

---

UNITED STATES DEPARTMENT OF LABOR

Frances Perkins, *Secretary*

BUREAU OF LABOR STATISTICS

Isador Lubin, *Commissioner*

+

Labor Laws  
and Their Administration  
1936

+

Proceedings of the Twenty-second Convention of the  
International Association of Governmental  
Labor Officials, Topeka, Kans.  
September 1936



*Bulletin No. 629*

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1937

---

For sale by the Superintendent of Documents, Washington, D. C. - - - - Price 25 cents



## CONTENTS

---

	Page
International Association of Governmental Labor Officials:	
Purposes and activities of the I. A. G. L. O.—president's address, by A. W. Crawford.....	2
State labor departments:	
New responsibilities of State labor departments, by Frances Perkins, United States Secretary of Labor.....	8
Unemployment compensation:	
Present status of unemployment compensation—report of committee on unemployment compensation, by Paul Raushenbush, chairman.....	19
Discussion.....	41
Old-age pensions:	
Administration of old-age pensions—report of committee on old-age pensions, by Harry R. McLogan, chairman.....	51
Discussion.....	69
Supplementary report and recommendations of committee on old- age pensions, by Harry R. McLogan, chairman.....	79
Discussion.....	80
Minimum-wage laws:	
Present status of minimum-wage laws—report of committee on minimum-wage laws, by Frieda S. Miller, chairman.....	82
Discussion.....	90
Women in industry:	
Status of women in industry, 1935-36—report of committee on women in industry, by Mary Anderson, chairman.....	102
Discussion.....	114
Child labor:	
Problems of child labor—report of committee on child labor, by L. Metcalf Walling, chairman.....	125
Discussion.....	131
Wage-collection laws:	
Wage-collection laws and their administration—report of committee on wage-collection laws, by E. I. McKinley, chairman.....	139
Proposed State wage-payment and wage-collection law (recom- mended by I. A. G. L. O.).....	141
Discussion.....	148
Home work:	
Regulation of home work—report of committee on industrial home work, by Morgan R. Mooney, chairman.....	156
Proposed State law to regulate and tax industrial home work (endorsed by I. A. G. L. O.).....	161
Discussion.....	170
Civil service:	
State departments of labor and the civil service—report of the com- mittee on civil service, by E. B. Patton, chairman.....	185
Discussion.....	189

	Page
<b>Factory inspection:</b>	
Training of factory inspectors in Europe, by David Vaage, chief of the Safety Service, International Labor Office.....	200
<b>Minutes of business meetings and reports of officers and committees:</b>	
Session of Sept. 24, 1936:	
Report of the secretary-treasurer.....	208
Committees, 1935-36.....	209
Report of the executive board.....	214
Discussion.....	214
Appointment of convention committees.....	219
Session of Sept. 26, 1936:	
Report of publicity committee.....	223
Discussion.....	224
Recommendations of the executive board.....	225
Resolutions adopted by the convention.....	225
Discussion on question of appointment of representatives of association in States.....	226
Discussion of action on wage-collection bill.....	230
Election of officers.....	230
<b>Appendixes:</b>	
Appendix A.—Organization of I. A. G. L. O.:	
Officers of I. A. G. L. O.....	233
Honorary life members.....	233
Constitution.....	233
Development of I. A. G. L. O.....	237
Appendix B.—Persons attending the twenty-second convention of the I. A. G. L. O.....	239

## PREFACE

---

The rapid acceptance of advanced labor legislation by the Federal Government and the individual States during recent years has greatly increased the responsibility of governmental labor agencies, as well as added to their opportunities for social service. New problems of coordination between State and Federal labor departments, and between the States themselves, in carrying out new laws and new policies, have emphasized the old need for some pooling of effort on the part of labor-law administrators to the end that similar laws shall produce similar results.

Some of these problems and the measures necessary for meeting them are discussed in this bulletin from the viewpoint of those responsible for the administration and enforcement of labor laws and regulations. The International Association of Governmental Labor Officials, like other professional organizations, is vitally concerned not only with professional standards, but with constant improvement in the character and scope of the services which its members are called upon to perform. Because of close daily contact with the practical application of measures designed to improve working conditions and industrial relations, the men and women who make up the International Association of Governmental Labor Officials have, through their association, been able to make valuable contributions to the effort to raise standards and to secure uniformity not only in laws but in policies and personnel of the administering agencies.

The goals being sought by this organized group of governmental labor officials, as well as the difficulties in the way of realizing these goals, are apparent in the proceedings of their 1936 convention, of which this bulletin is a transcript.

ISADOR LUBIN,  
*Commissioner of Labor Statistics.*

JUNE 1, 1937.

## **Labor Laws and Their Administration, 1936**

The twenty-second annual convention of the International Association of Governmental Labor Officials convened Thursday, September 24, 1936, at Topeka, Kans., and closed Saturday, September 26, 1936. Delegates were present from 18 States and the District of Columbia, 3 Provinces of Canada, and Geneva, Switzerland.

President A. W. Crawford (chairman, Minimum Wage Board of Ontario), in his opening address reviewed the most important developments of the previous year which affected the work of the association, and submitted several suggestions for the consideration of the members. The principal subjects considered by the convention were presented in the form of committee reports, and followed by discussion. An address by Miss Frances Perkins, United States Secretary of Labor, and a paper by David Vaage, chief of the Safety Service of the International Labor Office, were special features of the convention. Part of the opening session and the entire closing session, at both of which the president presided, were devoted to the business of the association. The chairmen of the other sessions were as follows:

John S. B. Davie, commissioner, Bureau of Labor of New Hampshire, morning session, September 24.

Mrs. Clover Powers, Department of Labor of Oklahoma, morning session, September 25.

Joseph M. Tone, commissioner, Department of Labor and Factory Inspection of Connecticut, afternoon session, September 25.

A. L. Fletcher, commissioner, Department of Labor of North Carolina, evening session, September 25.

The twenty-third annual convention of the association will be held at Toronto, Canada, September 14, 15, and 16, 1937.

# International Association of Governmental Labor Officials

---

## Purposes and Activities of the Association of Governmental Labor Officials

*President's address, by A. W. CRAWFORD*

For 5 years I have been a member of the executive board of this association, but it is only during the past year that I have become intimately acquainted with the work it is doing and have taken time to consider its purpose and value. While I cannot claim to have contributed much to its welfare, I have become convinced of the need for greater activity on the part of the general membership if it is to function effectively. It appears that relatively few persons outside of the association appreciate the value it can be to State and Provincial departments of labor, as well as to the Federal and Dominion departments. We need to do more advertising.

I recall a meeting in Boston 5 years ago at which a small group undertook to make certain revisions in the constitution and organization of the association, because they realized that something must be done to stimulate interest on the part of State, Provincial, and Federal labor departments. Some progress has been made since that date, but we are still far from being recognized as the official or principal body representing State and Provincial labor department officials.

In accepting the presidency last year, I intimated that I would make a special effort to stimulate interest on the part of the Canadian Provinces and the Dominion Government in the work of the association, in the hope that Canada would be better represented at future conventions. I regret to report that despite repeated efforts, only two Provinces are represented here today. It is encouraging, however, to note that three Provinces and the Dominion Department of Labor are now active members of the association, and letters which I have received from the ministers, deputy ministers, and commissioners throughout the Dominion indicate that, had it not been for the necessity of rigid economy in connection with the sending of delegates to conventions, particularly those outside the Dominion, we would undoubtedly have had a more representative Canadian delegation today. It is 7 years since the convention met in Canada, and I have been assured that if it is deemed advisable to go to Ontario

next year, most of the Provinces will send delegates and some steps will be taken to arrange for closer cooperation on the part of the Canadian labor departments.

The need for greater interest in the work of the association was first impressed on my mind when it became my duty, in conjunction with the executive board, to determine where this year's convention was to be held. I then recalled certain discussions on the floor of the convention in Asheville last year which gave me the impression that a number of the delegates were of the opinion that more time should be available for the program of the convention, and that possibly the time had arrived when a separate convention should be held at a different place and time from any other association. Apparently it was felt that meetings of the I. A. G. L. O. were overshadowed by those of the I. A. I. A. B. C. and that a number of the delegates who made a practice of attending both conventions were too tired to take much part in our discussions and deliberations at the end of the week. Other delegates, however, desiring to attend both conventions, had expressed the opinion that the previous arrangements should be continued, as they could not afford the time nor the expense of attending separate meetings.

After taking all things into consideration, your executive board decided to follow the practice of former years, on the understanding that, in conformity with a resolution adopted at our last business meeting, we would abolish joint meetings and that an effort would be made to secure sufficient time for our deliberations without overlapping between the two associations or unduly taxing the patience and interest of the delegates.

It has been difficult to make such arrangements, and while I sincerely trust that the efforts which have been made to make this convention a success will meet with your approval and appreciation, I take this opportunity of expressing the hope that the incoming executive will receive from you a formal expression of opinion which will be his guide in arranging for next year's convention. In drafting the program, our chief difficulty was to secure sufficient time for adequate presentation of reports from the standing committees, even at the sacrifice of abandoning other important features of the convention, including social entertainments. Mr. Baker, as president of the I. A. I. A. B. C. and as a member of the program committee of this association, has assisted us in every way possible, and an earnest effort has been made to have everything prepared well in advance so that there will be no delay in presenting the reports to be considered, and that ample time will be provided for full discussion, to be led by selected individuals who have had an opportunity of studying the reports in advance. It has been impossible to arrange for round-table discussions, which were so greatly appreciated at last year's convention,

but it is hoped that those delegates who have mutual problems to discuss will find time for such helpful intercourse between sessions.

A very encouraging and significant feature of our conventions during the past 2 years has been the presence of the Secretary of Labor, the Honorable Frances Perkins, who has favored us by attending part of the sessions and has taken advantage of the presence of so many State commissioners and others interested in labor matters to hold a special conference dealing with labor legislation. We are again to be honored by the presence of the Honorable Secretary, who will address a joint luncheon of the two conventions tomorrow, and I sincerely trust that the presence of the Secretary of Labor will become an annual occurrence and that closer cooperation may be developed between the State and Federal labor departments as a result of these conferences. May I also express the hope that such conferences and similar activities on the part of the Federal Department of Labor will be definitely linked up with the activities of this association.

Perhaps the most important developments during the past year which affected the work of the association, as in the previous year, were Supreme Court decisions in connection with the validity and jurisdiction of labor and social legislation. I need only refer to the decision of the Supreme Court of New York State in connection with the Minimum Wage Act, which decision was upheld by the Supreme Court at Washington and which declared invalid the minimum wage law of New York State on the grounds that it interfered with the "liberty of contract", and that it was discriminatory in favor of women as against men. In this connection it is interesting to note that a minority report written by Chief Justice Hughes and shared by Justices Brandeis, Stone, and Cardozo contended that the act should be upheld. It is of equal importance to note the expressions of public opinion in favor of such legislation which immediately followed the rulings of the supreme courts, particularly on behalf of organized labor, social and welfare organizations, and State labor departments. I have a clipping, from the Toronto Daily Star of September 16, which will interest you. It reads as follows:

Joseph Tipaldo, the Brooklyn laundryman whose suit resulted in the United States Supreme Court declaring New York's minimum wage law for women unconstitutional, is out of the laundry business and looking for a job, he said today. "Business dropped and dropped", he explained. "My drivers said customers told them I shouldn't have fought this case."

I am sure that this important decision will receive careful consideration during the discussion of the report of the committee on minimum wages.

A similar decision or ruling was given by the Supreme Court of Canada in connection with the validity and jurisdiction of eight acts passed by the Dominion Parliament dealing with social and labor problems. Following the change of government, which took place

in October 1935, the incoming administration decided to submit the following acts to the Supreme Court for an opinion as to their validity and whether they were within the jurisdiction of the Dominion Parliament or were matters which should be dealt with by Provincial legislatures. These acts were: (1) The Weekly Rest in Industrial Undertakings Act; (2) The Minimum Wages Act; (3) The Limitation of Hours of Work Act; (4) The Employment Social Insurance Act; (5) The Natural Products Marketing Act; (6) The Farmers' Creditors Arrangement Act (Amendment); (7) Section 498A of the Criminal Code; (8) The Dominion Trade and Industry Commission Act.

A split decision was rendered in connection with the Minimum Wage Act, the Limitation of Hours Act (48-hour week), and the Weekly Day of Rest Act. Three justices held that these acts governed matters within the jurisdiction of the Provincial legislatures; the other three upheld the action of the Dominion Parliament.

Two measures were declared valid; namely, section 498A of the Criminal Code and the Farmers' Creditors Arrangement Act. (The amendment of sec. 498A prohibits price cutting, discounting, etc., for the purpose of eliminating competitors.)

The Employment and Social Insurance Act, the Natural Products Marketing Act, and certain sections of the Dominion Trade and Industry Commission Act were declared to be outside the powers of the constitution.

Every decision is being appealed to Privy Council by either the Dominion or Provincial governments.

It is apparent, therefore, that in both the United States and Canada social and economic changes have brought about conditions which must be dealt with by governments, and that these conditions, which could not be foreseen when the constitutions were originally drafted, may necessitate new interpretations or amendments to the constitutions before satisfactory governmental action can be taken.

In his presidential address last year Mr. Tone emphasized the need for greater cooperative effort and immediate action on the part of this association in connection with other problems arising from court decisions affecting the National Recovery Administration and which resulted in increased responsibility on the part of State labor departments. His proposals received very brief consideration and little has been done to bring about the closer cooperation with other associations and between State and Federal labor departments which he advocated.

It is my hope that more time will be devoted to discussion and solution of these and similar problems at this meeting. If sufficient time is not available, I suggest that the incoming executive board be instructed to solicit and study proposals for the solution of such problems and others to be presented in the report of the executive

board, and that, if necessary, money be provided from the treasury so that the board may meet at least once during the ensuing year and prepare a report with definite recommendations for discussion and action at next year's convention.

One cannot read the objectives of the association as set forth in the constitution, which is printed as a preface to each year's proceedings, without realizing the inadequacy of our present activities and being challenged to greater endeavor.

The association cannot function successfully or completely, nor can it render worth-while service to the State and Provincial departments which so largely support it, unless the activities are extended, the membership increased, and cooperative action developed as suggested. It is very encouraging to report that the membership is increasing, and I firmly believe that this evidence of revived and increasing interest will result in continued development.

Why cannot the association, in accordance with its avowed purpose, act as a clearinghouse for information during the whole year? Many reports, bulletins, circulars, and other publications are issued by the labor departments (Federal, State, and Provincial), most of which are of interest to all members. Might not cooperative action in this regard result in greater effectiveness and considerable saving of time and money? Would it not be advisable for each State and Province in the association to appoint a reporter or correspondent through whom the publicity committee and the Federal Labor Departments could collect and distribute such information?

An existing activity of the association which might receive more consideration by the incoming executive, particularly in connection with the preparation of reports to the members, is the work which is done by our representatives on research committees of other organizations and similar bodies through which cooperative action is established on a national basis. For example, during the past year we have reappointed representatives on the committee for standardizing elevator inspection forms, the safety code correlating committee of the American Standards Association, the safety code for construction workers under the National Safety Council, and the American Standards Association sectional committee on safety code for grandstands. We also made an unsuccessful effort to secure representation on the electrical committee of the National Fire Protection Association of the American Standards Association. We should know what service these committees are rendering and take more interest in their activities.

Having contributed my share of criticism and suggestions, I wish now to express my sincere appreciation of the work done by the chairmen and members of the nine standing committees during the past year. I am sure that the reports which are to be presented at this

convention will impress you with the importance of the work which these committees are doing, and will provide each of you with valuable information in connection with the work of your own department. I also wish to express my appreciation of the loyal support given by all members of the executive board and of the very valuable and painstaking work of our secretary, who, despite most trying circumstances, has carried on the work of the association in such an excellent manner.

