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The minimum wage law in Massachusetts

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THE MINIMUM WAGE LAW IN MASSACHUSETTS

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THE MINIMUM WAGE LAW IN MASSACHUSETTS

The minimum wage movement in this country, starting with the Massachusetts Minimum Wage Law in 1912, was the outcome, not only of investigation here, but also of agitation and experiment in New Zealand, Australia, and Great Britain. A brief survey, therefore, of the operation of minimum wage laws in these countries will provide the necessary background for a study of the law enacted in Massachusetts.

In all of the countries where minimum wage laws have been passed, low wages have been the main cause. Investigations have proved, wherever undertaken, that many women were earning wages inadequate to meet the cost of living. One of two possible methods of handling this situation has generally been adopted by states which followed the example of the pioneers in this movement. One method is that of New Zealand, adopted first in 1894. A compulsory arbitration law was first passed to prevent strikes and lockouts. Later this law conferred upon the arbitration court the authority to fix conditions of employment, including the minimum wage to be paid. New South Wales in 1901, Western Australia in 1902, and the Commonwealth of Australia in 1904 followed this idea. When the industrial arbitration system is in operation, industrial agreements of employers and employees under certain conditions may be registered, and have the force of awards, enforceable against the parties which indicate their intention of being bound by the agreement.

A different method was adopted by Victoria in July, 1896, whereby minimum wages are determined by wage boards, made up of equal numbers of representatives of employers and employees, presided over by an impartial chairman who holds the deciding vote. These wage boards are set up for

each trade or industry and are required to discuss conditions and to determine the minimum wages to be paid. These minimum rates, when published, become legally binding upon all employers in the industry within the area which the board serves. South Australia, Queensland, and Tasmania have followed her example.

An important distinction between the wages board and the compulsory arbitration method is that the wages board itself takes the initiative in determing wages and conditions of employment for the industry, without waiting until a dispute arises, while under the compulsory arbitration method the court itself does not start proceedings, but waits until a dispute occurs and then takes up the question of wages. Under the wages board system, each industry has its own board, whereas an arbitration court ordinarily deals with all the industries within a district. An important distinction is found in the fact that the wages boards consist of persons representing both employers and employees, with unbiased chairman, while arbitration courts usually consist of one member only.

The minimum wage laws both in New Zealand and in Australia, met with much criticism and opposition in the beginning. Nevertheless, they have been extended from time to time, until now almost all the industries in all the states are included. Since the enactment of these laws, the industries of the various states have grown steadily. Moreover, contrary to what many expected, the minimum has not tended to become the maximum.

Great Britain adopted the Victorian system as a model after an investigation in 1908. The first British legislation on the minimum wage was the Trade Boards Act of 1909, which applied to four trades. Gradually, the law has been extended to include many others. The methods of the British trade

boards in fixing minimum rates are similar to those fixed by the wages boards in Australia. The application of the legal minimum wage to the coal-mining industry in Great Britain is especially significant because the employees are mostly adult males and very strongly organized.

All of the foreign minimum wage laws referred to apply to men, as well as to women and children, differing in this way from American laws, all of which have one principle in common in that they apply only to women and minors.

Great Britain has extended the operation of her minimum wage law until, in 1922 minimum wage boards were active in industries employing three million working people. Now, however, the principle is once more under fire, and careful examination of Great Britain's experiment in this field is being made. On the whole, the experiment has proved satisfactory. According to a recent student of the situation, "They (Great Britain's ventures) give substantial endorsement to the minimum wage principle within the limits in which it has been applied in the United States. Those who have supported that legislation in this country can not but be encouraged by that fact."*

The operation of the minimum wage law in these countries, especially after Great Britain passed her act in 1909, brought the matter finally to the attention of Americans. The need of such legislation was emphasized also by the publication in 1910 and 1911 by the Federal Bureau of Labor of the results of its investigations into the labor of women and children in the United States. Public opinion was aroused as never before. All over the country, the need for protection of underpaid women workers was felt.

* "Minimum Wage Legislation under Review," by H. Feis. Survey, September 15,1922. p. 721.

The first action was taken by Massachusetts. In 1911, a Commission on Minimum Wage Boards was appointed, the object of which, as stated in the Resolves, was "To report on the advisability of establishing a board or boards to which shall be referred inquiries as to the need and feasibility of fixing minimum rates of wages for women and minors in any industry."* The commission was to consist of five persons, citizens of the Commonwealth, of whom at least one was to be a woman, one a representative of labor, and one, a representative of employers.

The Commission appointed as its secretary, Miss Mary W. Dewson, formerly superintendent of probation of the State Industrial School for Girls. The commission held twenty-four meetings, three of which were public hearings, and conferred with employers, economists, representatives of labor organizations, social workers and other persons who were well acquainted with the conditions of labor and the special needs of the working women.

The information available, according to the report of the Commission, submitted January 10, 1912, was meagre. Moreover, to have made a complete survey of the industrial situation would have required much more time than the commission had at its command. To have made an entirely satisfactory investigation, data should have been gathered concerning not only the wage schedules, but the actual weekly and annual earnings, the variation of these earnings with age and experience, the effect of industrial conditions on regularity of employment, the effect of the ill-health of employees, the aid received or rendered by the workers to members of their families.

*Chapter 71, Resolves of 1911, approved May 11, 1911.

Because of scarcity of time and money, it was necessary to restrict the study to a few occupations. The commission decided to conduct an investigation into the condition of employees in the confectionery factories, the retail stores and the laundries. The first represented a large Massachusetts industry with interstate competition, and the other two represented non-manufacturing occupations with only local competition to contend with.

Wage schedules were gathered from 6,900 persons, and a certain amount of personal and domestic data from 4,672 persons. Employees in 91 establishments in 18 localities were investigated. From the federal report on "Condition of Women and Child Wage Earners in the United States", the wages and some information regarding personal and domestic conditions were gathered regarding 8378 female cotton operatives employed in 22 establishments, and very full domestic data concerning 438 families, containing 2626 persons, each of these families having a woman or a child wage earner in a cotton mill. Thus, more or less complete and thoroughly reliable information was gathered concerning 15,278 female wage earners engaged in four different occupations in the state.

In all four industries, the commission found that very low wages prevailed. Forty-one per cent. of the candy workers, 10.2 per cent. of the saleswomen, 16.1 per cent. of the laundry workers and 23 per cent. of the cotton workers earned less than $5 a week; and, respectively, 65.2 per cent., 29.5 per cent., 40.7 per cent., and 37.9 per cent of them earned less than $6 a week. Inequalities of wages in the same industry were noticeable and tended to show that the "rate of wages depends to a large degree upon the personal equation of the employers and upon the helplessness of their employees, and to a very inexact degree upon

the cost of labor in relation to the cost of production."*

The personal equation made it impracticable for the commission to attempt any thorough investigation into the minimum cost of living. Among a large number of families, all obliged to practise the greatest thrift, a great variation in expenditures was found. In some cases, less was paid for food, in others a large per cent. for clothing because of the requirements of the occupation of the wage-earner. The fact that a woman was living with her family had, in some cases, also to be considered. The items included were the same: clothing, laundry, car fares, medical and dental care. No allowance was often made for recreation, charity, insurance, vacation expenses, church contribution, or education in the form of a newspaper, although these items ought to be included.

As a result of its investigations, the commission reported, unhesitatingly, that Massachusetts had great need of minimum wage legislation. "The fact that there is a large number of women who must maintain themselves, many of whom are called on to contribute also to the support of others, and that there is a large army of women upon whose assistance the welfare of their family groups depends in part, presents a social question of great importance."**

The need of work was in all cases urgent, and the numbers of workers available so large, that the employers were free to take advantage of their helplessness. The constant increase in immigration at this period served to make the situation still worse. The law of supply and demand alone operated to determine the wage of these women. This wage

* Report of the Commission on Minimum Wage Boards, p. 12.
** Report of the Commission on Minimum Wage Boards, p. 16.

could be forced below the minimum cost of living, without provision for health, for unemployment, or for old age, all of which provision must, at a later date, be made by society. A large proportion of the working women was included in this class.

In general, the commission found that women were working, not for luxuries, but because dire need forced them into industry, that they might provide both for themselves, and, in many cases, for other members of their family.

