The Present Status
OF
Minimum Wage Legislation

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MINIMUM WAGE LAWS.

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Five years ago, in Geneva, Switzerland, there was held, at the call of the Consumers' League of France, the first international conference of Consumers' Leagues,[1] at which the most important subjects discussed were the sweating system and minimum wage legislation in relation thereto. There were present delegates from the Consumers' Leagues of France, Germany, Switzerland, and the United States; and sympathizers from several other countries, including Italy, Spain, Russia, and England.

The most valuable contribution was that of the members of the English Anti-Sweating League, who insisted that it was the duty of everyone there present to go home and agitate for the creation of official minimum wage boards until such legislation should be successfully enforced throughout the civilized world. The American delegates accordingly recommended that this be made a part of the ten years' program of the National Consumers' League, which was done. The English delegates, leaving the Conference at the end of September, introduced their bill in Parliament in January, 1909, which was passed and signed by the King in time to take effect at New Year's, 1910.

Compared with the English speed of action our progress seems rather slow, particularly in view of events which intervened in the English coal industry. After the English people had established official wage boards in four very diverse trades, in different parts of the country, meaning to make deliberate experiments, the great English coal strike occurred. The miners came out of the mines and announced, as one man, that they would not go underground again until Parliament enacted a minimum wage boards law[2] and, besides, fixed one definite minimum below which no agreement might go, namely six shillings a day for a man, and two shillings a day for a boy. In sixteen days after Parliament became convinced that the miners really meant never to go underground until the King signed that bill—the King signed the bill. There was, however, this difference, that instead of six shillings, it gave a man five shillings sixpence and, instead of two shillings, it gave a boy one and sixpence as the minimum below which no one might be paid.

In this country a statute is only a trial draft until the Supreme

[1]September, 1908. A second international conference held in Antwerp, Belgium, September, 1913, resulted in the creation of a permanent international organization for which the preliminary work is being done by the Consumers' League of Belgium, of which the secretary is Mme. Belpaire, 11 Rue de Bom, Antwerp, Belgium.

[2]Called in England "Trade Boards."

Court of the United States has passed upon it. We have at this time seven states authorized to deal, through commissions, with wages, under such trial draft statutes, and no man can foretell when we shall have a law sustained by the Supreme Court of the United States. The futur attitude of the courts is a subject of the gravest anxiety to all men and women who are seriously interested in minimum wage legislation in this country.

Massachusetts, as usual, moved conservatively forward at the head of the procession of states in enacting an experimental industrial measure. There are now, in Massachusetts, Minnesota, and Oregon, commissions actively at work.[3] The members of the California and Colorado commissions are about to be nominated.

In this state (Washington) a commission has been appointed while this Conference has been in session, and the names of the commissioners have been made public today.

In the other states there is wide variety of action. Utah has dispensed with commissions and boards, and has established a flat rate minimum wage. For employing girls below this, at least two employers have, according to the newspapers, been prosecuted. It is unlawful for any regular employer of female workers in Utah to pay any woman less than the following schedule: For minors under the age of 18 years, not less than 75 cents per day; for adult learners and apprentices not less than 90 cents a day, provided that the learning period or apprenticeship shall not extend for more than one year; for adults who are experienced in the work they are employed to perform, not less than $1.25 per day. To pay less than the amounts scheduled is to commit a misdemeanor and incur a substantial penalty. The terms "regular" and "employer of labor" are not defined in the law. We are left to guess whether this includes household service; and whether, if so, any deduction may be made for board and lodging. Through the newspaper clipping bureau comes the item that, in Salt Lake City, two cash girls under 16 years of age were paid 58c a day instead of the prescribed amount of 75c. The employers are reported as consenting immediately to pay the legal wage, explaining that the disobedience to the law was the act of subordinates. No fine seems to have been imposed and no appeal taken. We do not know, therefore, how the court will interpret these various features of this unique law.

New York, Michigan, Ohio, Indiana and Missouri have provided for preliminary investigations through commissions such as that which made straight the way for the permanent minimum wage commission of Massachusetts. In two states it appears to be the intention to include the wages of men. When, in 1912, the voters of Ohio changed their constitution, the amendment which received the second largest popular vote provided that laws may be enacted regulating the hours of labor and establishing minimum wage rates, and "No other section of this Constitution shall be so construed as to conflict with this provision."

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[3]The powers of the Wisconsin Industrial Commission have since been extended to include minimum wage regulation for women and minors.

That does not restrict to women the contemplated minimum wages or maximum hours.

The Ohio Industrial Welfare Commission, recently created, has been authorized by the legislature to enquire as to the wages of women in mercantile employment; and there is a humorous contrast between the sweeping powers conferred by the people upon the legislators, and the catlike caution with which the legislators have proceeded. They have specified that, in mercantile employments, employers may be required to answer certain prescribed questions which cover, fairly thoroughly, the hours and wages of women and girls, and the number under the age of 18 years. No authority is given, however, to check this information. The second commission authorized to go forward in a way indicating an intention to include men, is the able and efficient Factory Investigating Commission of New York State, whose thirty-two bills have been enacted by the present legislature, some of them extraordinarily radical for an Eastern state. This commission is authorized to enquire into wages in the state of New York and is including men's wages in its investigation.