## State Labor Departments

---

### New Responsibilities of State Labor Departments

By FRANCES PERKINS, *Secretary, United States Department of Labor*

I cannot tell you how glad I am to be here nor what it means to me to be able to come each year to a meeting of those who are engaged in the same enterprise in which I have been engaged for many years. I have been a Government labor official for a long time and so when I come to this organization I come not only as the Secretary of Labor of the United States but also as one who for many years has been engaged in solving the same administrative problems and the same problems of leadership as all of you in the State departments are. I come to ask you to participate in formulating those principles and those policies which a great democracy broad as the continent finally evolves as its own standards and its own patterns.

The problems of leadership in a democracy today are problems which are inherent in the whole technique of democracy. We must learn to practice democracy every day of our lives if we would preserve it for our children and grandchildren. We must have faith in each other if we are to preserve our democracy; we must have faith in what can come out of the experience of those having certain problems in Kansas compared with those who have the same problems in Rhode Island. We must have faith in the ability of those who know the working life of the people in Massachusetts as compared with the people whose working life is determined by the laws of South Carolina. I am particularly glad to be here today, when some of the work that we have done for the last 20 years—those of us who represent the great departments of labor of the various States, those of us who represent the departments of labor of the neighboring Dominion, those of us who represent the Department of Labor in the United States Government, and those of us who represent the organized working people of the United States—when the experience and the thinking of these various groups over a number of years have been pooled sufficiently to bring out certain definite principles which all of us and practically all of the people on this continent are agreed upon.

The labor departments are the tools by which the people—a free people with goodwill toward each other—accomplishes its sovereign will in this field of labor, which is to make every workman's job in

this country as safe, as healthful, as remunerative, and as comfortable as it is possible for the human mind to devise in this day of science and the technique of efficiency. We have made considerable progress toward this great objective by keeping the objective clear and by making real and intelligent strides in the technical solution of the problems that have to be solved in order to accomplish it. There are 30 million wage earners in the United States and 24 million of these are clearly industrial. These people are our clients. They look to us for knowledge and wisdom and for capacity to solve the technical problems.

Reasonably short hours; the abolition of child labor; first-class physical working conditions; wages commensurate with the value of services and equal to the American standard of living; cooperation between workers and employers on terms of equal bargaining power; organized assured cooperative provision for individual protection against the major hazards of wage earners, such as disability and lack of earning capacity due to accidents, unemployment, old age, and untimely death—these constitute the present conception of the share of the workers in the great new wealth created by machinery and by the technique of the utilization of human labor and machinery in a system which we call efficiency. Efficiency is only another name for analysis and planning of production. The workers are entitled to a share in the wealth which is created by these new means of civilization. They are great blessings to mankind, and those of us who have seen and know the labor that goes into producing consumption goods—the things that people need in order to protect themselves against want and hunger—by the sweat and hard labor of individuals, know how great are the blessings of machinery, of tools, and of the organized application of labor to the problem. Production by this technique is wealth for all mankind, and the share of workers should be reasonably short hours, wages commensurate with the standard of living and with the value of the services, the abolition of the major cruelties of child labor, the maintenance of first-class physical conditions in work places, and the establishment of some kind of organized assured security against old age, unemployment, accident, and untimely death. These are but simple steps toward a program of sound social life in a democratic community, and some progress has been made toward all of them. One of the great achievements toward their realization is the fact that today practically all of the people of the United States agree that these are desirable objectives.

I have been greatly heartened by the fact that even through these years of adversity and depression there has come a recognition of the desirability of these standards which I have enumerated. The witness of this, I think, is, in the first place, the general popularity all over the United States of the labor standards that were written into the N. R. A. Lots of things about the N. R. A. were not popular,

but the labor standards—shorter hours, minimum wages, no child labor, some kind of decent organization and representation of workers on terms of equal bargaining power—met with common assent. It was the common will of the people, so far as anyone can judge. Even in this year of campaign, which in our American life is an open season for saying anything you feel like saying, even if it does not make good sense—and that is one of the things that will help to preserve our democracy—I have yet to hear a voice raised to say that he or she is against reasonably short hours, wages as high as is commensurate with the value of the services and the American standard of living, the abolition of child labor, and the protection of the individual worker by organized social security.

Many of us think that because the people have said this, either by vote or by general assent, that it has been accomplished. We have a way of thinking that those things we have agreed to have been done, and we do not always look realistically into the facts of the situation. We know that these great ideas have not been accomplished in the United States of America, or in any State. They have been accomplished here and there and where they have been accomplished they have been a blessing, but they have not been totally accomplished anywhere, and there are great gaps in the program of reality throughout the United States. It is your duty and mine—we who are the officials of the people of this country for carrying out their will in this field of minimum labor standards—to give reality to these accepted standards. These are not new ideas; they are ideas that have been in common circulation for many years. Most of them have been discussed in this and other meetings for many years, but they must be given reality in the life of the people, so that John Jones and Mary Smith, working in some distant mine, in some workshop away up the line—persons far removed from influence with legislators and politicians and even hardly aware of the laws of the State—may know in their daily lives what reasonably short hours, good wages, and good working conditions actually mean; that they may have the simple human decencies and on the basis of the experience and enjoyment thereof may begin to develop their lives, their own inner capacities. For John Jones and Mary Smith are human souls precious in the sight of God and vital to the life of this Republic. Until everyone experiences these high ideals as a common factor of their lives we shall not have discharged our duty—yours and mine particularly—to the generation that brought us forth and to the generation that gave us this obligation and this mission to perform for our fellow citizens.

Minimum labor standards ought to be as much guaranteed by the governments of the States and by the Federal Government as our liberties are guaranteed. Whenever improvements can be made upon these minimum standards, let us make them, by free collective bargaining, by the experience of employers who have vision and capacity

to explore how they may make conditions better, by the vigor and intelligence of organized workmen who can point a way to better conditions. But let us have certain minima which are the same for everyone. The technical problems which are involved in the actual accomplishment of safety and sanitation, in the accomplishment of regular work, in the accomplishment of reasonable but flexible hours, and in the accomplishment of high and steady wages are many. Our privilege, as well as our duty, is to help in the solution of these problems. Primarily, the responsibility to solve these problems is upon the employers of the country. The laws of every State put the responsibility upon them to find ways and means by which to ventilate a room in which noxious and poisonous fumes are being generated. Primarily, the law puts the responsibility on them to provide methods by which to guard the machines which are likely to cut off the hands of the workmen. Yes, primarily, the responsibility is theirs; but it is the privilege and opportunity of the people who hold high posts in government to help those farsighted and well-intentioned employers. They look to you to find the solution of these problems. It is also your obligation and your privilege to insist that those employers who are not interested in solving these problems, who do not care about solving these problems—and there are some—shall by one device or another be required to live up to minimum standards and the best practice that has been discovered by the best employers in the country.

These 4 years during which I have been a Federal officer in the Department of Labor, rather than a State officer, have given me new insight into many problems of the labor-law people and the State labor officials, and they have also given me new faith in the possibilities of life in our great American democracy, and in the possibility of the solution of some of these apparently difficult technical problems. The people of this country want leadership. They will veto or approve the suggestions made by leaders, and they will do so after ample conversation; then they will decide whether the ideas and plans of this or the other leader are good and sound and suitable for them. They want leadership such as is given to a family by a trusted doctor, who, in the case of illness, analyzes the problem before the members of the family in terms they can understand; who states the known facts with regard to the problem fairly and scientifically, and, relying upon his own experience and upon the good faith and experience of others working in the same field as himself, finally states his solution and his recommendation. It is then up to them to say whether they want to go in the direction he recommends or whether they want to consult another doctor.

It is the duty of those who are charged with the administration of government in a democracy to state the facts and all the known experience of the world fairly and honestly and clearly, so that those

who are deciding whether they will veto or approve the program can know with what they are dealing. It is just the same with people and with government in this complicated world as it is with doctors and their patients in a complicated scientific situation. Your responsibility as government labor officials is to find the solutions, particularly the technical solutions, in your field, and by truth and by knowledge honestly and faithfully lead the people to the reality, to the substance of the things hoped for. All of the people of this country want conditions to be as good as possible for the 30 million wage earners of the United States—there is no question about that—and it is our duty to find the solution for the technical problems which stand in the way of the accomplishment of those ideas.

The United States Department of Labor has for many years—and I think I should say at this time, because you are by way of being my constituents, has specifically, for the last 3 years while I have been in office in the Department of Labor—sought and invited the cooperation of the State departments of labor. We have not attempted to direct, to control, or to govern, but have sought by conference and consultation to arrive at common standards, practically conceived, which all of us could carry out—common standards of legislation, common standards of performances. I think that I have seen a good will between the States in this field of labor legislation and labor-law administration such as has rarely been seen before in the history of the United States.

We are now faced with a new problem in the United States Department of Labor, for which we are again seeking the cooperation of the State labor departments. The Walsh-Healey Act, which prescribes certain labor standards on contracts of the Federal Government to purchase goods from various dealers, goes into effect next Monday, and I have the opportunity of expressing to you today the hope that the government labor officials of the various States will find it possible to cooperate with the United States Department of Labor in enforcing and administering this particular law. There is, as you probably know, a clause in the Walsh-Healey Act which permits the Secretary of Labor of the United States, who has the final responsibility in the matter, to ask for the cooperation of the State governments in the matter of the inspection of factories and of the terms and conditions of work. Although the contract between the purchasing department of the United States Government and the particular contractor will stipulate that the hours must be 40, that there must be no child labor, that there must be healthful and safe physical working conditions, and that the wages must not be below a certain minimum established by the Secretary of Labor, for the carrying out thereof the law specifically points out that the Secretary may invite and request the cooperation of the State, and may utilize the State inspec-

tion services when consent to such a program is given by the governments of the States.

This clause was not written in lightly. I can say to you, who are professional labor-law administrators, that the Department of Labor went before the committees of Congress and specifically requested that this clause be written in, so that the State labor departments might guarantee to the United States Government the safe and sanitary conditions of the factories in which the work was being done in their States and might carry on the inspection services with regard to hours of labor and compliance with minimum-wage regulations in their particular States. We feel not only that this will be a tremendous practical benefit to the United States, but also that it will be of inestimable advantage to the enforcement of State labor laws in the various States. Some of your laws are excellent, admirable, and have been administered conscientiously by administrators in the various States, and the benefit of the act lies in the fact that the contract for a big order of goods is not valid unless your State labor law is complied with by those who are manufacturing those goods. That will give you a real help and, shall we say, a free and cooperative enforcement of the labor laws of your State. So we hope that great progress is to be made in the technique of cooperation between the States and the Federal Government. It is my hope at this time that it will be found possible to refund periodically to the States any financial outlay that they may incur in cooperating with the United States Department of Labor with regard to labor conditions in carrying out the particular contracts which are enumerated under the Walsh-Healey Act. Many of the States are willing and able to help in the administration of this act, and with such central supervision from Washington as will ensure uniformity in the interpretation of the standards and in the application of the law, I believe there will be a tremendous improvement in this technique of cooperation.

Of particular interest and significance to the State labor administrations is the provision that the contractors must comply with the labor standards existing in their States with regard to safety and health. Fundamentally, the successful extension of safeguards to labor which will result will be the achievements of the States backed by the Federal Government. There are three reasons why we are so strongly for State cooperation and State aid in the carrying out of this Walsh-Healey Act: First, the United States Department of Labor has always in the past built its work upon State cooperation and wants to continue to do so in the future; second, we are specifically authorized to utilize administrative offices of the States; and, third, from a practical standpoint in the present situation, the United States Department of Labor has not as yet been granted sufficient and necessary funds for the full enforcement of the law. So that at present

the only available activities and facilities will be those which can be provided by the States in cooperation with the Federal Government, and we hope to build on that a practical type of enforcement. I think it is very important in carrying out this Walsh-Healey Act that we should utilize at every point the techniques of persuasion and confidence, that we should not come down suddenly with regulations which have not been amply discussed by both employers and labor in the industries affected.

The law makes certain basic minima clear—working conditions, child labor, and the 40-hour week, except in special cases. Provision has been made for the Secretary to set a minimum-wage standard where that is necessary. There are many industries where the minimum-wage standards are way above what could be called a sweatshop level of wages, and yet there are others in which the sweatshop level of wages tends to pull down all the wages in that industry. We shall be quite practical, if I may say so. We shall begin with the most important things first. We shall begin with the abuses. We shall attempt first to inquire into the minimum-wage levels that ought to be established on Government-contract work in those industries where we know of our own knowledge that in the past there has been continuous exploitation and underpayment on Government work. Some of you have been horrified to see an order for Government raincoats go to the factory in your State which you know to be the greatest chiseler, while some of the best factories conducted by high-principled employers did not get the order and could not compete. It is in the spirit of helping those employers who are trying to maintain their standards in their industry, of helping them to promote that public interest and not to be beaten down by the competition of the conscienceless employers, that we want to approach this problem. I see no other spirit among the working people of this country than one of desire to cooperate with those employers who are fair and high-minded and who want to cooperate with them for the best development of the industrial life of the community.

I think that in every State you will have the best kind of advisory relationship on the development, extension, and enforcement of the Walsh-Healey Act. The year 1935 in the United States was a banner year in labor legislation, and the impetus has continued into this year also. I want to point out to you—and again I speak to you as constituents to whom I should make a report at the end of my first term of office—that from the very beginning the participation of the various commissioners of labor with the United States Department of Labor by invitation and intent has been good and complete, and I lay the fact that 1935 and 1936 were banner years in State labor legislation to the cooperation and understanding between the State labor departments and the Federal Department of Labor. We met

together frequently, in small groups and in large groups, to discuss what should be our fundamental program for labor legislation in the United States. We admitted from the beginning that it was necessary to build up the State labor laws coordinately and cooperatively with any codes that might be established for fair labor practices under N. R. A., and because we were not slothful, because we paid attention to these small areas where progress could be made, we have had great improvement in State labor legislation throughout the United States of America. I myself and the people of our Department have had great stimulus and inspiration from these conferences, because of the fact that you and those behind you in your State, who represent a desire for the best kind of labor law and labor-law administration, have practically and honestly cooperated in building a program which was adapted to the people in the locality, and to advise the best technical ways of enforcement.

We have also had a surprising exchange of technique among States. The Federal Department of Labor has striven, at your suggestion and request, to build up in its own personnel a body of people who can be called on as consultants in particular fields to discuss with any State, any community, any group of labor officials, or trade union or employer officials, a particular technical problem having to do with the carrying out of one of the general provisions of labor law. We have in the Federal Department of Labor a consultant on industrial diseases and their prevention. That person is available for consultation and advice to any State, any trade union, any competent body of employers, at any time. We have persons who are expert on accident prevention, and who are available for consultation anywhere in the United States when their advice is needed. We have persons who are expert on enforcement or inspection with regard to the payment of minimum wages, with regard to the checking of pay rolls for certainty as to the number of hours worked. They are available at any time. We have persons expert on the problems of children and young people who labor. These are available at any time for consultation by any department of labor or any body of organized workers or employers who want real technical help.

There are 30 million wage earners in the United States of America. I want to point out to you what a considerable part of the population they form, and how important it is that their health and that of their children and families should be promoted. It is a part of the function of the Department of Labor to promote this, just as it is a part of the Department of Agriculture to promote the interest and welfare of the farmers and their children. As yet we have been able to get only about 5 or 6 million dollars to spend on the welfare of laborers. It is a field in which the people of the United States want to spend more money, for insofar as the life of our wage earners is the life of the people who do not completely share in the best of civiliza-

tion of the United States, it is clearly the will of the people that everything that can be done by Government, by private enterprise, by cooperative associations, should be done to improve the way of living of this great body of our fellow citizens. In 1936, we had eight States which enacted unemployment-compensation laws. Two of these laws will be effective upon the adoption by the State of constitutional amendments which are to be voted upon this autumn. Twenty-two States have already enacted laws or have amended portions of their constitutions dealing with assistance to the aged.