The objections on the part of the employers were anticipated by the commission and form an excellent background for the discussion of their attitude at a later time. The following paragraph of the report indicates the view of the commission in cases where an unskilled woman is obliged to combat an employer who will not pay her a living wage. "Wherever the wages of such a woman are less than the cost of living and the reasonable provision for maintaining the worker in health, the industry employing her is in receipt of the working energy of a human being at less than its cost, and to that extent is parasitic. The balance must be made up in some way. It is generally paid by the industry employing the father; it is sometimes paid in part by the future inefficiency of the worker herself and by her children and perhaps in part ultimately by charity and the state..... If an industry is permanently dependent for its existence on underpaid labor, its value to the Commonwealth is questionable."*

The Commission further believed that the existence of such a large amount of subsidized labor as this was likely to encourage a low standard for wages in general. Employers were encouraged to take advantage

* Report of the Commission on Minimum Wage Boards. p. 17.

of these workers without regard for the social results. The women were helpless to aid themselves because of their inability to form effective organizations.

In its report, the Commission further faced the charge that minimum wage legislation represents an attempt to provide by the government more wages for these low-paid workers than they earn. The supporters of this view assumed that some mysterious economic law correlates earnings and wages, and that the government intends to interfere with the working of this law. As a matter of fact, earnings, as distinct from wages, can not, according to the commission, be less than the necessary cost of maintaining the worker alive and in health. Any piece of machinery used in industry is expected to be worth the cost of its manufacture and maintenance. Surely, the same ought to be true of the human being whose labor is employed in industry, declared the commission.

Wages paid, however, the commission found, did fall below this standard, which was likely to result in excessive profits to the employer or in prices too low to the consumer. "In either case the workers are underpaid; the industry is, in part, parasitic. The purpose of this proposed legislation is not to compel the payment of wages in excess of actual earnings. It can have no tendency to compel any employer to pay any worker more than the fair value of that worker's labor."* There was no intention of interfering unnecessarily with the industrial and mercantile prosperity of the state.

Social welfare, as well as the comfort of the individual, demanded, the commission felt, that the public assume some responsibility for the

* Report of the Commission on Minimum Wage Boards. p. 19.

underpaid women workers. It, therefore, recommended the passage of a Minimum Wage Law to deal with this problem.

The Commission, in closing, mentioned three objections which it expected would be offered to the proposed legislation: it might be considered beyond the constitutional powers of the General Court; it might be regarded as hostile to the financial interests of the industries; it might be called detrimental to the interests of the workers themselves. It attempted to answer those possible objections.

First, as regards constitutionality, there should be no constitutional objection to a law preventing a woman from working for less than a living wage, inasmuch as under our present system a woman was not permitted to contract to work more than eight or ten hours. Social welfare demanded one as well as the other of these regulations.

Second, the commission realized the possible danger to the prosperity of industries affected by the minimum wage legislation. It saw the handicap to industries which were in competition with industries in states where no such restrictions prevailed. For that reason, the commission provided for a consideration of each occupation by itself. The commission expected only increased efficiency in most of the industries affected.

Third, it expected that the interests of the employees would be benefited on the whole. It recognized possible hardship where unemployment might follow the establishment of the legal minimum wage, but even this was preferable, for the good of society, to allowing these workers to toil for less than a bare living wage, and inflict, as a result, a great burden on society.

The advantages of the proposed legislation were enumerated as follows:

1.It would promote the general welfare of the state by protecting the women workers from economic distress.

2. It would make employers face their public responsibilities.

3. It would provide the women workers a means of securing the best minimum wages possible without the aid of strikes.

4. It would tend to prevent exploitation of helpless women and, to this extent, diminish sweating in our industries.

5. It would decrease the parasitic character of some industries and lessen the burden now resting on other employments.

6. It would enable the employers in any occupation to prevent the undercutting of wages by less scrupulous competitors.

7. It would encourage employers to develop the capacity of the less competent workers in order that they might earn the minimum wage required by law.

8. It would tend to induce employers to keep together their trained workers and to avoid, so far as possible, seasonal fluctuations.

9. It would tend to eliminate the sense of grievance in the employees, who would become in this manner better informed as to the actual conditions in their trade.

10. It would give the public assurance that a remedy existed for industrial abuses revealed by the commission.

The proposed measure brought forth even more opposition than the Commission had anticipated. Perhaps no better illustration of the bitterness of the attack upon the law can be given than the speech of Edward F.

McSweeney before the Fifth Meeting of the executive council of the Massachusetts State Board of Trade on February 14, 1912. That there would be evidence of such feeling on the part of the employers was only to be expected. Nevertheless, few supporters anticipated quite such intense opposition. This speech is typical of the attitude taken by the employers,--that the proposed legislation must be blocked at any cost, although the need could not be denied.

The first charge was that "direct control over the individual and all his acts, is the logical expansion of such legislation, and must lead into a complete national system of industrial policy."* Mr. McSweeney further emphasized the unemployment which must inevitably result, and insisted that, in the attempt to secure employment at any wage, in order to live, evasion of the law will result. He advocated labor organization as the only legitimate means for helping the working man. He admitted that this method is painfully slow, but painted a rosy picture of the progress already made. He would have us put the energy expended in minimum wage legisltaion into organizing and improving the workers themselves. To him, this legislation is nothing but an "entering wedge of socialism." He directed invective against many of the economists, who, for the most part, favor minimum wage legislation because they know no better. He explained that they were "young persons fresh from colleges and the moulding perversities of these pagan college economists."

In closing, he insisted that the "people of Massachusetts, its merchants, farmers, members of trade unions, of chambers of commerce and trade bodies are far too intelligent to be fooled by the promise of a

*Edward F. McSweeney, "The Case against the Minimum Wage." p.8.

minimum wage which is only the entering wedge of State Socialism."*

Other arguments advanced by the opposition, inasmuch as they simply represented statements unsupported by proof, can be passed over briefly. Opponents argued that the minimum wage law would interfere with liberty of contract. An individual employer or employee ought to be unrestricted in his power to bargain, according to these persons, made up chiefly of employers.

Dire predictions of unemployment resulting from this law vied with prophecies that the arbitrary minimum would eventually become the maximum. It is hard to tell which of these two important arguments of the opposition received greater emphasis. All savored of thoughtlessness and selfishness, cold-blooded disregard of the need, and, possibly conservatism. They would seem to justify the comment of Judge Brandeis on the opponents of minimum wage legislation.

This prominent student of the problem is encouraging in his reminder that all this heated discussion is the inevitable accompaniment of any legislative act pointing to progress, especially where such an act interferes with certain selfish interests in the community. He called attention to the opposition which the first factory act encountered. "There is hardly an economic or social argument now urged against minimum wage laws which you cannot find raised against that act in the parliamentary debates and in the contemporary literature of England."* Yet, in spite of this discouraging start, he pointed out, these laws which met at first with such opposition have given way to more and more radical social legislation. His comment on the opposition was scornful: "How potent the forces of conservatism that could have prevented our

* Edward F. McSweeney, "The Case against the Minimum Wage." p. 23.
** Louis D. Brandeis, "The Constitution and the Minimum Wage," in Survey Feb. 6,1915. p. 494.

learning that, like animals, men and women must be properly fed and properly housed, if they are to be useful workers and survive!"*

The supporters of the proposed minimum wage law had a solid foundation for their views in the carefully prepared report of the Commission on Minimum Wage Boards, already referred to. They included such organizations as the Consumers' League of Massachusetts, the Massachusetts Central Labor Union, and the Women's Trade Union League which introduced the bill. The arguments presented by them simply emphasized those already given under the report of the Commission. Special emphasis was laid on the fact that the employment of this large number of women and children at an inadequate wage was detrimental to the welfare of the state; that unhealthy women and unhealthy children would result.

The discussion finally terminated in the passage of the Massachusetts Minimum Wage Law on June 4, 1912, which did not come into effect until July 1, 1913.

The law included most of the provisions redommended by the Commission on Minimum Wage Boards. It provided for a permanent commission of three members, to be known as the Minimum Wage Commission.

This commission was to inquire into the wages paid to the women employees in any occupation in the state if it had reason to believe that the wages paid to a large portion of these employees were inadequate "to supply the necessary cost of living and to maintain the worker in health." The commission was given authority to subpoena witnesses, administer oaths, and to determine, from inspection of employers' records, the wages paid to women and minors.

*In same article, p. 494.

If, after this investigation, the commission still believes that a substantial portion of female employees are receiving inadequate wages, the commission may establish a wage board and transfer to it whatever information it has obtained.

This wage board, the functions of which are described in detail below, was to be composed of at least six representatives of employers and the same number of representatives of employees, also a number of disinterested members representing the public. The latter were not to exceed one-half of the number of the representatives of either of the other groups. The determination of this board was to be presented to the commission, which would either approve or nullify, or, if it saw fit, call for a reconsideration of the occupation. If the commission approves, after giving public notice of its intention and a public hearing, it had power to issue an order declaring the wages decided upon to be the legal minimum wages for the given occupation.

The commission was given power to issue a special license for a woman physically defective, permitting the employer to engage her at a wage lower than the legal rate. The wages of minors could be fixed by the commission without the aid of a wage board. The commission was given authority to determine, through its agents, whether the employers in each occupation are obeying the decrees.

