to take responsibility for ensuring reasonable compensation or safety standards for fishermen. Privatization moved the issue away from public attention and provided both governments with a method of evading their responsibilities. Fishermen were to remain in this situation for another 43 years, until 1971, when as a result of a commission of enquiry and the local organizing efforts of British Columbia's United Fishermen and Allied Workers Union, they were once again placed under Part I of the Workmen's Compensation Act.

In part the Nova Scotia government's attitude indicates how much the state was willing to do for private interests, particularly the Lunenburg fish companies who could mount a strong political lobby. Yet one must also consider the generally depressed economy of Nova Scotia, the rapid decline of manufacturing in the province after World War I, and the subsequent high rates of unemployment, poverty, and outmigration. Between 1919 and 1926 there was a consider-

sealing vessels to carry wireless radios. See Cassie Brown, *Death on the Ice* (New York, 1972).

58 Parts 10 and 11 of the text of the Speech from the Throne of the Third Session of the 38th General Assembly, Province of Nova Scotia, E.N. Rhodes Papers, vol. 625, no. 16, PANS.

59 *Herald*, 14 October 1927.

able loss of jobs in the province, as industries shut down or relocated elsewhere.⁶⁰ In Cape Breton, the determination of the British Empire Steel and Coal Corporation (BESCO) to cut wages had resulted in numerous strikes in the coal mines. Given the precarious state of coal mining, an industry on which the provincial government relied heavily for revenue, a crisis in another industry was something the province could not afford at this point.⁶¹

Moreover, the fishing economy of Nova Scotia was in decline after 1920. Ruth Fulton Grant in *The Canadian Atlantic Fishery* points out that the price for a quintal (112lbs.) of dry salt cod declined from a high of \$10.30 in the period 1916-1920 to a low of \$3.50 a quintal in 1932.⁶² Internationally there was a decline in the price of salt fish, which in turn led to fierce competition in the international market. Countries such as Iceland and Norway, which had socialist governments and which had introduced economic planning into their fisheries, were able to supply consistently high quality products drawing top dollar on the market. Nova Scotia fish merchants rejected any such "socialistic" approach and continued to apply 19th century free-enterprise methods, which consisted mainly of undercutting each other on the international market. To maintain profit margins, the lower prices the merchants received were compensated for by the lowered amount they gave to the primary producers, the fishermen.⁶³ Since these merchants were almost always the owners of the offshore fishing vessels, they had little incentive to improve the technology or the safety conditions on these vessels. As long as they could, they clung to the old ways, and the costs of the fishery were borne by the ordinary fishermen. Because their power in the fishing communities met few challenges, these merchants and schooner owners were not forced to find ways of rationalizing the industry or increasing efficiency.

Offshore fishermen lacked the power to influence these decisions. They were hired and fired by either the owner of the vessel or the captain, who acted on the owner's behalf. Each fisherman relied on patronage to ensure gaining "a sight" (a job) on a vessel;⁶⁴ thus fishermen as individuals were very much under the economic control of their employers. This was true of workers in most industries, but the degree of dependency of the fishermen was in many respects greater than other workers. The "truck" system still functioned in the inshore industry and many of the components of the social relations of production which existed there prevailed in the offshore industry as well. The economy of

60 Ernest Forbes, *The Maritime Rights Movement, 1919-1927* (Montreal and Kingston, 1979), pp. 54-72.

61 David Frank, "Class Conflict in the Coal Industry", in Gregory S. Kealey and Peter Warrian, eds., *Essays in Working Class History* (Toronto 1976), pp. 161-84.

62 Ruth Fulton Grant, *The Canadian Atlantic Fishery* (Toronto, 1934), p.76.

63 *Ibid.*, pp.31-4, 75-7.