Legislative achievements were not confined, however, to social-security enactments. Among the most significant legislation passed in 1936 were laws in Kentucky, Louisiana, and South Carolina setting up unified and independent-labor departments, and I want to extend a particular welcome to the labor commissioners of those States who are present at this meeting. I know Mr. Nates is here from South Carolina. It is exceedingly important to recognize that these States, which we have often thought of as being predominantly agricultural, have recognized the importance of having unified-labor departments to look after the welfare and the progress of the industrial wage earners of their communities. We should all reconsider and reaffirm our belief that independent labor departments are necessary and preliminary to improving the hours and working conditions of those who labor in the mines, mills, factories, stores, laundries, restaurants, and hotels in all of our great States. It has been a great pleasure to cooperate with some of your States in surveys of the labor and industrial problems of such States preliminary to the enactment of a law-regulating industry or setting up a labor department.

A law or a rule ought to spring out of the real problems of the community or State, for there it will have real public support in its enforcement. In New York we have a peculiar law with regard to industrial diseases. I always cite this to indicate how absurd it is to copy a law. We have in New York, as you probably know, one iron mine and one talc mine. The iron mine operates about once in 5 years for 2 months, the talc mine is not much more active. We have a law, however, with regard to industrial diseases which specifies the coverage of 18 miners' diseases, copied outright from the British Industrial Disease Act. Very fine for England, where mining is one of the great industries, and where the disease hazards of that industry are of prime importance, but of very little account to the people of New York. I cite this to show how wise it is to make a survey of the problem first, so that you may know the law covers the problem you have and not a problem that somebody in Australia once had. So let us have knowledge first, and let me pledge to you once again the help and assistance of the United States Department of Labor in securing any knowledge you may want with regard to conditions in your State, and, for comparative purposes, the conditions in other States.

I want also to remind you of another line of cooperation, and that is the technique of the training of factory inspectors. I think nothing has been so good practically and so useful from the point of view of the real interest of John Jones and Mary Smith out in the factories as that program of training and correction carried on in Baltimore through the cooperation of the State, the Johns Hopkins University, and the Federal Department of Labor. We hope to do this again next year, offering 2 or 3 weeks of training. We hope to offer that opportunity regularly at periodic intervals, with the cooperation of all the States and of some institution of education which can organize and regularize our techniques of instruction. One of the interesting things about that conference was that when we came to look for those who were best qualified, we found them already working in some labor department of the United States of America—we found them persons with long experience and real responsibility in the carrying out of this kind of labor legislation for which we are working today. And so I felt that that whole conference developed the opportunity of cooperation in the learning of new techniques. We are now publishing a manual for factory inspectors in which we hope to reduce to the simplest possible terms what inspectors must look for. It enables a new inspector to take hold of his work, not only with good will, but with some assurance that he can put his finger upon the rudiments, at least, of the basic technical knowledge that he needs in order to help to prevent John Jones and Mary Smith from getting their hands cut off or their eyes put out, to help to prevent them from being exploited on wages, hours, etc. There is a right way and a wrong way to do these things, and the factory inspectors and labor officials of this country want to know the right way of doing them.

And so I am particularly interested in the development of labor legislation and labor programs in the State and Federal Governments on a creative basis—of learning more and making our approach to every problem a creative problem in democracy. That means bringing into conference the people who are affected by the ruling—both employers and workers—for the purpose of finding a method of persuading both of them to adopt and support a reasonable, rational, and practical method of living under our modern conception of minimum standards effected by law under our social contract. For, no matter what our political changes in this country may be, we have to go on with a program of promoting equality of opportunity for all the people of our country. I want to lay down for you today just one idea—the equality of opportunity for wage earners, which must consist of something more than the right to vote at elections for a political representative and the right to be tried by a jury of their peers when they have committed crimes. These are very important, but for a wage worker it is almost, and I was about to say more, important that he should have the opportunity to work—that he should

have the opportunity to work regularly, to work for wages which will buy him an American standard of living, to work under conditions that will not damage his person or his mind, and to work under conditions which mean a kind of assurance of protection in his old age, in illness due to accident or disease, and in unemployment over which he has no control. This is a part of our great American aspiration for a democracy based upon equality of opportunity, and insofar as you and I are privileged to serve and to think, these are our major problems. The technical aspect of those problems is difficult, but not too difficult to those who have sworn on for the duration of the problem.

# Unemployment Compensation

---

## Present Status of Unemployment Compensation

*Report of Committee on Unemployment Compensation, by PAUL RAUSHENBUSH,  
Chairman*

America has until recently lagged behind the older industrial countries of Europe in providing some measure of systematic protection against unemployment. England has had an unemployment-insurance system ever since 1911. Many other countries have enacted similar legislation during the past decade. By comparison, America's progress in this field is very recent.

### Unemployment Compensation Laws Enacted up to September 1, 1936

In June 1935 the Dominion of Canada enacted an unemployment-insurance measure modeled on that of England. Unfortunately this Dominion-wide law was declared invalid by the Supreme Court of Canada in an advisory opinion delivered in June 1936. The Dominion Government's appeal from that decision is now pending before the Privy Council. Since the Canadian act has not yet become effective, no attempt to deal with its provisions is made in this report.

In the United States, meanwhile, substantial progress has been made during the last few years. The need for unemployment-compensation laws is now generally admitted in this country. There is increasing popular support for such legislation as an essential part of any long-run program to provide increased economic security for American workers.

Under our American federal system of government it is primarily the province and the responsibility of the several States to enact unemployment-compensation laws for the protection of their workers. Perhaps the chief obstacle to the enactment of unemployment-compensation measures in the several States was the fear of interstate competition from States having no legislation of this type. The Federal Social Security Act, enacted in August 1935, has practically removed this obstacle to the passage of State laws, and has effectively encouraged State action in the field of unemployment compensation.

Noteworthy progress has accordingly been made during 1935 and during 1936 to date. Twenty months ago, in January 1935, only one American State had an unemployment-compensation measure enacted

and in operation. Several additional laws were passed during the spring of 1935, in anticipation of Federal action. Up to the present time a total of 15 State unemployment-compensation laws have been passed, in addition to the District of Columbia law. The action already taken in these 15 States should in itself encourage the remaining States to pass similar laws.

Table 1 shows what States have thus far enacted laws, and when, the dates on which contributions accrue, and the estimated number of workers covered. The existing laws cover over 8,000,000 employees, which is nearly 45 percent of the total number of American workers to whom such legislation will apply when adopted by every State.

TABLE 1.—*State unemployment compensation laws (as of Sept. 1, 1936)*

State	Date law passed	Date contributions accrue		Estimated coverage (number of employees)
		Employers' contributions	Employees' contributions	
Alabama.....	Sept. 14, 1935	Jan. 1, 1936	May 1, 1936	260,000
California.....	June 25, 1935	.....do.....	Jan. 1, 1936	1,590,000
District of Columbia.....	Aug. 28, 1935	.....do.....	.....do.....	70,000
Idaho.....	Aug. 6, 1936	Sept. 1, 1936	Jan. 1, 1937	(7)
Indiana.....	Mar. 18, 1936	Apr. 1, 1936	.....do.....	750,000
Louisiana <sup>1</sup> .....	June 29, 1936	Jan. 1, 1936	.....do.....	(1)
Massachusetts.....	Aug. 12, 1935	.....do.....	.....do.....	940,000
Mississippi.....	Mar. 23, 1936	Apr. 1, 1936	.....do.....	100,000
New Hampshire.....	May 29, 1935	Jan. 1, 1936	Jan. 1, 1936	100,000
New York.....	Apr. 25, 1935	.....do.....	.....do.....	2,870,000
Oregon.....	Nov. 15, 1935	.....do.....	.....do.....	200,000
Rhode Island.....	May 5, 1936	.....do.....	Jan. 4, 1937	220,000
South Carolina.....	June 6, 1936	July 1, 1936	.....do.....	230,000
Utah <sup>2</sup> .....	Aug. 29, 1936	Jan. 1, 1936	.....do.....	(1)
Washington.....	Mar. 21, 1935	.....do.....	Jan. 1, 1936	(1)
Wisconsin.....	Jan. 29, 1932	July 1, 1934	.....do.....	420,000

<sup>1</sup> No State estimate on coverage available.

<sup>2</sup> The Louisiana law was approved by the Governor on June 29, 1936, but does not become operative unless and until a constitutional amendment is approved by the electorate in the general elections of 1936, permitting the establishment by the legislature of an unemployment-compensation system.

<sup>3</sup> Utah first passed a law in March 1935 but repealed it and passed a new law in August 1936.

The State unemployment-compensation laws so far passed in this country differ widely in details, and even on major points, some of which will be discussed later in this report. Nevertheless, it is noteworthy that the American unemployment-compensation laws have many important features in common. Under all these laws, employers are required to pay all or the major part of the costs of unemployment compensation, in the form of periodic advance contributions to a special State unemployment-compensation fund. Contributions are measured as a percentage of pay rolls. Most of the State laws provide for eventual merit rating, under which an employer's contribution rate may rise or fall, depending on his unemployment-benefit experience. In this way most of the American laws seek to encourage steadier employment.

The right to benefits is limited to the employees of covered employers, and bears a definite relation to previous employment. Unemployment benefits compensate the worker for only a part of his

wage losses, and are payable only in limited amounts for limited periods. Only involuntary unemployment is compensated. A work test is applied through requiring registration at a public employment office. Subject to these and other eligibility conditions specified in each law, benefits are payable to unemployed workers as a matter of right. Each State law is administered by a State agency, which not only collects contributions and determines benefit rights but also pays the benefits due.

It is reasonable to assume that the laws yet to be enacted in other States will follow the same general pattern, which is derived in part from European unemployment-insurance laws, but is also based largely on the American experience with workmen's accident compensation.

Many of the 33 States which have not yet adopted unemployment-compensation laws have been studying the problem and are preparing to take action within the next few months. Since nearly all State legislatures meet in regular session early in 1937, there is a reasonable prospect that unemployment-compensation laws will be enacted in every one of the remaining States within the coming year, thus making the coverage Nation-wide. This is especially true in view of the inducements afforded to State action under the Federal Social Security Act.

#### **Federal Encouragement of State Unemployment-Compensation Laws**

Although the Social Security Act cannot and does not require any State to enact an unemployment-compensation law, nevertheless the Federal measure does provide very persuasive inducements toward that end. Title III of the Federal measure offers Federal aid covering the entire cost of administration for any State law meeting certain minimum Federal standards. (This matter will be more fully discussed later in this report.)

An even more powerful and effective inducement to suitable State action is provided under title IX of the Social Security Act, in the following way. Title IX levies on employers of eight or more persons a new Federal excise tax, which has now been accruing since January 1, 1936. This new pay-roll tax will become payable for the first time early in 1937. The amount of the tax for any year is stated as a percentage of the employer's pay roll for that year and equals 1 percent for 1936, 2 percent for 1937, and 3 percent for 1938 and each subsequent year.

Those employers operating in a State which has no approved unemployment-compensation law must pay 100 percent of this new Federal pay-roll tax into the Federal Treasury. They will thereby help to finance the Federal Government. But such employers and their States will not in this way secure any unemployment-benefit protection for their workers.

A quite different situation applies to the employer who is paying contributions under an approved State unemployment-compensation law. Title IX permits him to offset his State contributions against the Federal pay-roll tax, up to 90 percent of the Federal tax. Accordingly, he will typically pay only 10 percent of the gross Federal tax into the Federal Treasury. The other 90 percent he will pay as contributions under the State unemployment-compensation law into the State unemployment fund, which protects the workers of that State against unemployment.

The combined total of an employer's State contribution and Federal tax payments will typically amount to the same percentage of his pay roll, whether or not his State has enacted a suitable unemployment-compensation law. In this way competitive costs of employers operating in different States are equalized, so that no State need fear unfair competition from States which have not adopted unemployment-compensation laws. On the other hand, the State which passes a suitable law can thereby retain for the protection of its own workers 90 percent of the money otherwise payable by the employers of that State into the Federal Treasury.

The percentages work out in the following way. If a State has no unemployment-compensation law, its employers pay a Federal tax equal to 1 percent of their 1936 pay rolls, 2 percent of their 1937 pay rolls, and 3 percent of their 1938 pay rolls. Meanwhile, if a State has an approved law, its employers pay a Federal tax of only one-tenth of 1 percent on their 1936 pay rolls, two-tenths of 1 percent on their 1937 pay rolls, and three-tenths of 1 percent on their 1938 pay rolls.

The difference, which a State is able to keep available for the protection of its workers—provided it promptly adopts a suitable law—amounts to nine-tenths of 1 percent on 1936 pay rolls, 1.8 percent on 1937 pay rolls, and 2.7 percent on 1938 pay rolls.

Table 2 puts this matter even more concretely by showing what amounts of money are involved for 1936, 1937, and 1938 in those States which have not yet passed unemployment-compensation laws. The amount listed shows how much money the given State may lose for the given year through failure to enact a suitable unemployment-compensation law.

Table 2 should make clear what large amounts of money are involved in each of the States listed. Unless such a State passes a suitable unemployment-compensation law very soon—in time to collect contributions from employers (based on their 1936 pay rolls) before early 1937, when the Federal tax becomes payable—its employers will have to pay the 1936 tax credit amount listed above into the Federal Treasury, instead of contributing a like amount under a State law for the protection of the State's workers.

**TABLE 2.**—*Estimated tax credits under section 902 of Social Security Act (i. e. 90 percent of the pay-roll tax payable by employers under title IX) if the State enacts a suitable unemployment-compensation law*<sup>1</sup>

State	9/10 percent of 1936 pay roll	1.8 percent of 1937 pay roll	2.7 percent of 1938 pay roll
Arizona.....	\$550,000		
Arkansas.....	1,520,000		
Colorado.....	1,150,000		
Connecticut.....	4,300,000		
Delaware.....	490,000		
Florida.....	2,330,000		
Georgia.....	3,590,000		
Illinois.....	18,140,000		
Iowa.....	3,185,000		
Kansas.....	2,600,000		
Kentucky.....	3,425,000		
Maine.....	1,580,000		
Maryland.....	3,460,000		
Michigan.....	11,315,000		
Minnesota.....	3,875,000		
Missouri.....	6,480,000		
Montana.....	575,000		
Nebraska.....	1,610,000		
Nevada.....	215,000		
New Jersey.....	10,500,000		
New Mexico.....	490,000		
North Carolina.....	3,920,000		
North Dakota.....	480,000		
Ohio.....	15,250,000		
Oklahoma.....	2,930,000		
Pennsylvania.....	24,000,000		
South Dakota.....	545,000		
Tennessee.....	3,365,000		
Texas.....	7,270,000		
Vermont.....	620,000		
Virginia.....	3,450,000		
West Virginia.....	3,255,000		
Wyoming.....	250,000		

<sup>1</sup> Based on earlier estimates by the Committee on Economic Security. More accurate figures for 1936, and careful estimates for 1937 and 1938, are being prepared by the research staff of the Social Security Board, and should be available shortly after Oct. 1.

In view of the increasing support for unemployment compensation in every part of the country, it seems doubtful whether any of the above listed States will fail to pass suitable legislation, provided its governor, its legislators, and its citizens generally realize in time how much money the State's failure to act promptly may cost its workers. Those members of the I. A. G. L. O. who come from the above-listed States can certainly do their States a real service by calling these facts and figures to the attention of the proper State officials at once.

#### Federal Standards Which State Laws Must Meet to Secure Tax Credits Under Title IX of the Social Security Act

In enacting an unemployment-compensation law, there are certain minimum Federal standards which a State must meet, if its employers are to secure credit against the Federal tax provided under title IX of the Social Security Act. These minimum Federal standards are set forth in section 903 of the Social Security Act. The Social Security Board is directed to certify a State law for tax credit purposes only when the Board finds that the State law contains the specified provisions, each of which will be quoted and briefly discussed at this point.

“(1) All compensation is to be paid through public employment offices in the State, or such other agencies as the Board may approve.”

The basis for this first Federal standard is the universally recognized necessity for closely correlating the administration of unemployment-compensation laws with the public employment service. Such laws cannot be successfully administered without an adequate system of public employment offices, at which workers can apply for work and for unemployment benefits. A worker's registration at a local public employment office whenever he claims unemployment benefits will enable the employment office to refer him to any suitable employment which is then available. While he refuses to accept suitable employment, no benefits will be paid him. This work test, which is an essential feature of every unemployment-compensation law, can be effectively applied through public employment offices, and in no other way.