The original act, as recommended by the Commission, required that the provisions be enforced in the courts. "Any person employing a woman or minor for whom a minimum wage has been duly established at less than said minimum wage or violating any other of the provisions of

this act shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment in the county jail for not less than ten days nor more than three months."*

Before the bill passed the legislature, however, this vital portion pertaining to enforcement was changed. The "orders" of the commission became merely "recommendations," and the penalty was simply publicity through the newspapers of non-compliant employers. A penalty was imposed on the newspapers for refusing to publish such names. The obstinate employer may avoid even this penalty if he can show before a court that "compliance with the recommendations of the commission would render it impossible for him to conduct his business at a reasonable profit."**

The first report and each successive one gave evidence of the need of amendments to strengthen the law as originally passed. In 1913, the first amendment facilitated the gathering of information regarding the wages of women and minors by requiring employers to keep for a specified period, a record of the hours worked by women and minors. Another amendment, passed the same year, increased the powers and further defined the duties of the Commission. Other important amendments gave the commission power to fill a vacancy arising in a wage board (passed 1919), and required employers to post notices of hearings, nominations for wage boards, and decrees of the Minimum Wage Commission (1919). In 1920, the powers of the commission were still further extended by two more amendments. One allowed it more freedom in the choice of wage board members; the other, permitted it, upon petition of either

*House Bill No. 1697. Section 14.

**Chapter 151. General Laws. Section 4.

employers or employees, or, if in its opinion such action seemed necessary, to reconvene the wage board or establish a new wage board.

In January, 1916, Governor McCall appointed a Committee on Reorganization of Commissions with a view toward accomplishing the consolidation of the Minimum Wage Commission, the Board of Labor and Industries, and the Industrial Accident Baord. At the hearings before this committee, feeling ran so high, that at one meeting the warning was issued that, unless better order were maintained, the hearing would be closed at once. It was only too apparent that the enemies of minimum wage legislation would gladly make this issue of reorganization an excuse to abolish entirely the minimum wage commission. Professor Ripley of Harvard fought hard to retain the separate organization of the boards and the commission. "I contend that it will require at least ten years," he was reported to have said, "to try out these boards and there is no advantage in their consolidation."*

In general, the opponents of the change took this view, -- that consolidation would hamper the working of the Minimum Wage Law. Labor leaders insisted that they would not give up so easily the achievements represented by the establishment of the Minimum Wage Commission. Organized manufacturers fought just as hard to bring about consolidation because they believed that this would mean a strong blow against the operation of the Minimum Wage Law.

In spite of the strong opposition, the Consolidation Act went into effect on December 1, 1919. By the provisions of this act, the Minimum Wage Commission, as such, was abolished. The work of the Commission was taken over by the new Department of Labor and Industries,

*Boston Herald, Feb. 18, 1916.

the executive and quasi-judicial duties being assumed by a board of three Associate Commissioners who also assume the functions of the Board of Conciliation and Arbitration, and are known by that name. The direct duties of administration are carried out by the Commissioner of Labor and Industries, the administrative and executive head of the new department. The Commissioner will initiate investigations and inspections. The Associate Commissioners will conduct hearings, establish wage boards, enter decrees, and issue special licenses.

Under the act, the Commissioner is authorized to determine, with the approval of the Associate Commissioners, what divisions shall be organized. The formation of a separate division for carrying on of the duties of the minimum wage, therefore, depended on the new board. Provision was eventually made for the Division of Minimum Wage: "The board of conciliation and arbitration of the department of labor and industries in performing the duties required by this chapter shall be known as the minimum wage commission,"* otherwise referred to as the Division of Minimum Wage.

The former Minimum Wage Commission, in its last report under the old organization, gave several reasons why this division should be organized so as to protect the individuality of that work. The work is decidedly different from that of the other labor boards and commissions with which it is connected by the new act. It deals particularly with a special group. The wage boards involve distinct problems requiring special treatment. Centralization is unquestionably desirable in the interest of economy and efficiency, but sufficient scope should be given the work of the minimum wage commission. The former commission,

*Chapter 151. General Laws. Section 1.

therefore, recommended "that provision be made for continuing intact the essential features of the minimum wage work, and for protecting, so far as possible, the identity and individuality of that work."*

During the first six months, the Commission investigated the wages of women employees in the brush industry, the corset industry and the confectionery industry. A brief survey of these investigations will serve to illustrate how the commission operates. These industries were chosen because of the large number of women workers in them and the general low level of wages. Manufacturers, with few exceptions, co-operated, probably because of the reasonable spirit shown by the commission.

The investigations showed that almost two-thirds of the brush workers for whom wage records were available, received an average for the year of less than $6 per week. A smaller proportion of corset workers, 35.5 per cent., received less than this amount, a sum too small for decent living. Conferences were held with the manufacturers and workers. From the manufacturers, information was gathered upon the state of the industry, the effect of the tariff, the nature and extent of interstate competition, and various local problems. Conferences with the workers revealed the conditions under which they were struggling.

At the conclusion of its study of brush-making, the Commission was of the opinion that the wages paid to a substantial number of the women workers warranted the establishment of a wage board. Every manufacturer in the state was asked to make nominations in order to get as representative an opinion as possible. Nominations were also asked from the workers. No further action was accomplished during the

*Seventh annual report of the Minimum Wage Commission. p. 8.

first half-year of the operation of the law.

Investigation showed that the lowest living cost for human conditions for an individual in Boston in 1914 was $8.28, a sum which made no allowance for savings or insurance. The wage board of the brush makers' industry decided that "the sum required to keep alive and in health a completely self-supporting woman in Boston is in no case less than $8, and in many causes may rise to $9 or more."*

The candy board, working at the same time, estimated the required sum at $8.75 a week; the laundry board at $8.77. The retail store board decided upon a wage approximating $8.50 per week. In each of these occupations, the wages paid were much below this standard.

The boards differed when they began to consider the financial conditions of the industries. The brush board reported that it considered its industry incapable of paying a wage as high as the minimum wage. The candy board, however, reported that the candy industry could afford to pay this wage. In the case of the laundry industry and the retail stores, the boards reported that the rate required would have to be less than the boards desired. The wage boards then made their report to the Commission in accordance with the law.

After an investigation has been made to determine the need for establishing a wage board in a given industry, and the report of the wage board has been made, the next duty of the Commission is to review the report, and, if it approves any of the determinations recommended by a wage board, to give a public hearing to all employers paying wages less than those recommended. The Commission, accordingly, gave public hearings to the employers in the brush, confectionery, laundry

* Bulletin No. 10 of the Minimum Wage Commission. Statement and Decree concerning Wages of Women in the Brush Industry in Massachusetts. p. 16.

and retail store industries.

At the laundry hearing, no employers appeared. At the brush and retail store hearings, comparatively few employers were present. At the confectionery hearings, the principal employers were represented or were present, and much testimony was offered to show that the determinations of the board were arbitrary and oppressive to employers. The Commission, after careful investigation, was unable to agree that the determinations had been unreasonable. It, therefore, approved the various decrees.

The next duty of the Commission is to publish a summary of its findings and of its recommendations and facts relative to the acceptance of these by employers. From time to time, the Commission is required to determine whether employers in the occupations for which recommendations have been made, are obeying the decrees. If failure to comply is discovered, the Commission has the power to publish the names of the dissenting employers.

The effectiveness of the work of the commission depends in large part upon the work of the wage boards. These, as already indicated, are established by the Commission if, after investigation, it believes that the wages paid in a particular industry are insufficient to meet the cost of living and to maintain the worker in health. It is the wage board, and not the Commission that fixes minimum rates. The wage board recommends the rates, while the Commission, if the rates meet with its approval, puts them into operation. Each occupation is considered by a separate board.

Each wage board is composed of an equal number of representatives of the employers and of representatives of the women employees in the occupation in question, and one or more disinterested persons appointed

to represent the public. The representatives of the public must not be more than one-half of the number of representatives of either side. The size is determined by the commission and varies with the particular industry, its size, location, and the number of its subdivisions. A large industry, with several branches, would require a much larger wage board in order to provide adequate representation for the subdivisions.

The representatives of the public are selected directly by the Commission, and one of them is named the chairman of the board. The other members are chosen from names sent in by the employers and by the employees in the occupation in question. Only those who are in the industry may make nominations. But the persons chosen to represent either the employers or the employees need not be engaged in the occupation. Each side chooses those who can best represent their interests. For the fairest and most efficient results, the persons nominated should be well informed about conditions in the occupation. Their character and ability are, of course, important factors.