64 Wallace, *Roving Fisherman*, p.11.

Privatizing Worker's Compensation 109

the inshore industry was characterized by a specific form of unequal exchange between the fish buyer and the fisherman. Credit, at prices set by the merchant, was advanced to maintain the fisherman and his family over the winter. In return the fisherman had to sell the merchant all of his fish at a price also determined by the merchant. The resulting economic relationship allowed the fish merchant to wield far more power than that wielded by capitalists in other buyer-seller relationships.⁶⁵ The truck system as it functioned in the offshore fishery similarly entailed strong relations of dependency of the fisherman on the vessel owner. The fish company or vessel owner made credit arrangements with general merchants in the outports to supply the family with supplies while the vessel outfitted for the fishing voyage. After the voyage the fishermen still depended on the merchants' credit over the time between the landing of the fish and its sale in the West Indies or other markets. With a combination of low prices and poor catches, it was conceivable that after a voyage of two or three months a fisherman could wind up making nothing after repaying the merchant. Yet few if any fishermen had any formal education. Fishing was the only employment they knew and in the depressed economic conditions of the 1920s and 1930s, the labour market did not offer much opportunity for better employment.⁶⁶ The offshore fishermen in these single-industry communities with the skipper of the vessel or the owner on a strictly one-to-one basis with the captain or the owner always holding the upper hand.⁶⁷

Paternalism, deference, and the lack of commonality nurtured by this system had much to do with the lack of the establishment of any union. At sea the captain ruled supreme and to question or challenge his word was considered mutiny. Fishermen were at sea for weeks at a time, isolated from both their families and fishermen on other vessels. When they arrived in port, they returned home to their families frequently in an outport some distance away from the home port of the vessel. Many of the crew members were from Newfoundland, and at the end of a voyage or several voyages, would return home, sometimes for months. This lack of commonality of residence acted to prevent any common bonds being formed by fishermen on different vessels, and further hindered any attempts to unionize.⁶⁸

65 Unpublished "Background Testimony" to the *Royal Commission Investigating the Fisheries of the Maritimes and the Magdalen Islands*, vol. 8, pp. 2848-9, 2864 in MG 6, vol. 14, PANS. R. Ommer, "All the Fish of the Post", *Acadiensis*, X, 2 (Spring 1981), pp. 107-23; Gary Hughes, *Two Islands: Lameque and Miscou, and their State of Bondage* (Saint John, 1979).

66 Most fishermen who had the chance left for more lucrative, though illegal, employment in the rum running business, in which one could make more money in one month than one could make in a whole year fishing. Personal Interview with Lorraine Weagle, dory fisherman and engineer on a rumrunner, Dayspring, Lunenburg County, July 1987.

67 Gene Barrett, "Capitalism and the Fishery of Atlantic Canada", unpublished paper, Saint Mary's University, 1986, pp.33-7.

68 Attempts to unionize fishermen date back to 1905 when the American Federation of Labour

There is a strong contrast between the government reaction to the 1926 and 1927 "August Gales" and the aftermath to disasters in the Nova Scotia coal mines, which were invariably followed by official inquiries and eventually by improvements in safety conditions in the mines and in the compensation available for miners injured or killed on the job. After the August gales of 1926-1927, radios were provided for communications and engines for greater stability, but these changes were entirely voluntary on the part of the fishing vessel owners and captains. For example, there was no government regulation that if a vessel had a radio on board, it had to be working, or even that there had to be someone on board who knew how to use it.

The difference between the mining and fishing industries was surely the existence of a powerful miners' trade union movement that could bring considerable pressure on the government and demand improvements. Without being forced to act by a strong union defending fishermen's interests, the government, like the fish companies, was unwilling to do anything about the backwardness, inefficiency and irrationality in the Nova Scotia fishing industry — the causes of its weakness in the world market. It preferred to preserve the existing conditions in the industry, at the cost of the fishermen of the province. This cost, over many years, not only included very poor remuneration for back-breaking and dangerous work, but also inadequate compensation for death or injury and deplorable safety conditions. It is a sad commentary that even a disaster like the August gales failed to change this reality.

made forays among inshore fishermen in the province. See Robert H. Babcock, *Gompers in Canada* (Toronto, 1974), p.120 and Gene L. Barrett, "Nova Scotia Fishermen's Unions" in Robert Brym and James Sacouman, eds. *Underdevelopment and Social Movements in Atlantic Canada* (Toronto, 1979), pp. 127-60.