One point should be noted, however, in connection with the above-quoted Federal standard. Although benefits are “to be paid through public employment offices”, this does not necessarily mean that payment must be made at such offices. Even though workers must register at a public employment office as a condition for receiving benefits, it may well be that the actual payment of benefits could be made to advantage at some other place or in some other way than at the employment office itself.

The Social Security Board has full discretion to approve different methods of payment in different States. A certain method of payment might be preferred in Utah or Mississippi and might work well in those States, but might not be suitable for use in New York City, for instance. Accordingly, the Board should give careful consideration to any reasonable method of benefit payment proposed by the State administrators of the several unemployment-compensation laws as suitable to conditions in their State.

It is worth noting in this connection that the Board has already approved, on an experimental basis, the request of Wisconsin to pay benefits by check, mailed to the employee at his home address. Benefit payments in Wisconsin are now under way, some 18 months before benefits will be payable in other States. A full year's experience with delivery by mail will accordingly be available in Wisconsin before this problem need be faced by other States.

Perhaps the above-quoted Federal standard should be entirely deleted from section 903, relating to tax credits, because it empowers a Federal agency to prescribe for the States the detailed administrative procedures they must use in paying benefits. Whether this is justified for tax-credit purposes seems doubtful. As a matter of fact, the same Federal standard appears again (more properly), under section 303 of the Federal act, as a requirement States must meet if they are to receive Federal aid for administration.

“(2) No compensation shall be payable with respect to any day of unemployment occurring within 2 years after the first day of the first period with respect to which contributions are required.”

This second Federal standard means that a State must collect contributions for 2 years before paying unemployment benefits. And benefits can then be paid to eligible employees only for that unemployment which occurs after the 2 years of contributions have been completed.

The obvious purpose of this Federal standard is to assure the accumulation of reasonably adequate unemployment reserves prior to the commencement of benefit payments. This purpose is of course commendable, and the advance accumulation of reserves is clearly desirable. But it seems doubtful whether a delay in benefit payments of 2 years is necessary or justifiable in every State.

We believe that Congress could to advantage amend this second Federal standard by permitting the States to collect contributions for a minimum of 1 year, but for not more than 2 years, prior to benefit payments. Some States might well be justified in starting benefits after only 1 year of contributions, whereas other States should probably collect contributions for 2 years, in view of the severity of their unemployment problems.

An accumulation of about 3 percent on pay roll, prior to the commencement of benefit payments, seems desirable in most States. Such a reserve will take 2 years to build, under State laws which collect 1 percent in 1936 and 2 percent in 1937. But some States may start late, with nearly 2 percent in 1937 and nearly 3 percent in 1938. For them, a 2 years' delay would mean close to a 5-percent reserve.

We therefore recommend (two members of the committee disagree) such an amendment of this 2-year Federal standard as would permit the States to decide how soon to commence benefit payments, within the suggested limitations of a 1-year minimum and a 2-year maximum. (New State laws might well include a provision permitting them to take advantage of any change made by Congress in the present Federal standard on this point.)

“(3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 904.”

Under this provision the contributions collected by each State for unemployment-benefit purposes are deposited in the Federal unemployment trust fund, for investment purposes. A separate account is kept in this special fund to the credit of each State agency making such deposits. The moneys thus deposited are, of course, subject to withdrawal by the depositing States for unemployment-benefit pur-

poses. Pending such withdrawal, all these funds are invested in Federal Government bonds, with the interest earnings credited to the accounts of the several States.

There was more than \$31,000,000 on deposit in the unemployment trust fund on August 31, 1936. This total sum represented the deposits made and the interest earned by five States and the District of Columbia, each of which had proceeded far enough with its collection of contributions to make such deposits.

We realize that question has been raised in some States whether such a deposit of State-collected contributions can validly be made. In California a court test on this point is now under way. We trust, however, that any obstacles which may now exist in a few States to the central handling of unemployment-benefit funds can be overcome, in view of the advantages inherent in central handling and investment.

There are certain obvious advantages in having the investment of State unemployment-compensation funds handled centrally by the Secretary of the Treasury, rather than having the several State administrations invest their funds locally, perhaps in varied securities less safe than United States Government bonds. In the case of unemployment-benefit funds, the primary considerations are safety and liquidity of principal, rather than a large interest yield. Unemployed workers cannot afford to wait until frozen securities are thawed out before receiving the benefits payable to them. It follows that only the safest and most liquid securities, namely Federal Government bonds, should be considered for the investment of unemployment-benefit funds.

There is another important reason why the moneys collected under State unemployment-compensation laws should be centrally handled. These moneys will pile up primarily when business is improving, employment is increasing, and pay rolls are rising. The heaviest drain on these funds will come when employment is slackening, pay rolls are falling, and workers are becoming unemployed. This means that large blocks of Government securities must be purchased on a rising market, and must be liquidated on a declining market. These financial operations might have an adverse effect on credit and employment conditions, unless carefully handled.

It would, of course, be desirable to use these funds even more positively, if possible, so that their very financial handling would have a desirable effect on credit and employment conditions. For this purpose, the Secretary of the Treasury, should probably be given some discretion to hold a portion of the unemployment trust fund on deposit in Federal Reserve banks, rather than being required, as at present, to invest the entire amount of the fund in bonds. We recommend that this problem be carefully studied by the interested Federal agencies.

“(4) All money withdrawn from the unemployment trust fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration.”

Under this Federal standard a State cannot use any part of its unemployment-benefit fund to finance administrative expenses. The resulting problems will be touched on later in this report, under the heading of “Federal Aid for State Administration.”

“(5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lock-out, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.”

If the State law did not include the provisions thus set forth, it might operate to depress labor standards, instead of improving them.

“(6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.”

It is essential that each State hold open the possibility of amending its unemployment-compensation law from time to time, based on actual experience. (Wisconsin's 1935 problems in amending certain “exempted plans” have amply demonstrated the wisdom of the above Federal safeguard.)

Each State unemployment-compensation law must meet the above-quoted Federal standards, so that employers may receive for their State contributions the 90-percent Federal tax credit permitted under section 902 of the Social Security Act.

Certain additional safeguards do, of course, apply under section 910, with respect to the “additional credits” against the Federal tax permitted under that section. (If such additional tax credits were not allowed, State merit-rating systems would be impossible.) No analysis is here attempted of the Federal standards set forth in section 910, despite the importance of this matter, since these additional credit provisions will not come into operation for several years.

#### **Federal Standards Which State Laws Must Meet to Secure Administration Aid Under Title III of the Social Security Act**

Under title III the Social Security Board may grant Federal aid—from an appropriation to be made to the Board each year by Congress—sufficient to finance the entire cost of administering any State

unemployment-compensation law which meets not only the standards of title IX, as quoted above, but also the standards set forth in section 303 of the Social Security Act.

To receive Federal aid covering 100 percent of its administrative costs, the State's law must include each of the seven provisions specified in section 303, and must live up to these provisions in actual operation. Each of these seven standards will be quoted and briefly discussed at this point.

“(1) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due.”

The most striking part of this provision is the fact that Congress specifically denied to the Social Security Board any direct jurisdiction over one of the most vital aspects of State administration, namely the “selection, tenure of office, and compensation of personnel.”

There are several obvious dangers in the granting of Federal aid to the various States, without regard to their failure to use up-to-date personnel methods. Federal money is apt to be wasted. The growing movement to establish civil service in the several States is apt to be discouraged, rather than strengthened. Less effective State administration is apt to result.

The Social Security Board is directed by statute to allot only such amounts under any State law as it “determines to be necessary for the proper administration of such law.” In making this determination, the Board should apply, as one of its yardsticks, the probable cost of administering the given State law under a reasonably effective civil-service system. The Board should, of course, render any desired assistance to those States which wish to set up a merit system for the administration of their unemployment-compensation laws. Substantial progress has already been made along these lines in several States.

In view of the difficult and important task faced by the States in administering their unemployment-compensation laws, it is essential that their administrative personnel be selected on a genuine merit basis. The most practical way of assuring effective and economical administration would be to require each of the States to apply civil-service methods and standards to the selection, tenure of office, and compensation of personnel, as a Federal standard for granting Federal aid for administration.

We therefore urge that Congress amend the above-quoted provision at the earliest opportunity, either by removing the restriction now placed on the Social Security Board, or by affirmatively requiring each State to select its personnel on a nonpartisan merit basis as a condition of receiving Federal aid for administration,

“(2) Payment of unemployment compensation solely through public employment offices in the State, or such other agencies as the Board may approve.”

This same Federal standard is used in section 903 of the Social Security Act for tax-credit purposes. It has already been discussed in that connection earlier in this report.

“(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied.”

The necessity for this basic minimum requirement is self-explanatory.

“(4) The payment of all money received in the unemployment fund of such State, immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 904.”

This same Federal standard is used in section 903 of the Social Security Act for tax-credit purposes. It has already been discussed in that connection, earlier in this report.

“(5) Expenditure of all money requisitioned by the State agency from the unemployment trust fund, in the payment of unemployment compensation, exclusive of expenses of administration.”

This same Federal standard is used in section 903 of the Social Security Act for tax-credit purposes. It has already been discussed in that connection, earlier in this report.

“(6) The making of such reports, in such form and containing such information, as the Board may from time to time require, and compliance with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports.”

Some provision of this type seems only reasonable, in view of the fact that the Social Security Board is financing State administration costs 100 percent. Unless the Board has power to require suitable accounting reports from State agencies, it cannot satisfy itself whether Federal money is actually being spent for the administration of State unemployment-compensation laws, and whether it is being spent with reasonable efficiency and economy.

It must be recognized, however, that the power thus given the Board to require from State agencies any reports it sees fit to require should be used by the Board with proper self-restraint. Otherwise the Board could, under this sweeping grant of authority, virtually dictate the detailed methods of administration to be used in each State, under the guise of requiring certain reports in a certain form.

The administration of unemployment-compensation laws will, as time goes on, yield valuable statistical information on employment

and unemployment. Certain basic data can readily be supplied by State administrations to the Board, on a more or less uniform basis. But statistical refinements should not be permitted to interfere with the primary administrative task of each State agency, nor with the legitimate differences existing between the various State laws.

“(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of unemployment compensation, and a statement of such recipient’s rights to further compensation under such law.”

This final standard calls attention to the fact that unemployment compensation is not in itself a complete answer to the unemployment problem. The duration of benefits under unemployment compensation laws is definitely limited. With such legislation now becoming firmly established in this country, further study and consideration should soon be given to the relation of unemployment compensation to public works and other projects for the relief of prolonged unemployment.

#### Federal Aid for State Administration of State Laws

Early in 1936 Congress appropriated money to the Social Security Board, from which to make Federal grants for the administration of State unemployment-compensation laws under title III of the Social Security Act.

Up to September 1, 1936, Federal aid had been thus granted under 12 unemployment compensation laws, as set forth in the following table:

TABLE 3.—Federal grants for the administration of State laws <sup>1</sup> (under title III of the Social Security Act)

State	Third fiscal quarter, 1936	Fourth fiscal quarter, 1936	First fiscal quarter, 1937	Total, Jan.-Sept. 1936
Alabama.....	\$10,704.44	\$23,022.15	\$18,985.63	\$52,712.22
California.....	53,367.94	82,355.40	116,760.92	252,484.26
District of Columbia.....	12,239.25	30,273.42	21,260.03	63,772.70
Indiana.....	836.03	47,605.69	51,292.46	99,734.18
Massachusetts.....	33,348.27	62,680.01	63,485.07	159,513.35
Mississippi.....		6,820.39	23,277.94	30,098.33
New Hampshire.....	44,188.32	34,150.95	45,274.35	123,613.62
New York.....	181,949.41	184,734.67	333,962.48	700,646.56
Oregon.....	13,260.84	26,384.43	26,190.62	65,835.89
Rhode Island.....		8,820.71	23,098.00	31,918.71
South Carolina.....		600.00	12,868.36	13,468.36
Wisconsin.....	17,769.91	79,369.85	( <sup>2</sup> )	97,139.76
<b>Total.....</b>	<b>367,664.41</b>	<b>586,817.67</b>	<b>736,455.86</b>	<b>1,690,937.94</b>

<sup>1</sup> No grant had been made to Idaho, Louisiana, Utah, or Washington up to Sept. 1, 1936, since their law had not yet come into operation.

<sup>2</sup> For this current quarter Wisconsin did not submit its application until after Sept. 15, 1936.

Granting 100 percent Federal aid to finance administration by the States of their unemployment-compensation laws naturally involves some difficulties and problems for the Social Security Board and also for the State administrators.

Federal aid for permanent State activities has usually been granted only on a matching basis, in order to preserve State interest in economical administration. Since Federal money pays the entire costs of State administration under title III, the usual safeguard is lacking in this case.

From the Board's point of view, it is responsible for allotting enough money, but no more than enough money, to pay the necessary costs of properly administering each State law. On the one hand, it knows that good administration is well worth its cost. On the other hand, it cannot afford to grant any State more than that State really needs for good administration. Yet State conditions and State laws differ widely. No lump-sum estimates of reasonable cost can readily be made or applied to the several States, until further experience becomes available.

Under these conditions it is only natural for the Social Security Board to ask each unemployment-compensation State for a detailed quarterly budget, to scrutinize budget items minutely, and either to veto doubtful items or to scale down total requests accordingly. This does not mean that the Board has been unreasonable in its attitude or in its procedures. On the contrary. But the power is there, and might eventually lead to something approaching Federal administration of State laws.

As time goes on the Board may be able to work out a practical basis for giving differentiated treatment to the several States. Detailed Federal supervision and financial control are certainly less needed in some States than in others. Those States which themselves apply civil-service, budget-control, and central-purchasing methods can properly expect less Federal supervision than States which have no effective safeguards of this type. We recommend that the Board give careful consideration to this problem.

From the viewpoint of the State administrators, they cannot reasonably object to being held accountable for the honest expenditure of money received under title III. But they are and should continue to be directly responsible to their own States for effective administration of the laws enacted by those States; and they know that budget and expenditure decisions are a vital part of the administrative function. Some of the States are therefore wondering how 100 percent Federal aid is going to work out in the long run, and how much real discretion will remain in the hands of the State administrations.

In short, the major problem involved in 100 percent Federal aid for the State administration of State laws is the possibility of sweeping Federal control over State legislative and administrative policies,

with Federal aid as the leverage used to secure State compliance. Both State and Federal agencies should face this issue, and should jointly study and discuss this central problem of Federal-State cooperation. In that way the issue can be met on a practical and cooperative basis.

This procedure is in fact being followed at the present time, through the interstate conferences which have been held periodically during recent months. These conferences are attended by State unemployment-compensation administrators, and by staff members of the Social Security Board and of other interested Federal agencies. They afford a valuable opportunity for the exchange of information and for the discussion of common problems. We therefore recommend that the whole question of 100 percent Federal aid, as outlined above, be carefully considered and fully discussed in future meetings of the interstate conference. This present report has aimed merely to call attention to the problems apparently inherent in the present situation.

#### **The Role of the States in Unemployment Compensation**

It is well to remember that the States have a primary role in the field of unemployment compensation. Despite the above rather extended discussion of Federal standards for tax credits and for administration aids.

The Federal Social Security Act does not require any State to enact an unemployment-compensation law. Unless and until a State takes the initiative in passing such a law, there will be no unemployment-benefit fund built up for the future protection of its workers.

Each State has wide freedom of choice as to the type of unemployment-compensation law it will enact. It may determine for itself who shall contribute, and at what rates. It may set up employer reserve accounts in the State fund, or may pool contributions in whole or in part, using a merit-rating system or not, as it sees fit. Waiting periods, benefit rates, the duration of benefits, and most benefit-eligibility conditions are left entirely to the judgment and discretion of the several States.