The choice of the chairman is particularly important, especially in the case of the small wage board. Here, in the case of a division, his vote breaks the tie. He should be both disinterested and unprejudiced. He must, to be sure, take part in the discussions, because he is a member of the board. Personal attributes of firmness, tact, and good judgment are indispensable. "He has to see that the discussion is conducted with absolute fairness, and that the members keep in mind that they are on the board to represent not themselves, not merely the small group that nominated them, but either all of the workers in the industry,

or all of the employers, as the case may be; and that in the larger sense, the work of both is for the common welfare."*

The law requires each board to consider the following facts regarding the occupation under discussion: the minimum required to meet the cost of living, and provide for the health of the worker; the financial condition of the occupation; and the suitable minimum wage for a woman of ordinary ability in the occupation, as well as for learners and apprentices and for minors below the age of eighteen years. Employers are forbidden by law to penalize in any way an employee serving on one of these boards.

The sessions of the board are usually in the evening, because the members do not wish to lose time in their occupation. Ordinarily they are held in the office of the Commission in the State House. The board usually meets once a week. A report is ordinarily expected after six or eight meetings. Wage board members receive at the present time $4 a day, the same compensation as jurors. They are allowed their traveling expenses in addition. If necessary, hotel expenses may also be added.

The board is responsible to the commission for its work. According to the law, the Commission is permitted to make rules concerning the procedure of the boards. The discussions of the wage boards are private and members are expected to regard all proceedings as confidential while the investigations are being carried on. The Assistant Commissioner acts as secretary of the board. No member may employ a stenographer or other clerk to attend the meetings or take a record of the proceedings. After the board has made its report, the Commission makes it public, if

*"Wage Boards and Their Work", p. 7.

it approves.

When the board, or a majority of the members, reaches a decision, they submit a report to the commission. The chairman of the board draws up his report, after the final votes are taken. The members then sign this report.

If the commissioners tentatively approve of the provisions, they give a public hearing which the members of the board are expected to attend. The commission, if it does not approve, may return the report for further discussion, or may submit the study to a new board.

After a decree has been issued, employers or employees may petition to have the board reconvened to reconsider the requirements. According to the new amendment passed in 1920, the Commission may of its own accord have the board reconvene, if, for example, changes in the cost of living make such action necessary.

"Membership on a wage board is a form of public service, not alone for those who are chosen directly to represent the public, but also for the representatives of employers and of employees. For while the specific purpose of the board is to secure a minimum wage agreement between those standing for the employers and for the women workers in a particular occupation, the action is taken as a means of cooperating in improving industrial conditions in the interest of the Commonwealth.

"It is the recognition of this twofold obligation on the part of the members that makes possible the mutual concessions necessary to secure a common agreement. Each member should come to the board with an open mind, willing to look at all sides of every question at issue, to study the evidence presented, and to assist in reaching an impartial decision."*

*"Wage Boards and Their Work". p. 11.

The attitude of members of the wage boards toward their duties is highly commendable, and, doubtless contributes much to the successful working of the law. The board could proceed in either of two ways, as the Minimum Wage Commission realizes. "The representatives of employers and employees might regard themselves as advocates of their respective interests before the representatives of the public as judges. On the other hand, all members of the board might regard their positions as that of judges, approaching the subject with different backgrounds, but nevertheless keeping their minds open until all the evidence was in. At the first meeting it was unanimously voted that the attitude of the entire board be judicial in character, and this attitude was maintained consistently throughout all the deliberations."*

Such a board plainly does its share in promoting industrial peace. The commission refers several times to the educational influence which it exercises. "In so far as they (the wage boards) succeed in bringing together groups with conflicting views, and inducing them to recognize the community of their interest and their mutual obligation to the Commonwealth,.... they are helping to remove some of the underlying causes of industrial unrest."**

The constitutionality of the Massachusetts Minimum Wage Law was challenged before the State Supreme Court in December, 1917. The occasion of the complaint was the refusal of the various laundries to give the necessary evidence, as required by law, to the Minimum Wage Commission.

An investigation made by the commission in 1915 revealed the fact that more than 50% of laundry employees were receiving less than $6 a

* Fourth annual report of the Minimum Wage Commission. p. 20.
**Seventh annual report of the Minimum Wage Commission. p. 60.

week. A wage-board established to study the situation, decided that $8.77 a week should be paid to cover the necessary cost of living and maintenance in health of a self-supporting woman. The board then voted to recommend a scale of minimum wages running from $6 for a beginner to $8 -- 77¢ less than the necessary minimum -- for a woman of one year's experience. After a public hearing, it issued a decree fixing those rates as the required minimum to take effect September 1, 1915. When investigation was attempted, to determine compliance, some of the laundries refused to show their pay-rolls or give any evidence, and the commission invoked the aid of the courts to compel them to answer. In reply, the companies claimed that the law is unconstitutional.

The opinion given by Chief Justice Rugg on September 24, 1918 answered, in detail, the doubts in the minds of those challenging the constitutionality. He reminded the employers that the act is not mandatory as to rates of wages. "The utmost bound of the authority of the commission is to make recommendations. It cannot issue any orders... 'Decree' is not used in its judicial sense in the statute. It is the equivalent of a counsel succinctly stated."*

He refuted the idea that the law interfered with personal rights of employers. "The act does not purport to exercise any check with respect to liberty of contract, use of property, or management of business. It does not prevent one or any number of women, who do not desire for any reason to earn their entire support by labor, from working for less wages than recommended by the commission. It does not prohibit any employer from contracting for the services of such women for any compensation mutually agreed upon."*

* Massachusetts Supreme Judicial Court Decision in Holcombe v. Creamer, 231 Mass. 99.

He rebukes those who feel that the state is interfering unduly and expending money unnecessarily. "The public money could not be expended for the support of the commission unless its functions related to a public as distinguished from a private matter. It hardly can be pronounced a matter utterly devoid of common interest to ascertain whether and to what extent substantial numbers of working women are receiving wages 'inadequate to supply the necessary cost of living and to maintain the worker in health.'..... It does not seem to us unreasonable to contend that wages insufficient for the bare essentials of the cost of support and the nourishment of the health of women laborers have such relation to the public morals, good order, and health that the dissemination of information upon the subject of such wages from time to time by a permanent commission is within the power of a Legislature clothed as is our General Court with full power and authority to make 'all manner of wholesome and reasonable' statutes not repugnant to the Constitution."*

The decision of Chief Justice Rugg upheld the constitutionality of the Massachusetts law in such a way that further discussion of this objection was eliminated.

Any new law must necessarily bear a great burden of criticism, and the Minimum Wage Law has proved to be no exception to the rule. Before judgment is passed, justice demands that the circumstances under which the law has operated be given consideration. From the beginning, the law has experienced handicaps. Several of these were overcome by the passage of amendments already referred to. But even here long delay meant an obstacle to successful operation.

* See footnote, p. 25.

For a long time, the constitutionality of the law was denied by many and, as a result, they were inclined to regard the law with disrespect, if not actual defiance.

At the outset, the law had to cope with the unemployment of 1913-1914. It operated during the difficult war-time period also. The marked increase in living expenses created a serious situation for the unskilled workers who, according to the investigations of the Commission, benefited least from the war-time increases in wages. The advance in living costs made useless the provisions of the early decrees. Petitions from the workers in several occupations made necessary the reconvening of the old wage boards. In general, the commission found it difficult to keep pace with the changing price level.

The industrial readjustment, with wage reductions and unemployment, which followed the cessation of war activities complicated the problem still further.

The commission found another handicap, which appears to be insurmountable, in the difficulty of enforcing the decrees. Non-compliant employers realized the weakness of a recommendatory law, and, while in the minority, presented a problem which threatened to assume larger proportions. To use the words of the Consumers' League of Massachusetts, -- "A law which has worked despite such difficulties, to the benefit of a substantial number of citizens is worthy of public support."*

Lack of space prevents a detailed account of the investigations of the commission, from the time of its establishment in 1912 to 1923. An idea of the scope of the work will be given in a brief summary.

*Minimum Wage Bulletin. Consumers' League of Massachusetts. January, 1922.

in order that there may be opportunity to stress the present status of the law which is at present attracting so much attention. Up to January 1, 1922, twenty-four occupations employing women have been investigated. Twenty-three bulletins based on investigations and inspections showing the wages of women workers have been published. Wage decrees fixing minimum rates for women and girls have been entered for sixteen different occupations employing from 70,000 to 30,000 women workers.

The kinds of occupations covered by these decrees are: brush industry, laundry, retail stores, men's furnishings factories, muslin underwear, petticoat, apron, kimona, women's neckwear, and children's clothing factories, retail millinery workrooms, wholesale millinery occupation, canning and preserving occupation, candy making occupation, men's clothing and raincoat occupation, corset occupation, knit goods, women's clothing factories, paper box occupation, office and other building cleaners' occupation, and minor lines of confectionery and food preparations.