The danger, of course, in all this wide variety of experimental legislation is, that some crudely drawn measure may be brought before the courts, such that some court will not see its way clear to sustain the principle that underlies it. Whenever that happens, a nationwide movement, going forward as this one is now going forward, is checked. We have seen this in two most sinister examples. The old statute of 1887, prohibiting the manufacture of tobacco in tenement houses in New York City, was so crudely drawn that it is hard to see how any court could have sustained it at all points. Unhappily the New York Court of Appeals seized the opportunity to lay so sweeping an embargo upon legislation embodying the principle then involved, that the sweating system has been fastened upon New York City twenty-eight years in consequence of that ill-drawn decision affording an opportunity to a reactionary court.

In Illinois a similar situation existed for thirteen years, from 1895 to 1909. Because the Illinois eight hour law of 1893 was badly drawn, the Supreme Court of Illinois deprived all women of the benefit of any restriction upon working hours, until the Supreme Court of the United States had an opportunity, in 1908, to uphold the right of the State of Oregon to enact a ten hour law for women; then, a more modern court having been elected meanwhile in Illinois, the wage earning women obtained a similar measure of protection and the new state supreme court sustained it. But the women wage earners in the third manufacturing state in the Republic had, meanwhile, suffered unmeasured hardships for thirteen years.

We welcome, therefore, eagerly, so statesmanlike a measure as the preamble to the new statute of Washington: "The welfare of the State of Washington demands that women and minors be protected from conditions of labor which have a pernicious effect upon their health and morals. The State of Washington, therefore, exercising herein its

police and sovereign power, declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect."

It would be obviously difficult for any court boldly to lay down the proposition that it is for the welfare of Washington, or any other state, that women and minors should labor under conditions pernicious to their health and morals. But it is an excellent thing to have the right principle enunciated with unmistakable clearness in the preamble to this measure, and then to have the statutes of the other states drawn in the light of that principle.

Once for all, the old tradition is abandoned that the payroll is a trade secret. Henceforth it is a matter of the highest public importance, the gravest public concern. Henceforth employers of women and minors are gradually to wake from the dream that their business is their's alone.

In view of the social value of the commissions present and prospective, it is grievous to have to point out a grave defect in our procedure to date. It is conspicuously less democratic than that of the countries from which we borrowed the idea, Australia and England. In Australia the whole body of legislation for the establishment of minimum wages rests on the principle that no one knows so much about wages as the people who pay them and the people who have to live upon them; and that no disinterested third person can act with such wisdom as the elected representatives of these two classes most intimately concerned.

Under the Australian and English laws there are added to each "trade board" a small proportion of representatives of the rest of us, the purchasing public, who buy the goods and ultimately pay the cost. If the wages are insufficient we pay the cost. We sustain the human wreckage that sweated wages cause. If we do not do it in charity, we do it in self defense, caring, often too late, for those who lapse into ways of living that endanger the community. Or we pay in maintaining prisons, restraining those who have not been able to live upon their wages and have, in a thousand ways, attempted to avenge themselves upon society. Under all circumstances the rest of us pay the bills which industry escapes paying. We may pay justly in the beginning by constraining industry to hand on fair wages out of what we pay as fair prices; or we may do it perforce, later. The Australian and English people have adopted democratic ways of doing it; and in one state after another we have shown that that is not our way.

Here in Washington it is expressly stated in the laws, that no member of the commission may have been a member of an association of employers, or a member of a labor organization, within five years of appointment to the commission. The obvious aim of this provision is that the commission shall be disinterested. The commission may at its discretion call into conference persons representing the employers, and others representing the employes, the results of whose deliberations are to be at the service of the commission.

The closest approach that we seem to have made to the Australian degree of democracy is in the Minnesota statute, which provides that

the commission may in its discretion establish in any occupation an advisory board, "provided that the selection of members representing employers and employes shall be, so far as practicable, through *election* by employers and employes respectively." That is as near as we have come to placing the responsibility of decision upon the people most closely concerned.

It is obvious that the framers of all these bills have had in mind the teaching of experience that, ultimately, the courts will decide how democratic we can be. We are accustomed to delegated power from legislatures to commissions. We are not habituated to binding decisions, having force of law, made by representatives of employers and employes.

Why is it that we alone restrict this legislation to women? As I read the preamble to the Washington statute, I ask myself: If it is contrary to the welfare of the state of Washington that women and minors should work under conditions prejudicial to their health and morals, can it be desirable that men should work under such conditions? Is it not true that where women and minors work for wages at all, it is ultimately because their men bread-winners are insufficiently paid?

It has been, I am convinced, a misfortune on a national scale, that the discussion preceding the enactment of many of our new laws has turned upon the meanest consideration on which such a discussion could conceivably have been carried forward. What could possibly be more contemptible than the question: "What is the least sum on which an honest working girl can keep soul and body together and escape disgrace?" Surely it behooves us, in the future, to get our wage legislation upon as statesmanlike and as democratic a basis as that of Australia and England![4]

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[4] A recommended draft for a minimum wage bill has been prepared, with comments, by the National Consumers' League. It is compiled from the laws of Massachusetts, Washington, California, Minnesota and the Ohio Constitution, and is intended to embody the best points of all. Application should be made to the office, 106 E. 19th Street, New York City.