Of course, State freedom carries with it State responsibility. Considering the relative lack of experience with unemployment compensation in this country and the many technical problems involved, the present State laws are of remarkably high quality. This is due in no small measure to the advice and technical guidance supplied to the States (on request) by staff members of the Social Security Board. The "draft bills" prepared by the Board have been a genuine help to State legislatures. On the whole, it can therefore be said that the various State laws so far enacted seem reasonably comparable in their beneficiality to workers, and offer a sound basis for future development based on further experience.

In one vital respect, however, most of the State laws fail to have the courage of their convictions. With but three exceptions, these laws would cease to function or even to exist if the unemployment-compensation provisions of the Federal Social Security Act became inoperative for any reason. An adverse court decision on the Federal act would give most of the present unemployment-compensation States no opportunity even to consider whether their laws should continue to function.

In view of the existence of 16 laws at the present time and the probability that other laws will shortly be enacted, it would seem that each State law, both present and future, should stand on its own feet. Dependence of State laws on the continued operation of the Social Security Act can no longer be defended, in view of the widespread public support unemployment compensation now enjoys in every part of this country. Certainly those who believe that unemployment compensation is and should remain a primary concern of the States, rather than of the National Government, cannot consistently tolerate the present dependence of State laws upon the Federal act.

We therefore urge that existing State laws should be amended, so that they will continue in operation regardless of what happens to the Federal Social Security Act, and that new State laws should likewise stand on their own feet in this respect.

A necessary corollary of this recommendation is that State laws should expressly provide for State financing of their administration, to take effect if Federal aid under title III of the Social Security Act ceases to be available at any future time. Only one State (Wisconsin) now has in its law such a provision for State financing of administrative costs, which could be used in the event that Federal aid ceases. In that State the administrative agency has power to collect from employers an additional administrative assessment, payable into a separate nonlapsing administration fund. Other States might well consider the desirability of enacting some similar provision, to be used only when and if State administrative costs can no longer be financed with Federal money.

#### Contributions Under State Laws

Although the Federal excise tax on pay rolls levied under title IX of the Social Security Act is payable solely by employers, any State which desires to do so may collect contributions from workers as well as from employers.

Seven of the existing laws, representing about half the present coverage of employees, collect contributions only from employers. Nine laws require contributions from both employers and employees, but collect a much smaller percentage from workers than from employers.

The major argument for contributions solely from employers is that the unemployment for which benefits will be payable is essentially an industrial rather than a personal hazard. It is therefore reasonable to assess the costs against employers, as has already been done for many years under American accident-compensation laws.

The major argument for employee contributions is that they will increase the available funds and will thereby make larger benefit payments possible. It must be recognized, however, that employee contributions mean extra record keeping and reporting by employers, and increased administrative costs. Complete current central office reporting will doubtless be found necessary in those States which collect employee contributions, as against the periodic separation or severance reports which might otherwise be considered in some States. If employees contribute, their payments should of course be pooled in all cases, rather than credited to separate employer accounts.

It is worth noting at this point that the District of Columbia is the only jurisdiction in which a Government contribution has yet been made to an unemployment-compensation fund. The question of Government contributions of course involves the whole relation of unemployment-compensation laws to programs for the relief of long-continued unemployment.

One further comment may be appropriate at this time. Despite the various estimates which have been made, and despite the limited duration of benefits provided in most State laws, there is of course no assurance that a standard contribution of 2.7 percent will prove adequate to pay the promised benefits, even during minor depressions. It may be that the general level of contribution rates under existing laws is too low.

#### Merit Rating

Most of the existing State laws include some provision for merit rating, namely, for eventual variation in employer contribution rates, based on unemployment-benefit experience. The primary purpose of such merit-rating provisions is to encourage employers to provide the steadiest possible employment. A secondary purpose is to assess the cost of benefits, for such unemployment as occurs, on those employers and industries and products which are most directly responsible for such costs.

The existing State laws vary rather widely in their treatment of the merit-rating problems. Several merely provide for further study of the problem, which means that they will not include merit-rating systems unless and until there is further action by their legislatures. A number of laws authorize the State administrative agency to study the problem, and to set up a merit-rating system by administrative rule. Some laws contain specific provisions for merit rating, so that each employer can tell in advance how his contribution rate will go

up or down in accordance with his contribution and benefit experience. Most State laws require some minimum contribution even from the steadiest employers. Under a few State laws a steady employer's contributions may cease under specified conditions.

In view of the wide acceptance of the merit-rating idea in American State laws, it seems important to point out that merit rating should operate not only to reduce the contribution rate of a steady employer, but also to raise the contribution rate of an irregular employer. Just as the costs of accident compensation vary widely for different industries and occupations, in view of their different hazards, so too in the field of unemployment compensation the less regular employers should contribute at higher rates. To date there are relatively few State laws which provide for increased rates under their merit-rating systems.

The existing provisions of State unemployment-compensation laws, taken together with the additional credit provisions of section 910 of the Social Security Act, assure a genuine trial for the merit-rating idea in this country.

#### Coverage

Although the Federal tax levied under title IX of the Social Security Act applies only to employers of eight or more persons, any State is free to adopt a wider coverage. As time goes on, State laws should cover smaller employers and their employees, despite the increasing administrative difficulty involved in such wider coverage.

State laws might also cover to advantage some of the occupations now specifically excluded from the operation of the Federal pay-roll tax. In this general connection, the question might fairly be raised whether State laws should not apply to the employees of State and local government units, as well as to the employees of private employers.

Probably the most difficult problem of coverage under State laws is the problem of the employee who works partly in one State and partly in another. Although these workers do not represent a large percentage of the total coverage under State laws, nevertheless for them the problem of proper protection is acute. For interstate railroad employees the best solution is undoubtedly a suitable unemployment-compensation law enacted by Congress for their protection. As to other employees working across State lines, the best answer would seem to be a uniform provision to be adopted by each of the States, under which gaps and overlapping in jurisdiction would both be avoided so far as possible. The interstate conference of unemployment-compensation States has been studying this problem for some months, and hopes to work out a satisfactory solution.

#### The Calculation of Unemployment Benefit Rates

American laws use the calendar week as the time unit for measuring the existence of unemployment and for determining unemployment-

benefit rates. Use of a weekly basis avoids the more detailed record keeping and reporting and calculations which would be involved if a daily time unit were used.

An employee's weekly benefit rate is typically determined under American unemployment-compensation laws as a percentage of his full-time weekly wage. Under nearly all laws, benefits are figured at 50 percent of the employee's full-time weekly wage, usually with a minimum of \$5 and a maximum of \$15 per week. Except in the District of Columbia, where benefits also vary with the number of a worker's dependents, an employee's benefit rights are thus closely related to his past earnings on a full-time basis.

Although the use of a full-time standard in figuring weekly benefit rates does involve some difficulties, nevertheless it seems preferable to the alternative "averaging" methods sometimes proposed. (There is considerable experience available under accident-compensation laws to demonstrate how unfair to employees an averaging basis of computation can be.)

It must be recognized, however, that American laws attempt a more difficult task than has been faced in other countries, namely, the determination of each employee's benefit rate on the basis of his own past full-time earnings. Such a determination is necessarily more difficult and more expensive to make, and harder to understand, than the flat benefit rates and fixed allowances for dependents which apply under European unemployment-insurance systems. The present American basis helps to differentiate unemployment compensation from "relief", and has much to commend it. But further study might well be given to simplifying the determination of weekly benefit rates, consistently with use of individual employee earnings on a full-time basis.

#### **Partial Unemployment Benefits**

Most of the existing State laws define a worker as partially unemployed whenever he earns in wages less than his weekly benefit rate. These laws typically pay to a worker who is partially unemployed benefits equaling or exceeding the difference between his wages and his weekly benefit rate. In several States an additional \$1 or \$2 is paid in benefits, thereby further recognizing the principle that a man should receive, when doing some work, at least as much as he would receive if totally unemployed and drawing full benefits for total unemployment.

A few of the State laws do not yet include any provision for defining or compensating partial unemployment. They will doubtless give further consideration to this matter in the near future, since an unemployment-compensation law is hardly adequate unless it provides for some lower limit, beneath which the worker's wage income will be supplemented by benefit payments.

### Duration of Benefits

Benefits are payable to eligible employees as a matter of right, based on (and in proportion to) their past work in employments covered by the State law. The "ratio" provision most commonly used in existing laws is that 1 week of benefits may be paid for each 4 weeks of employment occurring within the past 2 years.

Despite the desirable limiting effect on benefit rights of such ratio provisions, nearly all American laws have found it necessary to place a further maximum limit on the benefits an employee may draw within any period of 52 consecutive weeks. The most commonly used maximum duration is 15 or 16 weeks within any year.

A number of State laws provide, however, that additional benefits may be paid to workers who become unemployed after working steadily for some years. Such additional benefits are typically based on such employment, say, during the past 5 years, as has not already been charged off by previous benefit payments. A ratio of 1 to 20 is used in several State laws, to limit the additional benefits thus payable.

### The Public Employment Service and Unemployment Compensation

That unemployment-compensation laws cannot be successfully administered without an adequate system of public employment offices has already been stressed earlier in this report. Certain further comments may be relevant at this time.

Under the Federal Wagner-Peyser Act of 1933, the United States Employment Service (which is a division of the Department of Labor) is able to provide Federal aid—on a basis of matching State money dollar for dollar—for those State employment services which affiliate with the Federal service and meet certain Federal requirements.

As of September 11, 1936, there were 36 States affiliated with the United States Employment Service under the Wagner-Peyser Act. In addition, Alabama was in process of affiliation. Arkansas, Georgia, Kentucky, Utah, and Washington had accepted the Wagner-Peyser Act but had taken no further action. Six States had not yet accepted the Federal act, namely, Delaware, Kansas, Maine, Michigan, Mississippi, and Montana.

It seems clearly desirable to maintain the present Wagner-Peyser set-up, under which the United States Employment Service assists and correlates the various State employment services. The 50 percent Federal aid available under the present set-up has helped firmly to establish a merit basis for personnel throughout the public employment service. State matching of such Federal aid should continue, at least to the present extent, because it assures local interest in good administration, and because it reflects the fact that State employment offices serve the entire community as well as participating in the administration of State unemployment-compensation laws. We

therefore favor continuance of the present Wagner-Peyser set-up, but urge close cooperation between the United States Employment Service and the Social Security Board.

Title III of the Social Security Act makes available through the Board additional money to finance the expansion of State employment services, insofar as such expansion is necessary in connection with State unemployment-compensation laws. In making grants under title III for the expansion of State employment services, we believe that the Board might well adopt as a sound and practical principle the requirement that States shall have fully matched the Federal funds available under the Wagner-Peyser Act as a condition for receiving additional Federal aid for their employment offices under title III of the Social Security Act.

The existence of national reemployment offices in every State should provide a helpful basis for building a system of State offices adequate to meet the problems of unemployment compensation. It would seem desirable, however, to begin the expansion of State employment services a full year prior to the commencement of unemployment-benefit payments.

Since the employment service must be closely correlated in every State with the administration of unemployment compensation, it is important that the administrative set-up in every State be worked out accordingly. A single State agency might well be in charge of both the employment service and the administration of unemployment compensation. Care should be taken, however, so that the employment service will not be completely swamped with unemployment-benefit problems, but will rather continue to fulfill its primary function of finding suitable jobs for unemployed workers.

#### Administrative Organization

It is doubtful whether there is any single type of State administrative organization which is suitable to conditions in all the several States. Some States have set up their unemployment-compensation administration within the State labor department. Others have created a new unemployment-compensation commission. In some cases the new commission serves full time, while in other cases the members serve on a per diem basis, with day to day administration entrusted to a full-time director. Varying answers have also been given to date to the problem of correlating the State's employment service with its unemployment-compensation administration. Most of the States have not yet faced the problem of a State appeal board, to pass on disputed unemployment-benefit cases prior to their possible appeal to the courts.

The administrative problems involved in unemployment-compensation laws are in many respects more difficult than any yet faced in the field of American labor legislation. Although it is clear that a

single State agency should collect contributions as well as handling unemployment benefits, the collection of contributions is the lesser part of the total task. Each State should recognize that it needs outstanding administrators to put its unemployment-compensation program into operation to the satisfaction of all concerned.

#### Civil Service

This report has already stressed the importance of a nonpartisan merit basis for the selection of the entire administrative personnel, upon whom the efficiency and economy of State administration will depend.

As more fully set forth in the report of the civil-service committee of the I. A. G. L. O., there are encouraging signs of progress in the direction of civil service in many of our States.

Although we recognize that the adoption of a civil-service system by a given State does not immediately mean its 100 percent application or operation, nevertheless we believe that a start along these lines should be made in every State as early as possible, especially in connection with the administration of unemployment-compensation laws.

The long-run effectiveness of a civil-service system will depend in every State on the degree to which citizens generally are aware of its importance. In the field of labor legislation, more specifically, both employers and workers have a vital interest in good administration, and therefore in the merit principle.

#### Advisory Committees

A number of the States have set up, in connection with their unemployment-compensation administrations, an advisory committee consisting of representatives chosen by organized employers and of representatives chosen by organized employees. The members of the advisory committee typically serve without pay, other than reimbursement for necessary expenses, and are of great value to the administrative agency in advising on major policies and in securing public understanding of the law.

The advisory-committee device has worked especially well during the past 4 years in Wisconsin, and also more recently in New York and other States. An advisory committee which represents the leading employer and labor organizations of the State can be of special value in securing the passage of clarifying legislative amendments worked out by the advisory committee itself as acceptable to both employers and labor. More generally, an advisory committee may help to bring about in the community that informed consent to unemployment compensation which is essential to the effective operation of any law in a democracy.

### Constitutionality

There has not yet been any final decision on the constitutionality of the unemployment-compensation provisions (titles III and IX) of the Federal Social Security Act, or on the constitutionality of State unemployment-compensation laws.

A test of the Federal tax provisions is now pending in New Jersey, but can hardly result in a final decision until the spring of 1937. It is to be hoped that a favorable outcome will make possible continuing Federal encouragement of State laws in this field.

New York deserves credit for the most important court decision handed down to date on the constitutionality of State unemployment-compensation laws. The New York Court of Appeals, which is the highest court of that State, upheld the New York unemployment-compensation law in a sweeping five to two decision delivered in April 1936. This decision has been appealed to the United States Supreme Court, and is scheduled for argument in October. It is to be hoped that a favorable decision in this important New York case will clear the way for sustaining the unemployment-compensation laws of all other States, in some of which court tests have recently been started.

### Conclusion

Substantial progress in the enactment of State unemployment-compensation laws has been made during the last few years, thanks in large measure to the encouragement afforded by the Federal Social Security Act. Additional State laws will doubtless be enacted during the coming months. There is reasonable prospect that the coverage of State laws will become Nation-wide during the coming year.

The present American program for unemployment compensation is a cooperative Federal-State program, in which the initiative and the primary responsibility rests with the States. Despite the various important problems of Federal-State relationships which need to be worked out on a cooperative basis, the Social Security Board has been able to offer valuable assistance and guidance to the States in developing their unemployment-compensation systems. The periodic interstate conferences attended by Social Security Board staff members and by State representatives offer real promise of working out solutions of the many important problems of administration which are still ahead.

Unemployment compensation is now recognized in every part of this country as a vital phase of any long-run program for increased economic security. In view of its wide popular support, we believe that unemployment compensation has already become an American institution, and has come to stay.

*Discussion*

Chairman DAVIE. I regret to announce that Mr. Altmeyer, of the United States Social Security Board, who was to have taken part in the discussion at this time could not possibly make the trip. He has, however, delegated a very able pinch-hitter, Cornelius R. P. Cochrane, technical adviser to the Bureau of Unemployment Compensation of the Social Security Board.

[Mr. Cochrane after conveying to the convention Mr. Altmeyer's regrets that he was unable to be present, read his paper, as follows:]

Mr. ALTMAYER. I appreciate this opportunity of addressing a group of State labor-law administrators, since for many years prior to becoming a Federal official, I was a State labor official. If I may, I should prefer to talk to you as a State labor official rather than a Federal official. I hope that you will accept me as one of you discussing mutual problems, rather than an outsider giving gratuitous advice.