The commission was inclined toward an optimistic attitude regarding compliance with decrees, when it first started its work. At the first investigation of the brush industry (November and December 1914) five employers were discovered to be paying less than the required minimum wage to eighteen women workers. In February, 1915, the Commission had published in the Boston Advertiser the names of all employers who had complied with its recommendations regarding wages in brush factories. At the next investigation, in June and July, 1915, three employers were found to be disregarding the recommendations, and only five female employees were affected by their attitude. "This almost complete compliance

is perhaps as much as should be expected under the present law. It is notable that such a high degree of compliance with the decree relating to wages in brush factories was secured without publishing the names of employers other than those who accepted the decree and were following it. The commission deems it unnecessary to publish the names of other employers at the present time."* The attitude of retail store owners also justified the optimistic attitude of the commission. Traces of ineffectiveness in the law were seen, in the very beginning, in the case of laundry employers. They showed a general reluctance to post notices regarding the decrees, and, when inspection to determine compliance was started, generally declined to allow the agents to examine their records. As a result, the commission was obliged to make use of what powers it possessed, subpoenaeing a number of employers to appear before the Commission with the necessary records.

During the year 1919, the Commission made inspections in every occupation covered by minimum wage recommendations, to determine the extent of compliance with its decrees. In the brush factories, only two cases of non-compliance, a percentage of .3, were found, both in the same factory. In one case, wages were raised in accordance with the requirements; in the other, the employee left the firm. In the laundry industry, there were found sixteen cases of non-compliance in eleven firms. Nine of these were remedied by an increase in wages; one woman left the employ of the firm; five applied for and received special licenses permitting them to work at wages below the legal minimum; the the remaining case was to be treated in a similar fashion.

Investigations in all other occupations subject to the minimum

*Third annual report of the Minimum Wage Commission. p. 15.

requirements showed similar results. To sum up results: "In all the inspections made during the year, covering 1,030 establishments, and representing 24,815 women, only 196 cases of non-compliance were found, or a total of .7 per cent. of the entire number for whom records were secured. Of these 196 cases, 42, or 21.5 per cent., were of the special license type; 130, or 66.3 per cent., were adjusted by the employers by raising the wages; in 22 cases, representing 11.2 per cent., the women left the employ of the firm; 2 cases, representing 1.0 per cent., were dropped because the firm was on the verge of bankruptcy."* So fas as could be learned, only 3 cases were discharged. The commission felt that the "result of the work indicates substantially complete compliance with the determinations." It was also pleased that the necessary adjustments were secure without the aid of legal action.

That such sanguine results could not be definitely expected from a recommendatory law was indicated by the comment in the commission's report for 1920, in which it called attention to 301 outstanding cases requiring adjustment, and lamented the expenditure of time and expense that would be required.

In the report for the following year, the commission faced the problem squarely and included recommendations that the law be made mandatory, because of difficulties encountered in securing compliance with the decrees under the law as it then stood.

During the year 1921, the commission was constantly troubled with the evasion of the decrees through violating their purpose by discharging part of the women and requiring the remainder to do all the work. This occurred under the office and other building cleaners' decree

* Seventh annual report of the Minimum Wage Commission. pp 53-54.

principally.

For the first time in the fall of 1921, the commission found it necessary to publish the names of non-compliant employers. The names of eleven paper box firms and one office building estate that had refused to carry out its decrees were advertised, and similar action in other cases was deferred because of the attempt to secure, without further delay, the mandatory powers which the commission deems indispensable.

It is difficult to estimate accurately the general results of the Minimum Wage Law. That it has effected necessary changes can not be honestly refuted. Much criticism, unfortunately, has come from enemies who are well versed in the art of making plausible accusations against the commission, which frequently exert a stronger influence than the reports of the commission based on facts and not colored by prejudice. This is particularly true among those who, because of personal interests, are hoping for adverse criticism of the law.

After a very thorough inspection of all occupations affected by wage decrees, the commission reported (1919) that from "the evidence at hand... it would appear that the decrees have resulted in advanced rates for a considerable number of women and girls in the occupations affected."*

Another result is seen in greater efficiency in the workers in some cases. The commission reported indications of this in its report for 1920. As illustration of this, it cited the case of a firm which avoided discharging workers, and raised all employees to a greater degree of efficiency by the method adopted by it. This method sought

*Seventh Annual Report of the Minimum Wage Commission, p. 55.

to ascertain that the employees had proper instruction about their work and were assigned to tasks for which they were best suited. "As a result of this method the firm reported that not only were they able to meet the decree without discharging a single employee, but the efficiency of their workers had been increased and production stimulated."*

The statement of Mr. A. Lincoln Filene, quoted later, in connection with the mandatory law would strengthen the opinion that in many cases there is evidence of greater efficiency on the part of the worker.

After all, ten years is a short period in which to effect radical changes in a situation so serious as that revealed by the commission appointed to study it in 1911, especially when handicaps are so numerous as in the case of the present law. The unbiased observer can not help being impressed with the showing made by the Minimum Wage Commission so far.

The present status of the law requires special attention because of the attempt being made to undermine or abolish it. Expressions of serious dissatisfaction with the Minimum Wage Law and indications of a determination on the part of some to undermine it were apparent soon after its passage. They were especially noticeable in 1916 at the hearings, already referred to, regarding consolidation of the commission and two other boards. Indeed, some suspected that the Consolidation Act was simply an entering wedge for a later attack upon the Minimum Wage Law.

Meantime, the Division of Minimum Wage was planning to strengthen the existing law. The latter part of 1921, reports were circulated from the State House, that the Minimum Wage Commission was drafting a

* Report of the Division of Minimum Wage for 1920. p. 20.

bill providing that the present minimum wage laws shall be made mandatory. This bill was filed with the Secretary of State, December 8, 1921. The commission was forced to this action because of the lack of compliance with its recommendations on the part of the paper box industry and employers of scrubwomen in certain large office buildings in Boston.

A Special Commission was provided for on June 2, 1922, to investigate problems pertaining to prevention of unemployment, to unemployment compensation and to minimum wage. This commission, among other duties, was to "investigate the question of the operation and administration of the minimum wage law, and its effect on the industries and on the employees in the industries for which minimum wages have been established or may be established under the law, and whether mandatory effect should be given to the decisions of the wage board or the law should be otherwise extended, amended or repealed."*

After various hearings, at which much interest was displayed by supporters and opponents of the present law, the commission made its recommendations on February 9, 1923. It declared that the Minimum Wage Law had not had a fair trial, because of the abnormal conditions under which it had operated. It opposed any extension of the provisions of the law. It recommended "that the Minimum Wage Law be continued in its present form until such time has elapsed as will demonstrate whether or not the legislation has justified its mission."**

Warning of the uncertain status of the law was given in the comment that there has been, in the various hearings, a great deal of testimony in opposition to the law, and in favor of its repeal. The Commission was "also impressed by the fact that those who have served as members of

*Chapter 43 of the Resolves of 1922.

**Report of Special Commission. House No. 1325. p. 16.

the Minimum Wage Commission or on minimum wage boards, and who have testified before it, have not by any means been in full accord. Some have advocated continuing and making the law mandatory; others have expressed their disapproval of the measure and recommended its repeal."* These comments surely sound a note of warning to friends of the law.

The attitude of the Special Commission may be summed up in a single paragraph of its report: "The majority of the Commission believe that it is not a wise policy for the Commonwealth to attempt to regulate by legislation the wages of any class of workers in industry."* The sole exception, of all the members, was Representative Jeremiah Healy, who made the statement that the present law ought to be continued and strengthened by the necessary changes.

The attitude of employers at this time is significant. It was all to evident in the hearings on the proposed changes. George L. Lawrence, production factory manager of the United States Rubber Company, told the committee that he allocated between $60,000,000 and $80,000,000 worth of production annually, but declared that he frequently gave it to other states because of restrictive laws here. He insisted that the Minimum Wage Law resulted in paying 30% of the women employees several dollars a week more than they earned.

Royal S. Bright, treasurer of the Bay State Corset Company, Springfield, said that the absurdity of the minimum wage law was shown in his factory, where skilled corset workers received only $13 a week, while boxmakers, women of less ability, received a minimum wage of $15.50 a week. He did not, however, offer any excuse for accepting

* Report of the Special Commission. p. 18.

the work of women at a wage which could not cover the necessary cost of living.

Richard B. Stanley, representing the cotton textile industry of the state urged the committee to "wipe the minimum wage law from the statutes as an indication of friendly feeling to manufacturers."*

That the manufacturers are not in dire need of "friendly feeling" is shown by the statement of Representative Conroy of Fall River that the "cotton mills of Fall River have declared dividends of $10,000,000 which have been taken from women and children employed in mills."** He expressed his faith in the power of public opinion by saying that if the present bill were repealed, that public opinion would restore it.