It should be possible through meetings such as this to develop ways and means of bringing about the proper integration of the administration of labor laws. With the advent of unemployment-compensation laws the relationship of the administration of such laws to the administration of other labor laws becomes a matter of great concern. If the proper relationship is established it may lead to greater integration in the administration of labor laws in general. On the other hand, if it is not handled properly it will lead to greater disintegration. Unfortunately, the present situation as regards the integration of labor-law administration is not very cheering to those who are desirous of having effective labor-law administration.

While all of the States in the Union have some agency designated to administer one or more types of labor legislation, in several States the same agency is charged with the responsibility for administering as well other legislation which has little relationship. Moreover, in most States there is more than one agency administering labor laws, the typical division, of course, being between the administration of workmen's compensation laws and the administration of other laws. As a matter of fact, in only 11 States is a single agency administering all labor laws. Not only is there great need for consolidation of separate agencies administering various types of labor laws, but there is great need of integration of functioning within agencies that have consolidated. The very fact that there are two national organizations meeting here in Topeka not only demonstrates that there is a lack of consolidation of agencies administering labor laws, but also is proof of the fact that the two sets of administrators recognize that there is community of interest between them.

As you know, there are two main types of State agencies administering what the English term "factory acts" (that is, labor laws other than workmen's compensation)—the commission type and the so-

called department of labor type. In the first type there is a body of persons, usually three, who possess executive as well as quasi judicial and quasi legislative functions. In the second type there is a single person who possesses executive functions only. In all cases where there is a commission to administer regulatory labor laws, that commission is also charged with administering the workmen's compensation act. However, in the majority of cases where there is a single-headed labor department there is also a separate commission administering the workmen's compensation act. That it is not necessary to have a separate agency administering the workmen's compensation act when there is a single-headed department of labor is evidenced by the fact that in a number of States having a single-headed department of labor there is a commission created within such a department handling the executive functions involved in reporting, recording, and checking of undisputed cases, while another commission created within the department hears the appeals from decisions made in disputed cases.

The experience of this country indicates that either the single-headed type of labor department or the commission type can operate successfully. It is true that as the administrative load increases, due to increased industrialization within a given State, the necessity for a commission to delegate executive functions becomes greater and greater, so that eventually a point may be reached where the executive and judicial functions should be made coordinate rather than having the executive functions subordinate to the judicial functions. In other words, it may be that under such circumstances the commission type should be superseded by the single-headed department of labor type of organization.

But whether we have the single-headed or commission type of administrative agency, there is the same necessity for integration of functions within the agency. This arises out of the fact that there must necessarily be specialization of functions within the agency. This very specialization, while it promotes greater efficiency in the carrying out of each function considered separately, gives rise to a problem of coordination and integration, so that the administration of each type of labor law may improve and reinforce the administration of every other type of labor law.

The Social Security Act, as you know, is in essence a cooperative Federal-State plan. Indeed, all of the benefit provisions of the act, with the exception of Federal old-age benefits, are administered by the States. This approach, rather than a straight national approach, was made to the problem of social security because it was recognized that the variation in conditions and public opinion throughout this vast country of ours required that a plan be developed whereby each State would have an opportunity to decide for itself the kind of law it wanted and to develop for itself the kind of administrative organi-

zation which it felt met its problems. It is also recognized that in no other way could there be maintained that close contact with individuals and groups affected by the provisions of the law which alone is a guaranty of realistic administration.

The fact that there are on this very program representatives of two States having widely varying types of unemployment-compensation laws and widely varying types of administrative organization is evidence that the Social Security Act does afford opportunity for adaptation to local conditions and public opinion. I think these two States are to be congratulated that each one has recognized the close relationship which must exist between the administration of unemployment compensation and operation of the employment service.

All of the States that have enacted unemployment-compensation laws, with one exception, have placed the administration of unemployment compensation and the operation of the public employment service with the same agency. Thus the progress that has been made in the integration of these two functions is most encouraging. However, only 5 of the 15 States that have enacted unemployment-compensation laws have placed the administration of unemployment-compensation laws within a single agency administering all labor laws. But in two other States the agency administering workmen's compensation has also been charged with the administration of unemployment compensation.

I am frank to say that I think it has been very unfortunate that the administration of workmen's compensation has developed rather independently of the administration of other types of labor laws. The advent of unemployment compensation offers two possibilities—either further dispersion of responsibility for administering labor laws or an opportunity to bring about integration of the various agencies in a State administering labor laws.

The integration of unemployment compensation with the administration of other labor laws can be accomplished in a number of different ways. It is not necessary nor desirable that a single pattern be followed. If a State prefers the single-headed department of labor type of administration, then in addition to creating a division within the department to handle the functions involved in the collection of contributions and payment of benefits it will be necessary to provide for an appeals body to hear appeals in disputed cases. In a State with a small volume of appeals this might be a part-time body. However, if the department of labor also administers the workmen's compensation act, the same appeal body might be used to hear appeals under the workmen's compensation act as well. If this were done the volume of appeals under both acts would probably be sufficient to warrant a full-time body which, of course, is always more satisfactory. When the volume of appeals is great, this combination

would not be satisfactory. But in either event it is essential that the relationship between the appeals body and the head of the labor department be clearly defined in the law, both as regards control of personnel as well as regards procedure. I should also like to point out that if the legislature has given the department of labor the power to adopt regulatory rules or orders having the force of statutory law either in the field of safety or some other field, consideration should be given to the desirability of charging the appeals body with responsibility for approving such rules or orders as the head of the labor department may develop and recommend.

If a State prefers the commission type of administration, there should of course be created a division to handle unemployment compensation, but the commission itself would then be the appeals body. It could also exercise the administrative rule or order-making power I have just mentioned. While under the commission type of administration the difficult problem of defining the respective functions of the head of the labor department and the appeals body is avoided, another difficult problem is created; that is, to make certain that the commission delegates its executive powers to an executive officer sufficiently, so that prompt action is assured and so that the commission itself can give adequate attention to its quasi judicial and quasi legislative powers.

It is important that the friends of efficient labor-law administration in the various States assume leadership in developing the type of integrated labor-law administration that seems to fit the particular needs of each State. It is particularly important now that they use their influence to make certain that the advent of unemployment compensation is made the occasion, not only for integration of labor-law administration in general, but also for more adequate financing of labor-law administration. Unfortunately, in many States the importance of adequate administration of labor laws has not been recognized, and in most States labor-law administration has been inadequately financed. Even the friends of progressive labor legislation have too often felt that their job was done when they secured the enactment of suitable legislation. They have failed to recognize that administration is fully as important, if not more important, than the legislation itself. If the friends of labor legislation now will recognize the importance of adequate and integrated administration, they have a fine opportunity of capitalizing the public interest in unemployment compensation to make great strides forward.

Chairman DAVIE. The next speaker has had quite a varied experience in unemployment compensation. I consider it a great pleasure to introduce Glenn A. Bowers, of the Department of Labor of New York State.

Mr. BOWERS. I will direct my remarks briefly to the report which Mr. Raushenbush has so well presented, and being a member of the

committee on unemployment compensation, I want to give credit to Paul Raushenbush for having prepared the report. It is a fine report. I concur in the report with one or two exceptions and I should like to join Professor Bigge on the point of delaying the payment of benefits or the accumulation period for fund accumulation to less than 2 years. I believe, as he does, that if any lesser period is fixed there may be a shortage of funds at the very beginning. There are one or two other points I might make on the general problem of administration of unemployment insurance.

The New York law, of course, has problems that no other State law has. I think Dr. Lubin will verify my statistics when I say that New York has 10 percent of the population of the country, about 15 percent of the wage earners of the country, and about 17 percent of the total pay rolls of the country. Therefore it would not be fair to compare the administration in Wisconsin, for instance, with that of New York, because the nature of the problems is quite different. However, we may have reason to comment upon the fact that Mr. Altmeyer's address referred to the radical difference between the New York State law and the Wisconsin law as regards the pooled fund created by the New York law and the reserve fund of the Wisconsin law. There is a great deal of misconception of the real substance of that. I do not think there is a difference at all, provided the pooled-fund law has coupled with it a merit-system law. A pooled-fund law plus a merit-rating system can be the same in result as a reserve type of law, because you get to a credit in either case. In the instance of the company-reserve plan, you stop paying after you have accumulated a certain amount of money. In the case of the merit-rating system coupled with the pooled-fund plan you get a rebate. Both plans are the incidence of the rebate or the incidence of the cessation of payment to turn-over. If the turn-over is low, your merit rating is high or your reserve accumulation account starts that much earlier. I think the mathematicians will all agree that they can be made the same; therefore, a great deal of this argument we have had over the past few years—in which I have been participating, favoring, you might say, the reserve-fund law—should evaporate. I no longer fear the pooled-fund law as taking away all the liberties of the individual or failing to distinguish between the rating experience of an individual employer, as I once did. The Supreme Court of the United States will pass in November on the New York law. At that time I suspect that it, rather than the State and Federal agencies cooperating, will settle the question of the degree to which the States manage these unemployment-insurance laws or the Federal Social Security Board manages them. We can cooperate in our interstate conferences, but in the last analysis the Supreme Court will decide whether the sweeping powers which Mr. Raushenbush has referred to should reside in the Social Security

Board or be left within the States. Personally, there is no doubt in my mind that the present set-up places very broad powers in the Social Security Board. However, that issue can be settled only by the Supreme Court and we will soon know the answer to it.

On the matter of financing, the Federal-State legislation provides that the State submit a budget and the Federal Board approve the budget. I do not differ at all with the substance of the report when I call attention to the fact that New York State has been appropriated some \$700,000. We have not spent \$350,000. Therefore it is clear on the face of it that the Board does appropriate more than we need, and it can scarcely prevent itself from doing so. That works out in a simple way. As you all know, you have to anticipate your expenditures 2 or 3 months before you can actually incur the liability. If we wait until the beginning of a quarter before we incur the liability—at which time we get the appropriation from the Board—we find ourselves in the dilemma of waiting an additional 30 or 60 days to get the people or the printing expense or rent, or whatever is involved. That fact in New York has caused us to spend half of what was estimated. The discrepancy will reduce considerably with the stabilization of State expenditures.

On the question of budget control I feel that although the Board has strong powers for controlling the expenditures, there will be no control of expenditures if we must rely solely on the Board's powers—that the actual control must come within the States themselves. Of course, control can scarcely be vested completely in any budget director within a State, no more than it can be completely under control of the Social Security Board. Bluntly putting it, money comes too easily. We can justify much more money than we have any right to spend, and I daresay that any intelligent administrator can so convince the director of the budget or the Social Security Board that he needs funds for a specific purpose, that it does not know what it is doing when it makes the budget appropriation. Therefore, if we in the States concentrate on control within the administration rather than try to get all that we can get from the budget or the Social Security Board, we can really accomplish the savings that could be made. The Board cannot stop it, because the incidence of the control is the fellow who requests the money for a specific purpose and undertakes to justify that expenditure.

Mr. Altmeyer has stated that all except two States have indicated that the employment service should be the channel through which benefits are paid, or that the employment service should be closely affiliated with the unemployment-insurance administration. There appears to me a wide discrepancy in points of view. The employment service is an experienced service in this country, even though the number of States in which it has been tried has been small. The

employment service should be the designated agency through which these unemployment-insurance programs are carried out. In substance it is the same thing, because you cannot separate benefit payments from placement activities. Those States which have the commission form of administration and which have to coordinate agencies, one an employment service and one an unemployment-insurance administration, will inevitably encounter far more difficulties than the State, like New York, in which the industrial commissioner is responsible for both and there is a direct line of personal responsibility which leaves no room for controversy between the two so-called coordinate functions. That control should be a single-mind control rather than a cooperative control, and the quicker the employment-service people get rid of the fear that the unemployment insurance is going to gobble them up, or the quicker the unemployment-insurance administrations get rid of the idea that they are going to be gobbled up by the employment-service people, the quicker we will come to a solution of these two inseparable functions.

May I say that in spite of the fact that New York is a big octopus, and we sometimes are accused of dominating the situation because of sheer weight, we want to give voice to the fact that we learned how to do the things in our State from those States that can visualize the problem in a smaller unit, because in the smaller unit you can encompass the whole problem and the administrative machinery to solve the problem much more easily than in a State the size of New York, which has between 2 and 3 million workers and a hundred thousand employers.

Mr. WALLING (Rhode Island). I should like to ask Mr. Bowers a question which is bothering us in Rhode Island; he may have been able to work it out. How are you planning to work out the merit-rating estimates? I believe your law has a provision similar to ours.

Mr. BOWERS. That is correct. The New York State law requires a study to be made and a plan to be worked out and recommended to the Governor and to the legislature by the industrial commissioner or his staff. Now you and I can sit down at a table and without any study write a merit-rating plan that will stand up within 95 percent of any scientifically prepared merit-rating plan. I am thoroughly convinced of that. It must involve a relationship of the contributions to turn-over in inverse proportion. Therefore a study of merit rating resolves itself into a study of labor turn-over and into the determination of an arbitrary point at which you cross the lines—at which you begin to give credit. In New York State we have a policy that credit should be limited to a minimum of 1 percent. In my judgment there is no simple answer to your question, Mr. Walling. The study really amounts to a study of labor turn-over. The rest of it is a matter of legislative policy.

Chairman DAVIE. I believe the gentleman from Wisconsin said something about employment offices. Is the Board at Washington to designate the employment offices that should be used?

Mr. RAUSHENBUSH. The employment service was touched on at a couple of points—offhand, I should say in about three respects. One was the matter of whether payment of benefits should actually be made physically at the employment service. I pointed out that as far as the Federal provision is concerned that does not appear to be required. The Social Security Board has some discretionary power there and in Wisconsin it has, on an experimental basis, approved payment by mail, which we believe is cheaper and perhaps quicker.

The second reference was relative to finances. As you know, the present set-up is that the Wagner-Peyser money is available to States which affiliate with the United States Employment Service on a 50-50 matching basis—a dollar of Federal money for every dollar of State money. The point was made that the State employment service, after all, has not only its direct unemployment-compensation functions but also its more general functions of placement in serving the entire community. It seemed desirable to continue the present Wagner-Peyser set-up and to say to each State that it should fully match the available Federal Wagner-Peyser money before the Social Security Board is asked to swing in to carry the rest of the load of expanded employment service necessary for unemployment-compensation purposes. The aid available under title III of the Social Security Act is on a 100-percent basis.

The third point is that the administrative set-up of the unemployment-compensation administration and the employment service, even if they are set up as separate divisions, should be under one agency, whether that be the industrial commissioner of New York, for instance, or whether it be Mr. Glenn Bowers under the industrial commissioner. I believe Mr. Bowers is in charge of both employment service and unemployment compensation, and that he has two subdivisions under him. That is just departmentalization. The vital point, which is urged in the report, is that there should be one agency which is over both. Mr. Altmeyer's paper pointed out that that is true in all but two of the unemployment compensation States at present. Whether it be under a commission, as in Wisconsin, or under another form of administration, it should be centralized. The report, therefore, did recommend exactly what Mr. Bowers was stressing—that whatever the set-up, there should be a single agency which is enabled to direct both unemployment compensation and employment service.

Chairman DAVIE. The New Hampshire statute provides that the benefits shall be paid at the employment service at such time as the commissioner may specify.

Mr. BOWERS. To clarify my point about the unity of the two functions—placement and insurance-benefit payments—in New York State we do have two bureaus, one an insurance control bureau, which is a fiscal and record-keeping unit, and another the State employment service. But those are staff agencies with respect to the field. We have one field service. We do not have a State director of the employment service directing the personnel in the field and another director of insurance control directing the employees in the field. There is one administrative supervisor of both functions in the field, and it is that form of organization which we fail to see in any other State as yet. It is that which I referred to as an inevitable result if we are going to have the absence of conflict. Two different functional directors cannot direct the same people without getting into trouble. The cooperation, therefore, is not the thing we should seek—it is the unity of functioning.

Chairman DAVIE. I believe that the employment service is to find employment for unemployed people, but when it comes down to administering insurance that is another question. I do not quite agree with you on this cooperative effort. Of course I cooperate when I have to, and I think we all do. There was something said on personnel. Does anyone want to make any inquiry on that?