That the employers mean business was indicated by the formidable array of associations representing their interests: Central Massachusetts Employers' Association of Worcester, Western Massachusetts Employers' Association of Springfield, Employers' Association of Berkshire County, Pittsfield, Massachusetts Laundry Association, Associated Industries, and the Textile Association.

It would appear, from newspaper reports that almost no employers were in favor of the law. The truth of the matter, however, seems to be that those opposed are not only in the majority, but are also more strongly organized and interested in fighting for their convictions than are those in favor.

The law would stand a greater chance for its life if there were more of the type of Mr. A. Lincoln Filene, General Manager of William Filene's Sons Co., Boston. As early as 1915, Mr. Filene reported results of the minimum wage in his store. "We have found that it has been a large factor in raising the standards of our employees, in making

* Reported in Boston Globe, March 14, 1922.
** Boston Evening Globe, March 15, 1922.

them more contented at their work, and in keeping their efficiency steadily on the upward trend. All these, of course, are good assets for any business."* He realizes, however, that in the broader aspects, as concerned with the various industries in the state, that the compulsory minimum wage may cause some inconvenience to industry and some hardship to the individual worker. He believes that after a reasonable trial both employer and employee will be strongly in favor of the law.

Mr. Filene was glad to come before the Commission and express his hearty approval of the law. Representative Healy quotes him in his Statement in the Report of the Special Commission: "Speaking with relation to the operation of the Minimum Wage Law in Massachusetts, Mr. Filene said: - 'It may as well be said that inability to pay a living wage is not always the reason why such a wage is refused. There are greedy employers as well as greedy employees -- men who for the sake of profit want to squeeze the last penny from their help. I am sure we shall agree that the State has a right to step in in such cases and fix a limit beyond which cupidity shall not go, especially in dealing with inexperienced women and children.'"** Such support from an employer whose annual payroll amounts to $2,000,000is doubly encouraging.

At such a vital time, the attitude of economists is significant. They are divided in their opinion now, as they were in the beginning of the movement for minimum wage legislation. Of those opposed to the legislation, Taussig offers especially interesting views. His "Principles of Economics", recently revised, reflects the same views as those expressed in his well-known article on the minimum wage which appeared in the May, 1916 issue of the Quarterly Journal of Economics.

*From his statement in the Fourth Report of the New York Factory Investigating Commission. p. 792.

** Statement of Rep. Healy in Report of Special Commission. House 1325. p.49.

In this article, he warns against the fallacy of the parasitic interpretation upon which our law is based. He insists that the majority of the women who work in factories do not need as a minimum any such wages as the commission is prescribing. He combats the idea that a girl living at home should receive as much as the girl who is independent. He contends that the low wages are directly the result of the very large supply of unskilled women workers, always seeking a market, and constantly increased by the immigrant population. The minimum wage can not solve this problem effectively, he thinks. "With less numbers demanded and large numbers offering, there will be a selection of the more desirable, a rejection of the less desirable, non-employment for a certain proportion. How large the proportion of unemployed will be, must depend on the conformation of the demand schedule; but unemployed there will be, and hence, failure to accomplish the desired object. Such seems to be the first and simplest application of economic theory to the case."* (Note: Please insert page 37a here.)

Several economists have engaged actively in the fight to maintain the present law in Massachusetts, and to extend its provisions. Among them are Professors Felix Frankfurter, Arthur Holcombe, and Wm. Z. Ripley of Harvard, and Professor Carroll Doten of the Massachusetts Institute of Technology. At the third hearing, held October 20, 1922, Professor Frankfurter expressed his opinion in an emphatic manner, declaring that an industry which could not pay the minimum wage ought, for the good of the state, to be obliged to close its doors. Professor Doten has lectured frequently and served on a wage board, and Professors Holcombe and Ripley have given excellent testimony at the hearings.

Workers, because of fear of losing their positions, are frequently afraid to express an opinion. Their attitude is expressed primarily by

*Taussig, "Minimum Wages for Women", Quarterly Journal of Economics, May, 1916. p.422.

While due consideration should be paid the economic theory of such experts as Professor Taussig, it must be remembered that some economists, Professor Taussig among them, are inclined to live too much apart from the world of reality. They find it difficult to realize the plight of underpaid women workers and the cruelty of letting the law of supply and demand accomplish its ruthless ends unhampered. At times, one is tempted to brush aside the warnings of the theorists and risk the results.

Either extreme, however, is unfortunate. Those who have too great a regard for economic theory are unwilling to make any attempt to remedy, through legislative means, the distress of unskilled women workers. Those who utterly disregard economic theory run the risk of encountering failure in the operation of minimum wage legislation, -- indeed, the very results of which the theorists warn. For example, the latter predict much unemployment as a result of the minimum wage law. This will undoubtedly occur, if we attempt to secure a living wage for all workers. Thoughtful people will not promise too much for the law. They will see that the minimum wage can be demanded, without causing unemployment, in some industries, where a number of competitors are already paying this wage and prospering; that the other concerns must be compelled to give up part of the illegitimate profits secured at the expense of their employees. But they will also realize the futility of attempting to secure an adequate living wage for all these unfortunate underpaid workers, simply by passing a minimum wage law. They will not overlook the necessity of reducing the numbers requiring such legislation, through such supplementary measures as are mentioned at the end of the thesis.

A discussion of the economic theory of the minimum wage law has been intentionally omitted from the thesis, because it would have no legitimate place in a practical discussion of the Minimum Wage Law in Massachusetts.

the Women's Trade Union League. The individual workers, in the opinion of Professor Holcombe, would gladly testify to their approval of the law, were the hearings held at such a time that they could attend. The ignorance of many of these workers naturally makes them diffident about facing their better trained opponents.

To summarize, the Massachusetts Minimum Wage Law is at present on trial. Its foes would not only defeat the mandatory provision, but, if possible, effect the repeal of the law. Its friends insist that allowance must be made for the circumstances under which it has operated, and that additional measures are necessary for its efficient operation.

The most important change proposed in the present law is an amendment giving mandatory, instead of recommendatory, powers to the commission. The commission included definite recommendations for such a change in its report for 1921. As early as 1916 it made mention of the handicap which a recommendatory law caused. In its report for that year, it laments the fact that some employers show a tendency to disregard its decrees, and, in view of this fact, "concludes that justice to the large majority of the proprietors of retail stores in this State, as well as to the women and girls who work for a living in retail stores, requires that it (the commission) be armed with power to enforce its recommendations concerning the wages of women in this occupation."*

The proposed change would provide for fine instead of publication as penalty; would authorize employees to collect the difference between wages paid and the minimum rate; and would authorize the Department of Labor and Industries to enforce the act.

The reasons for asking the change are several. As indicated

*Fourth Annual Report of the Minimum Wage Commission. p. 18.

above, the Commission has had difficulty in securing compliance with its decrees. Already it has been necessary to advertise several firms, and more must be included unless a change in the law occurs. The cost of operation under the recommendatory law, moreover, is greater. At present, repeated inspections of a given establishment are necessary in order to determine compliance. In some cases, a long time elapses before the commission is able to bring about the adjustments necessary to secure compliance with its decrees. This means a loss to employees who, meantime, are receiving less than the required wage.

A difference of opinion seems to exist as to the attitude which prevails among employers. The testimony given at the hearings would seem to indicate that there was strong opposition. In the light of the Commission's opinion, however, it is quite likely that these employers represent those who are, fundamentally, working for the repeal of the law, and are, therefore, against any measure which would bring about its more efficient operation.

The commission, through its inspection work and its wage board conferences, has discovered that employers in large numbers prefer a mandatory law. The wage boards for the Retail Store Occupation and the Women's Clothing Occupation have recommended that the law be made mandatory. A bill providing for powers of this nature was introduced in 1917 in the Massachusetts legislature and endorsed by several employers. Some employers in the Paper Box Industry are now requesting that this change be permitted, in order that the law be enforced uniformly. One of the commission's agents working with the Paper Box, Women's Clothing and Knit Goods decrees, reported that 90 per cent. of the employers he interviewed are in favor of a mandatory law.

Various objections to a mandatory law have been carefully studied by the Minimum Wage Commission and made available, together with the above information, in the form of mimeographed sheets, which, because of lack of space, can not be included in the annual reports of the commission. The first objection raised is that of constitutionality. But the decisions of four state courts (Arkansas, Minnesota, Oregon, and the District of Columbia) and of the United States Supreme Court in the Oregon case hold that such a law is constitutional because it is passed in the interest of the public welfare.

Opponents further argue that the fact that our present recommendatory law has met with general acceptance of its decrees is proof of its efficiency. The Commission, however, points out that the real test of the law is yet to come. The present attitude of the employers in the Paper Box Occupation is indicative of the growing tendency to evade the decrees. If these succeed in defying the decrees, others will follow suit.

Still others feel that the powers of the state will be made too drastic by a mandatory law; that it is preferable to secure the voluntary acceptance by employers rather than through coercion. As a matter of fact, the present law is more drastic in some respects and surely more irritating through its indirect methods of advertising. The mandatory law is direct in its operation, falling alike on all, whereas the present law operates in some directions drastically, and in others, not at all. For example, as the Commission points out, a manufacturer with a trade name can not afford this undesirable publicity, while the wholesale manufacturer may remain indifferent to it.

The Commission feels that opposition to a mandatory law comes chiefly to those who are opposed to the present Minimum Wage Law, because otherwise they would welcome a measure which would bring about its more efficient operation. Under the new provision, not only would the decrees be enforced with fairness to all employers, but with less expense. The cost of advertising would be saved and the expense of following by several inspections, the compliance with the decrees.

Various other defects have appeared in the present law. The commission has been hampered by lack of funds. Each report has contained an appeal for additional appropriations, but has met with but little response. This handicap has been most noticeable in the reduction of the size of the annual report, much valuable material being, of necessity, omitted. The Department of Labor and Industries has also discontinued the practice of printing the wage statistics of investigations and the followup inspections in the various industries. As a result, the public can no longer keep in touch with the details of the work, unless it is willing to examine them in the files at the State House.

In the interests of economy, a valuable report on the cotton industry in this state has remained unpublished. This investigation concerns 12,962 women and, incidentally, cost the State $5,000.00. The Massachusetts Consumers' League is justified in saying that from "the standpoint of economy the expenditure by the State of $5000.00 for an investigation of this type would seem to justify the small additional amount of approximately $500.00 for printing, which would give to the public the wage facts for so large a group of women workers as are employed in the cotton industry."*

* Minimum Wage Bulletin of the Consumers' League of Massachusetts, Jan., 1922.

The commission is further handicapped by the small number of workers. There must be a complete and efficient personnel to carry on the work successfully. The Commission has no secretary of its own now, as Miss Johnson, who, under the old organization, gave full time, can now devote only one-half of her time to the work of the Division of Minimum Wage of the Department. Interested friends lament the fact that often, after a busy day in her office, she must attend, in the evening, a meeting of a wage board out of town. Moreover, formerly the men on the commission had no other state duties and could give more time and thought to the work of the minimum wage.

Miss Johnson, in her latest article, is very reasonable in her complaints as to the existing law. Among the necessary modifications, she mentions as most important the "provision for prompt and scientific revision of the rates to meet changes in the cost of living; provision for securing greater uniformity in minimum rates for different occupations; and provision for uniform enforcement of wage decrees."*

Another question raised by those interested in seeing the best results from the law is whether or not the minimum wages recommended are adequate. Generally, after the wage board has decided on the wage necessary to maintain health and cover the cost of living as well, it recommends a legal minimum one dollar, more or less than this rate. This practice has been condemned especially by the Consumers' League. Public-spirited women, in an effort to test the "living wage" tried living on the sum of $12.00, fixed in 1921 by the Massachusetts Commission.

An interesting account of their experiences was contained in the Boston Sunday Post, for January 1, 1922. The women were Miss Amy

* Ethel M. Johnson, "Massachusetts Minimum Wage," Survey, May 13, 1922.

Woods, director of surveys for the Consumers' League of Massachusetts; Miss Grace Coldwell, director of the New England centre for day nurseries, and Miss Cora Francis Stoddard of the Scientific Temperance Federation. They all agreed that, with the most careful management, they could not live and maintain health on such a wage. Each broke down under the strain. In the short time of her experiment, Miss Caldwell suffered from a recurrence of an old ailment because of her manner of living on $12.00 a week.

Surely, if there is any doubt in the minds of some as to whether the Minimum Wage Law is needed, the experience of these trained, disinterested women should prove the need not only of this law, but of all the changes necessary to make it effective in its attempt to protect the unskilled women and children.

In conclusion, there must be added a word of warning to those who depend upon the minimum wage law, however effective, as the sole remedy for the conditions with which it deals. There must be supplementary measures as well. Professor Taussig realizes the truth of this when he recommends other reforms: "For the younger women, beyond question, we need helpful education and helpful extension of the period of training... For the older women, widows' pensions, dependents' pensions, infirmity insurances, -- the various forms of wide provision by public authority for unavoidable calamities, -- loom up among the desiderata of the future."* A general raising, through restricted immigration and more extensive education, of the standard of living, together with such social legislation as Professor Taussig mentions ought, in time, to decrease, if not remove, the unfortunate conditions necessitating minimum wage legislation.

*Taussig,F.W., "Minimum Wages for Women", in "Trade Unionism and Labor Problems", edited by Commons, p. 736.

SUMMARY OF

THE MINIMUM WAGE LAW IN MASSACHUSETTS

The Minimum Wage Law passed in 1912 in Massachusetts was the first in this country and came about as a result of experiments tried in New Zealand, Australia, and Great Britain. Investigations in the latter countries, as well as in the United States, revealed a startling need of such legislation. Many women were found to be earning a wage inadequate to meet the cost of living.

New Zealand adopted her method first in 1894. A compulsory arbitration law was first passed to prevent strikes and lockouts. Later this law conferred upon the arbitration court the authority to fix conditions of employment, including the minimum wage to be paid.

Victoria, in 1896, adopted a different method whereby minimum wages are to be determined by wage boards, made up of equal numbers of representatives of employers and employees, presided over by an impartial chairman wholds the deciding vote.

In spite of criticism and opposition, these experiments have both succeeded, and extensions of the law have been made.

In 1909 Great Britain adopted the Victorian system as a model. This country has also met with success in the administration of her law, and has extended the provisions to include many occupations at the present time.

The matter was brought to the attention of the United States through the results of this legislation abroad. The need was emphasized also by the publication in 1910 and 1911 by the Federal Bureau of Labor of the results of its investigations into the labor

of women and children in this country.

Public opinion was aroused everywhere, but action was first taken by Massachusetts. In 1911, a Commission on Minimum Wage Boards was appointed, the object of which was to study the situation and report such legislation as seemed advisable. As a result of the investigation made, the Commission reported that Massachusetts had great need of minimum wage legislation. Its report explained the conditions which justified its recommendation of a Minimum Wage Law, also included in the report.

When the bill was introduced, much agitation resulted. The supporters found themselves faced with seemingly endless objections. In spite of these, however, the law was passed in 1912. It provided for the establishment of a permanent Minimum Wage Commission, with suitable powers for conducting investigations where it had reason to believe there was need. Provision was also made for wage boards, which form an important part of the system. The original act asked that the decisions of the commission be enforceable in the courts. As finally passed, the law provided the penalty of publication of names of non-compliant employers.

As time went on, changes became necessary, and several amendments were passed. An important change took place as a result of the Consolidation Act which went into effect on December 1, 1919. By the provisions of this act, the Minimum Wage Commission, as such, was abolished. The work of the commission was taken over by the new Department of Labor and Industries, and the commission was made a division under the new department. Three Associate Commissioners serve as the Board of Conciliation and Arbitration, and also as the Minimum Wage Commission.

The work of the commission was handicapped by various factors. In the first place, until Chief Justice Rugg, in 1918, rendered a favorable decision, the constitutionality of the law was held in doubt by many. From the outset, the law found its encountering difficult economic conditions. It had to meet the period of unemployment in 1913-1914. Then the war period, with its constantly changing price level offered a new problem. The necessary industrial adjustments following the war had also to be met. Another handicap appeared in the difficulty of enforcing the decrees.

This latter difficulty became so serious that the commission found it necessary to ask that the law be made mandatory.

It is difficult to estimate accurately the general results of the operation of the law. The reports of the commission would seem to prove that it has had a large degree of success, especially when the various handicaps are taken into consideration. Unemployment has not resulted to a serious extent, and the efficiency of the workers in many cases has been increased.

At the present time, the Minimum Wage Law is under fire. The occasion is the hearings on the Report of the Special Commission appointed to investigate cases of unemployment, unemployment compensation, and the minimum wage law. The majority of the commission seem to be unfavorably disposed to the law. It thinks that, while good results have in many instances been accomplished, that they do not warrant an increase in power, through a mandatory measure, for the commission. It would have the present law on trial for five years longer, without additional measures.

Much feeling was displayed at the hearings, especially on the part of the employers who were represented by many of their associations. It is interesting to note that, among the most ardent opponents of these enemies of the law, are several prominent economists.