Mr. BOWERS. The future of the unemployment-compensation appropriation is of course strictly a legislative matter for Congress, but I should like to raise the question as to the advisability, from the standpoint of public policy and economy, of continuing to collect taxes from two different sources to finance a single functioning unit. My own feeling is that there should be a single source for those funds, namely, a pay-roll tax, and all expenses of the placement and insurance functions should be paid out of the funds from that single source. Then we would do away with all of the dual budget making, the duplication of controls, and have them all in a single unit. If that were the case, the Wagner-Peyser Act then would be allowed to lapse at the end of 1937, on which date I understand it expires, and there would be no additional or future appropriations made under it.

Mr. RAUSHENBUSH. There are two points I should like to make on that. First, those moneys are now coming from one source—the Treasury of the United States. The money raised under title IX is not specifically appropriated or earmarked. Congress appropriates the money available under title III annually, and does not take it out of the pay-roll tax. In any event, it is a very important, practical point, because the Social Security Board does not have all the money raised under title IX available for administrative aid by any means. The Social Security Board has only what Congress has appropriated to it. The difference comes on the 50-50 matching under the Wagner-Peyser Act and on the 100 percent Federal aid. My second point is that if

your idea was to be carried out it would involve transferring the United States Employment Service, which is now in the Department of Labor, to the Social Security Board. That is a matter of no small importance.

Mr. BOWERS. Or vice versa with respect to the unemployment-compensation administration.

# Old-Age Pensions

---

## Administration of Old-Age Pensions

*Report of Committee on Old-Age Pensions, by HARRY R. McLOGAN, Chairman*

According to a report, as of June 30, 1936, issued by the Social Security Board, the following States' old-age assistance laws have been approved: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming. The States whose old-age assistance laws were not shown as approved by the report of June 30, 1936, are as follows: Arizona, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Nevada, North Carolina, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Alaska, and Hawaii.

### Mandatory or Optional

In every State that has passed an old-age assistance law, the legislature has made it mandatory to grant old-age assistance except in six States; to wit, Florida, Michigan, Nevada, Pennsylvania, Utah, and the District of Columbia, which leave the old-age-assistance grant optional with the authorities.

### Age Requirement

The age requirement in every State examined is 65, except in Arizona, Missouri, New Hampshire, and Oregon, where it is 70 years, and in North Dakota where it is 68 years. In Florida the age requirement is 65, and in addition infirm persons regardless of age and those legitimately dependent upon recipients who likewise may be unable to care for themselves, but those persons under the age limit are not to receive Federal funds. In Oklahoma the age requirement is for males 60 years and for females 65 years and it further provides that applicants who are 65 years of age and qualify under the Federal act should be given preference. In the Territory of Alaska the age for men is 65 years and for women 60 years.

### Citizenship

All States require applicants to be United States citizens except Idaho, Indiana, Nevada, and Utah, in which the applicant is required to be a United States citizen for 15 years. Arkansas, Delaware, Mississippi, and Nebraska have no provision for residence or citizenship. The Colorado law provides for United States citizenship, and if Federal aid is granted the requirement may be altered to conform. The Rhode Island law provides that applicant must be a United States citizen or have resided in the United States continuously for 20 years. The Minnesota law provides that applicant must be a United States citizen or have resided in the United States continuously for 25 years. The Ohio law provides that applicant must be a citizen of the United States for 15 years immediately preceding application. The Wisconsin law provides that applicant must be a citizen of the United States or born in the United States. The Oregon law provides that the applicant must be a United States citizen, but that native-born American women married to aliens prior to September 22, 1922, are eligible. The Massachusetts law limits aid to deserving citizens.

### Residence

In 21 States—California, Connecticut, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, Wisconsin, District of Columbia, Hawaii, and West Virginia—the law provides that the applicant must have resided in the State 5 years out of the last 9 years preceding the application, 1 year of which must have been immediately preceding the filing of application.

The following States have a slightly more liberal residence requirement: Oklahoma, Rhode Island, Vermont, Wyoming, and Washington, where the law provides that the applicant must have resided 5 years out of the last 10 years immediately preceding the application, and in Nebraska, where the law provides for residence in the State 5 years out of the 9 years immediately preceding application, 1 year of which must have been continuous preceding the application, or residence in the State for 25 consecutive years at any time and for 1 year preceding application. The following States have a law restricting residence requirements as follows: Arizona, 35 years' residence next preceding application; Arkansas, 5 years' residence next preceding application; Colorado, 15 years' State residence and a citizen of county 1 year; Delaware, residence in United States for 15 years and in the State of Delaware not less than 5 years; Idaho, residence in the State 10 years immediately preceding application or 15 years' residence in the State, 5 of which have immediately preceded application, and county residence of 3 years immediately preceding application; Illinois, residence in State 10 years within the 15 years immediately pre-

pending application, with 1 year continuous residence in county immediately preceding application; Indiana, continuous residence in the State and county for 15 years; Maine, 15 years' continuous residence in the State preceding application and 1 year in the city or town; Nevada, actual residence in State of 10 years next preceding application; North Dakota, 20 years immediately preceding application; Utah, residence in State 15 years last past or in State and county continuously for 5 years last past; Alaska, 25 years continuously immediately preceding granting of allowance. The State of Montana seems to have the most liberal residence requirement, which is 5 years within 10 years immediately preceding application. If applicant has not resided in the county 1 year preceding application, the pension is paid entirely out of State funds.

#### Social Conditions

The social conditions, as set forth in the old-age-assistance laws of the different States, are as numerous as they are different among the States. Following are set forth 32 different provisions, with the names of the States where the law contains such provisions:

1. Applicant must not have been during the last 10 years' imprisoned for a felony:

Alabama.

2. Applicant must not be an inmate of a public institution:

Alabama.

Kentucky.

North Dakota.

3. Applicant is not at the time of application an inmate of a prison, jail, insane asylum, or other public reform or correctional institution:

Alabama.

Michigan.

Texas.

Arkansas.

Minnesota.

Vermont.

Colorado.

Missouri.

Washington.

Delaware.

Nebraska.

West Virginia.

Florida.

Nevada.

Wisconsin.

Illinois.

New Hampshire.

Wyoming.

Indiana.

New York.

District of Columbia.

Iowa.

Ohio.

Alaska.

Maine.

Oklahoma.

Hawaii.

Maryland.

Pennsylvania.

4. Applicant must not have been during the past 10 years an inmate of any prison, jail, or any other reform or correctional institution:

Alabama.

Maine.

New Hampshire.

Idaho.

Maryland.

Ohio.

Indiana.

Michigan.

Utah.

Iowa.

Nevada.

West Virginia.

5. Applicant, if husband, has not for 6 months or more deserted his wife.

Alabama.	Maryland.	Utah.
Idaho.	Michigan.	Oregon.
Indiana.	Nevada.	Pennsylvania.
Iowa.	New Hampshire.	
Maine.	Ohio.	

6. Applicant, if husband, has not without just cause failed to support his wife or children under 16 years of age:

Alabama.	Maryland.	Utah.
Idaho.	Michigan.	Oregon.
Indiana.	Nevada.	Pennsylvania.
Iowa.	New Hampshire.	
Maine.	Ohio.	

7. Applicant, if wife, has not for 6 months or more deserted her husband:

Alabama.	Maine.	Oregon.
Idaho.	Michigan.	Pennsylvania.
Indiana.	Nevada.	Utah.
Iowa.	Ohio.	

8. Applicant, if wife, has not without just cause failed to support such children under 16 years of age whom she was legally bound to support:

Alabama.	Michigan.	Pennsylvania.
Idaho.	Nevada.	Utah.
Indiana.	Ohio.	
Iowa.	Oregon.	

9. Applicant must not be an inmate of any public institution:

Arizona.

10. Applicant must receive no other form of relief from State except hospital, medical, and surgical expenses:

Arizona.	Montana.	Utah.
Delaware.	Nebraska.	Vermont.
Indiana.	New Jersey.	Washington.
Iowa.	Oregon.	District of Columbia.
Maine.	Pennsylvania.	Hawaii.

11. Applicant must not be receiving any other pension either State or Federal, except Confederate or blind pensions:

Arkansas.

12. Applicant is not, while receiving aid, an inmate of any public or private institution of a custodial, correctional, or curative character:

California.	Maryland.	Texas.
Connecticut.	Rhode Island.	West Virginia.

13. Subsequent to receiving aid, a recipient may enter a private home or institution of his own choosing and receive aid if such home or institution is approved by the director of public welfare:

Rhode Island.

14. Applicant has no person able or responsible under law for his support:

California.	Maine.	New Jersey.
Colorado.	Maryland.	New York.
Connecticut.	Michigan.	North Dakota.
Delaware.	Mississippi.	Ohio.
Idaho.	Missouri.	Oregon.
Indiana.	Nebraska.	Pennsylvania.
Iowa.	Nevada.	Utah.
Kentucky.	New Hampshire.	

15. Applicant is not without adequate means of support:

North Dakota.

16. Applicant is not receiving aid from any charitable institution maintained by State or private subscription:

Colorado.	Idaho.	Maryland.
Connecticut.	Indiana.	Mississippi.
Florida.		

17. Applicant is in want or needs aid:

Colorado. Connecticut.

18. Applicant is not on probation from any court:

Connecticut.

19. Applicant has paid "old-age pension" taxes for the full extent of his obligation:

Connecticut.

20. Applicant has not been a tramp or beggar:

Delaware.	Maryland.	Pennsylvania.
Idaho.	Michigan.	Utah.
Indiana.	Nevada.	West Virginia.
Iowa.	New Hampshire.	Alaska.
Kentucky.	North Dakota.	Hawaii.
Maine.	Oregon.	

21. Applicant must not because of physical condition be in need of continuous institutional care:

Florida.	New Hampshire.	Washington.
Michigan.	New Jersey.	West Virginia.
Montana.	New York.	

22. Applicant must not have purchased life care in a private, charitable, fraternal or benevolent home, or hospital or institution:

Illinois.

Montana.

Wisconsin.

23. Applicant must comply with such rules as the department of public welfare may prescribe:

Massachusetts.

24. Applicant must not be an inmate of any public or private institution except for temporary medical or surgical care in a hospital:

Montana.

New Hampshire.

New York.

25. Applicant must never have been convicted of a felony or high misdemeanor:

New Jersey.

26. The receipt of other pensions or Federal aid does not disqualify any citizen from benefits:

Oklahoma.

27. Applicant must not have been convicted of a crime involving moral turpitude during a period of 25 years preceding application:

Oregon.

28. Applicant must not be an habitual criminal or drunkard:

Texas.

29. Applicant's physical condition must render him permanently unable to provide for himself:

District of Columbia.

30. If applicant is convicted of a heinous offense involving imprisonment for more than 90 days, aid is permanently canceled:

West Virginia.

31. Applicant has not habitually failed to work according to his ability, opportunity, or needs for maintenance for benefit of himself or those legally dependent upon him:

North Dakota.

32. Applicant must be unable to support himself:

Ohio.

#### Limitations on Property and Income

The provisions of the laws of the different States on the limitations on property and income are also numerous and quite different among the States. Following are set forth 46 different provisions with the names of the States where the laws contain such provisions.

1. Annual income including pension must not exceed \$360 per year:

Alabama.

Nebraska.

Oregon.

Arizona.

Ohio.

Wyoming.

2. Annual income must not exceed \$300 per year:

Delaware.

Idaho.

Utah.

## 3. Annual income must not exceed \$400 per year:

Florida.	Kentucky.	Mississippi.
----------	-----------	--------------

## 4. Annual income must not exceed \$550 per year:

Illinois.
-----------

## 5. Annual income must not exceed \$150 per year:

North Dakota.
---------------

## 6. Annual income must not exceed \$30 per month:

Illinois.	New Hampshire.	Rhode Island.
Michigan.	Oregon.	Hawaii.

## 7. Income must not exceed \$25 per month:

Iowa.
-------

## 8. Income must not exceed \$15 per month:

Indiana.
----------

## 9. Income must not exceed \$1 per day:

Arkansas.	Maine.	Nevada.
Colorado.	Maryland.	Wisconsin.

## 10. Applicant must not have directly or indirectly disposed of property for the purpose of qualifying:

Alabama.	Kentucky.	Ohio.
Arizona.	Maine.	Oregon.
Arkansas.	Maryland.	Rhode Island.
California.	Michigan.	Texas.
Colorado.	Minnesota.	Utah.
Connecticut.	Montana.	Vermont.
Delaware.	Nebraska.	Wyoming.
Florida.	Nevada.	West Virginia.
Idaho.	New Hampshire.	Washington.
Illinois.	New Jersey.	District of Columbia.
Indiana.	New York.	Hawaii.
Iowa.	North Dakota.	

## 11. Spouse must not have disposed of property for the purpose of qualifying:

Minnesota.	Wyoming.
------------	----------

## 12. Nonincome-producing property owned by applicant computed at 5 percent:

Colorado.	Nebraska.	Rhode Island.
Idaho.	Nevada.	Utah.
Indiana.	North Dakota.	Wisconsin.
Iowa.	Ohio.	Hawaii.

## 13. Nonincome-producing property owned by applicant computed at 3 percent:

Arizona.	Michigan.	Wyoming.
----------	-----------	----------

14. Nonincome-producing property owned by applicant computed at 2 percent:

Illinois.

15. Applicant's assets must not exceed \$300 in addition to homestead valued at \$2,500:

Arkansas.

16. Applicant's real property must not exceed \$300:

California.

Nevada.

17. Applicant's personal property must not exceed \$500:

California.

18. Applicant's real property must not exceed \$3,500:

Michigan.

Minnesota.

19. Applicant's personal property must not exceed \$1,000 (household goods of \$500 exempt):

Michigan.

20. The amount of aid when added to income must not be more than \$35 per month:

California.

21. Property of applicant in excess of \$2,500 may be required to be transferred:

Colorado.

22. Recipient of old-age assistance must give lien on his property:

Connecticut.

23. Applicant must not own property above homestead exemption:

Florida.

Mississippi.

24. Value of property must not exceed \$5,000:

Illinois.

Rhode Island.

Wisconsin.

25. Value of property must not exceed \$2,500:

Kentucky.

26. Value of property must not exceed \$1,000:

Indiana.

27. Value of applicant's property must not exceed \$2,000; if married, \$3,000:

Iowa.

28. Value of applicant's property must not exceed \$1,500; if married, \$2,000:

Missouri.

29. Value of applicant's real and personal property must not exceed \$3,000:

New Jersey. Oregon.

30. Value of applicant's property must not exceed \$3,000; if married, \$4,000:

Ohio.

31. Value of applicant's real property must not exceed \$3,500 or personal property of \$1,000 (household goods of \$500 exempt):

Michigan.

32. Applicant's property must not exceed \$2,500; if married, \$4,000 (homestead to the value of \$1,000):

Vermont.

33. Value of applicant's property must not exceed \$1,500:

Hawaii.

34. Value of applicant's property must not exceed \$300:

West Virginia.

35. Transfer of applicant's property may be required:

Indiana.	North Dakota.	Utah.
Montana.	Ohio.	District of Columbia.
New Hampshire.	Oregon.	Hawaii.
New Jersey.	Rhode Island.	Washington.

36. Applicant must not have cash or investments to exceed \$300:

Iowa.

37. Transfer of securities in excess of \$300 may be required:

Iowa.

38. Value of property must not exceed \$300 (dwelling house exempt):

Maine.

39. No provision:

Massachusetts. Pennsylvania.

40. All earnings of applicant not in excess of \$100 exempt:

Minnesota. Vermont.

41. Applicant must not have income beyond an annual exemption of \$150, including pension which exceeds \$30 a month, if single; and \$45 a month if spouse is also eligible and living with pensioner:

Missouri.

42. Applicant's income must not be more than would provide reasonable assistance compatible with decency and health:

Montana.	Wyoming.
Oklahoma.	Washington.

43. Applicant's income, if single, must not exceed \$360 per year; if married, \$720 per year:

Texas.