The commission is working hard to secure the passage of a mandatory law, and has prepared very careful briefs to show wherein the present law must be not only retained, but also strengthened by this necessary amendment.

Thoughtful people are generally inclined to recognize the need of minimum wage legislation. They do not, however, depend solely upon legislative measures to secure the improvement in the condition of working women and children. There must be supplementary measures, also, such as increased education, restricted immigration, and more social legislation.

BIBLIOGRAPHY

Adams, Thomas S. & Sumner, Helen L., "Labor Problems". MacMillan, New York. 1907.

Andrews, Irene Osgood, "Minimum Wage Legislation", New York State Factory Investigating Commission, New York, 1914.

Andrews, John B., "Labor Problems and Labor Legislation", American Association for Labor Legislation, New York. 1919.

Bosworth, Louise M., "Living Wage of Women Workers", Longmans, Green & Co., New York, 1911.

Clark, S. A., & Wyatt, E. F., "Making Both Ends Meet", MacMillan, New York, 1911.

Commons, John R. and Andrews, John B., "Principles of Labor Legislation", Harper & Brothers, New York, 1916.

Commons, John R., "Trade Unionism and Labor Problems", Ginn and Company, New York, 1921.

Gibbs, Winifred S., "The Minimum Cost of Living", MacMillan Co., New York, 1917.

Filene, A. Lincoln, "Minimum Wage and Better Standards", New York Factory Investigating Commission. Fourth report, New York, 1915.

McSweeney, E. T., "Case against the Minimum Wage", an address given before the fifth meeting of the Executive Council of the Massachusetts State Board of Trade. Published by the latter, Boston, 1912.

Taussig, F. W., "Principles of Economics", Vol. II, pp 298-302. MacMillan, New York. Third edition revised. 1921.

Note: The above were examined more or less superficially, in order to secure the necessary background for the problem.

Act establishing Minimum Wage Commission and providing for the determinations of minimum wages for women and minors. General Laws, chapter 151.

Amendment to facilitate the gathering of information relative to the wages of women and minors. General Laws, Chapter 151, section 8.

Amendment to increase the powers and further define the duties of the Minimum Wage Commission. General Laws, chapter 151, sections 3, 4, and 10.

Amendment relative to the determination of minimum wages for women and minors. General Laws, chapter 151, sections 2,4,8 and 10.

Amendment to establish certain qualifications for members of the Minimum Wage Commission. General Acts of 1916, chapter 303.

Amendment to provide for filling vacancies on wage boards. General Laws, chapter 151, sections 1 and 2.

Amendments to require employers to keep records of the working hours of women and minors in certain cases, and to provide for the posting of notices of hearings, nominations for wage boards, and of decrees of the Minimum Wage Commission. General Laws, chapter 151, sections 8 and 14.

Act to organize in departments the executive and administrative functions of the Commonwealth. By this act the Minimum Wage Commission is abolished and its functions transferred to the Board of Conciliation and Arbitration, under the Department of Labor and Industries. Known as the Consolidation Act. General Laws, chapter 23.

Amendment to allow Commission more freedom in the choice of wage board members. General Laws, chapter 151, section 2.

Amendment to allow Commission, upon petition of either employers or employees, or if in its opinion such action is necessary, to reconvene the wage board or establish a new wage board. General Laws, chapter 151, section 5.

Report of Commission on Minimum Wage Boards to Legislature recommending establishment of permanent commission. House Bill No. 1697 of 1912.

Report of the Special Commission on Unemployment, Unemployment Compensation, and the Minimum Wage. House Bill No. 1325 of 1923.

Resolution providing for the appointment of a commission to investigate the wages of women and minors, and to report on the advisability of establishing minimum wage boards. Acts and Resolves of 1911, Chapter 71.

Resolve establishing a Special Commission to investigate problems relating to prevention of unemployment, to unemployment compensation, and to minimum wage. Acts and Resolves of 1922, Chapter 43.

Decision of Supreme Judicial Court of Massachusetts upholding constitutionality of minimum wage law. Holcombe v. Creamer, 231 Mass. 99.

Note: The above acts, amendments, etc. were examined carefully.

PUBLICATIONS OF THE DIVISION OF MINIMUM WAGE (MINIMUM WAGE COMMISSION)

Annual reports, 1913 -- 1921, inclusive.

Bulletins;

No. 1. Wages of Women in the Brush Factories in Massachusetts, January, 1914.

No. 2. Wages of Women in the Corset Factories in Massachusetts, January, 1914.

No. 3. Statement and Decree concerning the Wages of Women in the Brush Industry in Massachusetts, August 15, 1914.

No. 4. Wages of Women in the Candy Factories in Massachusetts, October, 1914.

No. 6. Wages of Women in Retail Stores in Massachusetts, March, 1915.

No. 7. The Effect of the Minimum Wage Decree on the Brush Industry in Massachusetts, September 16, 1915.

No. 16. Wages of Women employed as Office and Other Building Cleaners in Massachusetts, May, 1918.

No. 21. Second Report on the Wages of Women in Corset Factories in Massachusetts, November, 1919.

Decrees:

Statement and decree concerning the Wages of Women in Laundries in Massachusetts, July 1, 1915.

Statement and decree concerning the Wages of Women in Retail Stores in Massachusetts, July 1, 1915.

Statement and Decree concerning the Wages of Women employed as Office and Other Building Cleaners in Massachusetts, January 27, 1919.

Statement and Decree concerning the Wages of Women employed as Office and Other Building Cleaners in Massachusetts, December 30, 1920.

Wage Boards and Their Work (A Handbook of Information for Wage Board Members), 1920, revised.

Note:

Very close attention was given to the annual reports as the basis for judging the results of the law. Statements and decrees, and bulletins (representative numbers) were examined with less detail, but sufficiently to understand the method of procedure of the Minimum Wage Commission, and the manner of making known its decisions. The pamphlet on wage boards was examined carefully.

American Labor Legislation Review: 3:81-91. Feb., 1913.
Beager, Henry R., "Theory of the Minimum Wage."

American Economic Review, 5:sup. 270-99, March, 1915.
"Social aspects of public regulation of Wages," Mrs. Glendower Evans

American Economic Review, 9:701-38, December, 1919.
"American Minimum Wage Laws at Work", Dorothy W. Douglas

Consumers' League of Massachusetts publication -- Bulletin No. 23 on the Minimum Wage Law, Boston, January, 1922.

Journal of Political Economy, 20:973-98, December, 1912.
Webb, Sidney, "Economic Theory of a Legal Minimum Wage."

Monthly Labor Review, 15:1073-6, November, 1922.
"Enforcement of Minimum Wage Decrees in Massachusetts." (no author)

Quarterly Journal of Economics, 30:411042, May, 1916.
"Minimum Wages for Women," F. W. Taussig.

Quarterly Journal of Economics, 29:201-34, February, 1915.
"Women's Work and Wages in the United States," C. E. Persons.

Report of Federal Bureau of Labor,
"Labor of Women and Children in United States," Government Printing Office, Washington, 1911.

Survey:
31:497-8, January 24, 1914
"Case for Minimum Wage Boards: the System on Trial", E.G. Evans.

31:156-7, November 8, 1913.
"What the Minimum Wage Means to Workers," by Joseph Lee.

33: 487-9, February 6, 1915
"Statue of Minimum Wage Legislation in the United States," Florence Kelley.

39: 372, December 29, 1917.
"Minimum Wage Law under Fire," H. Feis.

33:512-14, February 6, 1915.
"Id the Minimum Wage a Menace to Industry?", N. I. Stone.

33:435, January 23, 1915.
"Many Minds on the Minimum Wage." (no author given)

41:885, March 22, 1919.
"Inescapable Dilemma", Florence Kelley.

43:138, November 22, 1919.
"Massachusetts Minimum Wage" (no author given)

Survey 43:242-3, May 13, 1922.
"Massachusetts Minimum Wage," E. M. Johnson.

Survey 48:720-1, September 15, 1922.
"Minimum Wage Legislation under Review," H. Feis.

United States Department of Labor, Bureau of Labor Statistics, 1-335, 1915, "Minimum Wage Legislation in the United States and Foreign Countries."

Newspapers:
Boston Globe, established 1879, Boston, Massachusetts.

Boston Post, established 1831, Boston, Massachusetts.

Boston Transcript, established 1830, Boston, Massachusetts.

Boston Traveler, established 1835, Boston, Massachusetts.

Note: The articles from the various periodicals were carefully read in order that comparison could be made as to opinions of different groups of thinkers, both when the law was new, and at the present time.

Newspaper files were examined in order to secure, from copies of papers issued at the time of the various hearings, a vivid idea of the current discussion regarding the proposed measure. The fact that newspaper reports are often fallacious was always kept in mind.