44. Applicant must not own real or personal property or mixed, other than cash or marketable securities exceeding \$5,000, if single; \$7,500 if married:

Texas.

45. Applicant must not own cash or marketable securities exceeding \$500 if single; \$1,000 if married:

Texas.

46. Applicant's income must not be more than \$30 if single; and \$45 per month if married:

Vermont.

#### Maximum Allowance

The maximum allowance of old-age assistance by the different States is not so varied as the residence requirements and the social conditions embodied in the laws of the different States; however, the amount of maximum allowance provided in the different State laws is not uniform. Following is set forth the maximum allowance provisions, together with the States whose laws contain such provisions.

1. \$30 per month:

Arizona.	Nebraska.	Texas.
Arkansas.	New Hampshire.	Vermont.
Colorado.	New Jersey.	Wyoming.
Indiana.	Ohio.	West Virginia.
Michigan.	Oklahoma.	Hawaii.
Minnesota.	Oregon.	
Missouri.	Pennsylvania.	

2. \$30 per month (veterans \$50 per month):

Alabama.

3. \$35 per month:

California.

4. \$25 per month:

Delaware.	Iowa.
Idaho.	Utah.

5. Not exceeding \$15 per month:

Kentucky.

6. \$30 per month (except in exceptional cases):

Rhode Island.

7. One person \$35 per month. More than one person in family \$60 per month. (One person cannot receive less than \$10 per month nor more than \$35 per month:)

Florida.



## 5. Funeral expenses not to exceed \$30:

Mississippi.

## 6. Burial expenses:

District of Columbia.

The law of Rhode Island contains a provision as follows:

Care should be in applicant's own or in some other suitable home in preference to placing applicant in an institution.

### Administrative Agencies

With few exceptions the agency which administers the old-age assistance law is different in each State. Out of 43 State laws examined, 29 have different county administrative agencies and 18 different State agencies engaged in the administration of the laws. The following tabulation sets forth the county and State administrative agencies:

TABLE 4.—Administrative agencies of State old-age pension laws

State	County agency	State agency
Alabama.....	County department of public welfare and county governing body.	State department of public welfare.
Arizona.....	County old-age pension commission.	Annual report to State auditor.
Arkansas.....	County welfare board.....	State department of public welfare.
California.....	County board of supervisors.....	Do.
Colorado.....	County department of welfare.....	Do.
Connecticut.....	State bureau of old-age assistance, assisted by chief executive authority of town.	Do.
Delaware.....	State old-age welfare commission....	Annual report to Governor.
Florida.....	State pension board and county commission.	No provision.
Idaho.....	County old-age pension commission, consisting of probate judge and board of county commissioners.	Annual report to State department of public welfare.
Illinois.....	County old-age security board.....	State department of public welfare.
Indiana.....	County board of supervisors.....	Annual report to State auditor.
Iowa.....	State old-age assistance commission, assisted by county old-age assistance board.	No provision.
Kentucky.....	County fiscal court or county commissioners; county welfare board may be set up.	Do.
Maine.....	Local old-age pension board.....	State department of health and welfare.
Maryland.....	County welfare board.....	State board of aid and charities.
Massachusetts.....	Bureau of old-age assistance within board of public welfare.	State department of public welfare.
Michigan.....	County old-age assistance board and county welfare agent.	Do.
Minnesota.....	County board of supervisors.....	State board of control.
Mississippi.....	County department of emergency relief.	State department of emergency relief.
Missouri.....	County old-age assistance board.....	State old-age assistance commissioner reviews all actions of local boards. Board of managers of eleemosynary institutions settles disputes between local board and State commissioner and makes final decisions.
Montana.....	County old-age pension commission.	State old-age pension commission.
Nebraska.....	County old-age assistance board.....	State assistance committee.
Nevada.....	County board of supervisors.....	State board of relief work, planning, and pension control.
New Hampshire.....	County welfare board.....	State department of public welfare.
New Jersey.....	County welfare board.....	State department of institutions and agencies.

TABLE 4.—Administration agencies of State old-age pension laws—Continued.

State	County agency	State agency
New Mexico	Legislature creates relief and security authority, which has power similar to a corporation to make bylaws and rules, and power of authority to spend all moneys levied for indigents or charitable purposes and for public welfare and social security by the United States Government, and is authorized to cooperate with the United States Government in all such matters.	
New York	Local public welfare officials.	State department of public welfare.
North Dakota	County welfare board.	Do.
Ohio	County board for aid for aged. Where no such board exists, county commissioners.	Do.
Oklahoma	Commission of old-age pensions and security.	No provision.
Oregon	County relief committee.	State department of emergency relief.
Pennsylvania	County old-age assistance board.	State department of public welfare.
Rhode Island	Old-age security division in department of public welfare.	State old-age security division.
South Dakota	The only legislation regarding old-age assistance is that the State public welfare commission has authority to receive, hold, and preserve any funds which may be available to the State by existing laws or laws to be enacted by the Congress of the United States providing for old-age pensions, and, pursuant to such authority as may be given it by such act, to make such regulations not inconsistent with the laws of the United States and the laws to be enacted in this State as may be necessary for the administration of old-age pensions.	
Texas	Local administrative agency.	State old-age assistance commission.
Utah	State board of control, assisted by county departments of public welfare.	No provision.
Vermont	State old-age assistance commission, assisted by local officials.	Annual report to Governor.
Wisconsin	County judge and county boards of public welfare if established by county board of supervisors.	State old-age pension commission.
Wyoming	State department of public welfare, assisted by county boards of public welfare (county commissions where no county board exists).	No provision.
Washington	State department of public welfare.	Annual report to Governor.
West Virginia	State department of public assistance, assisted by county public assistance councils.	No provision.
Alaska	Board of trustees of Alaska Pioneers' Homes, assisted by commissioners of the several precincts of Alaska.	Do.
District of Columbia	Board of commissioners of district.	Do.
Hawaii	County old-age pension commission.	State old-age pension commission.

Sources of Funds

Out of 43 States whose laws were examined, only 14 State laws provide for old-age assistance to be paid entirely out of State funds and 29 provide that the expenses of old-age assistance shall be borne in part by the State and in part by county and local units. The following table sets forth the names of the States, together with the source from which funds are provided for the payment of old-age assistance.

TABLE 5.—Source of funds for old-age pensions

State	Contribution from county funds, and source	Contribution from State fund, and source
Alabama.....	50 percent (general fund).....	50 percent ( $\frac{1}{4}$ of 1 mill tax levy for Confederate pensions and additional appropriations).
Arizona.....	33 percent (general fund).....	67 percent (general fund).
Arkansas.....		100 percent State (liquor, chewing-gum, slot-machine, racing, and sales tax).
California.....	50 percent (property tax).....	50 percent (general fund).
Colorado.....	50 percent (old-age pension fund).....	Do.
Connecticut.....		100 percent (\$3 per capita tax on persons between 21 and 60).
Delaware.....		100 percent (general fund).
Florida.....		100 percent (obligations optional).
Idaho.....	100 percent (county poor fund obligations mandatory; taxes, but no specific provision).	
Illinois.....		100 percent (general fund).
Indiana.....	60 percent (reimbursed by Federal funds and 10 percent from county general fund).	40 percent (property tax).
Iowa.....		100 percent (poll tax).
Kentucky.....		100 percent (general fund).
Maine.....	50 percent from cities, towns, plantations (general fund).	50 percent (general fund).
Maryland.....	33 $\frac{1}{2}$ percent (general fund).	66 $\frac{1}{2}$ percent (general fund).
Massachusetts.....	66 $\frac{2}{3}$ percent from cities and towns (general fund).	33 $\frac{1}{3}$ percent (liquor revenue and property tax).
Michigan.....		100 percent (general fund).
Minnesota.....	Liability on county (county general fund; reimbursed 33 $\frac{1}{2}$ percent from State funds and 50 percent from Federal funds).	33 $\frac{1}{2}$ percent (general funds).
Mississippi.....		100 percent (emergency relief funds).
Missouri.....		100 percent (general fund).
Montana.....	25 percent county poor fund (tax levies).	75 percent old-age assistance fund (tax levies and Federal grants).
Nebraska.....		100 percent (\$2 per capita tax on persons between ages of 21 and 50 and other sources designated by legislature).
Nevada.....	100 percent (general fund).....	
New Hampshire.....	95 percent (general fund).....	5 percent (general fund).
New Jersey.....	12 $\frac{1}{2}$ percent (property tax and general fund).	87 $\frac{1}{2}$ percent (property tax and general fund). If applicant has no county settlement, State pays 100 percent.
New York.....	50 percent from local welfare districts (general fund).	50 percent (general fund).
North Dakota.....		100 percent ( $\frac{1}{16}$ of 1 mill property tax).
Ohio.....		100 percent (general fund).
Oklahoma.....		100 percent (sales tax).
Oregon.....		100 percent (general fund).
Pennsylvania.....		Do.
Rhode Island.....	Local administrative costs on towns and cities (general fund).	Do.
Texas.....		Do.
Utah.....	100 percent (general fund).....	
Vermont.....		Do.
Wisconsin.....	20 percent (general fund). County board of supervisors may charge back to general fund of cities, towns, and villages within county any part or all of the 20 percent paid by county by adopting resolution to that effect.	80 percent (general fund and Federal grant).
Wyoming.....	50 percent (property tax levy not to exceed $\frac{1}{2}$ of mill).	50 percent (general fund).
Washington.....		100 percent (general fund).
West Virginia.....		Do.
Alaska.....		Do.
District of Columbia.....		Do.
Hawaii.....	100 percent liability.....	60 percent reimbursed to county from Federal funds made available.

**Fair Hearing Before a State Department**

Out of the 43 State laws which were examined, 7 States—Arizona, Idaho, Pennsylvania, Rhode Island, Utah, Washington, and Alaska—contain no provision granting the applicant for old-age assistance a fair hearing before a State department.

Six States—Kentucky, Maine, Massachusetts, Wyoming, North Dakota and Ohio—provide for an appeal from the granting power to the State department of public welfare.

Five States—New Jersey, Texas, Vermont, Wisconsin, and Montana—permit an appeal to the State department of old-age assistance.

Two States—Illinois and Maryland—require the State department to review the case.

The law of Vermont provides that the State department may, upon its own motion, review any decision of the county commissions.

In three States—Missouri, Nevada, and West Virginia—an appeal is allowed to the court.

In Alabama, the State department is required to give applicant prompt hearing.

In Arkansas, the State board makes initial and final decision.

In California, while an appeal is allowed to the State department of public welfare, there is no provision for an actual hearing.

In Colorado the duties imposed by law on the State relief committee are to conform to the Social Security Act provision requiring granting to applicant of a fair hearing and that appeals from the State department are allowed to the courts.

In Connecticut the State bureau of old-age assistance is required to hold hearings, but there is no specific provision for appeal, and in Delaware the State department is required to make necessary investigation but there is no specific provision for appeal.

In Florida, all grants are passed upon by the State pension board, which makes investigations in doubtful cases, but makes no specific provision for appeal.

In two States—Indiana and Iowa—there are no specific provisions, but appeal to the courts is allowed applicant or any taxpayer.

In Michigan, hearings are allowed before the State department of public welfare and further appeal on matters of law to the courts.

In Minnesota, appeal is allowed to the State board of control.

In Massachusetts, appeal is allowed to the State department of emergency relief.

In Nebraska, an appeal is allowed to the State assistance committee.

In Oklahoma, the State commission conducts initial hearing and there is no further appeal.

In Oregon, appeal is allowed to the State relief committee.

In the District of Columbia, appeal is allowed to the Board of Commissioners; and in Hawaii, appeal is allowed to the Territorial board.

### Report to Federal Board

In every State that has passed an old-age assistance law, the State agency is required to report to the Federal Social Security Board except that in the following States there is no provision: Arizona, Delaware, Idaho, Indiana, Iowa, Kentucky, Maine, Massachusetts, Nevada, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Utah, West Virginia, and Alaska.

#### Provision for Reimbursement to Federal Government

The following State laws provide that 50 percent of whatever is recovered be paid to the United States Government: Alabama, Arkansas, California, Colorado, Connecticut, Illinois, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, Oregon, Rhode Island, Texas, Vermont, Wisconsin, Wyoming, District of Columbia, and Hawaii. The following State laws have no provision with reference to reimbursement to the Federal Government: Arizona, Delaware, Florida, Idaho, Indiana, Iowa, Kentucky, Maine, Massachusetts, Missouri, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Utah, Alaska, Washington, and West Virginia.

#### Liens on Property of Applicant

Out of the 43 State laws examined, in 9 States—Delaware, Florida, Idaho, Massachusetts, Missouri, New York, Oklahoma, Pennsylvania, and Alaska—the law contains no provision with reference to liens. The other 34 States have various provisions in their laws for a lien on applicant's property.

Eleven States—Arizona, Colorado, Indiana, Maryland, Nevada, North Dakota, Oregon, Wisconsin, Wyoming, West Virginia, and the District of Columbia—provide for a lien on applicant's property for the total amount of aid granted with interest at 3 percent.

Four States—Maine, Montana, Utah, and Hawaii—provide for a lien on applicant's property for the total amount of aid granted with 5 percent interest.

Three States—Mississippi, New Hampshire, and New Jersey—provide for a lien by the State for the total amount of aid granted without interest.

Three States—Connecticut, Ohio, and Vermont—the State is given a specific claim against applicant for amount of aid granted with interest at 4 percent.

In seven States—Alabama, Indiana, Iowa, Kentucky, Michigan, Nevada, and Wisconsin—the law provides that as a condition of the granting of aid, the county governing body may require the applicant to transfer his property to such agency.

In Arizona the law provides double recovery if the property of applicant exceeds the amount allowed in the law.

In Arkansas the total amount of aid granted is a second-class claim and applicant has no exemptions. The Arkansas law provides that, in the case of a surviving spouse, the estate is not to be settled until the death, remarriage, or failure to occupy homestead by the surviving spouse.

The California law provides for a recovery by the State of the total amount of applicant's property not exempt from execution.

The four States—Illinois, Iowa, Michigan, and Rhode Island—a lien is allowed for the total amount of aid given but is not enforceable against the surviving spouse who is not more than 15 years younger than applicant and does not remarry.

The law of Michigan provides for a lien by the State for the total amount of aid given applicant plus  $3\frac{1}{2}$  percent, while Maine's law provides for a lien for the total amount of aid granted applicant without interest, and in Nevada a lien is allowed for the total amount of aid granted applicant, but it is provided that the lien should not be enforced while property is occupied by spouse, a dependent, or the recipient himself.

The State of Washington law provides for a lien by the State for the total amount of aid granted, plus 6 percent interest, if spouse is able to support recipient, while in the State of New Hampshire, recovery is permitted against spouse, son, or daughter of recipient.

In New Jersey the law provides that the county agency may file with court or register of deeds a certificate showing amount of aid given, which becomes a legal claim against both the person and his estate, and has the force of a judgment with priority over all unsecured claims; and in the State of Minnesota local authorities may attach property of recipient during his lifetime.

In Alabama the State has a lien against applicant's property for the total amount of aid granted, subject to dower, homestead, and personal-property exemptions of a surviving widow.

Texas is the only State that does not provide for recovery of money legally paid to pensioner and provides for recovery only in the case of misrepresentation, the law containing a provision that if recipient, at death, was possessed of property or money in excess of that allowed by the law, total amount of assistance in excess of that which he was entitled to can be recovered plus 6 percent interest and all costs.

Fifteen states—Arkansas, Connecticut, Idaho, Illinois, Indiana, Mississippi, Nevada, North Dakota, Ohio, Oregon, Rhode Island, Utah, Vermont, Wyoming, and Hawaii—provide a double recovery for all aid granted applicant in the case of misrepresentation either as to the value of his property or his income.

### Unique or Special Provisions

Some of the States have unique or special provisions pertaining to the granting of old-age assistance, among which are the following:

Arkansas, where the law provides for an investigation of the needs of each applicant; each applicant is to be examined under oath and no approval given unless each fact set forth in the application is approved by two creditable and disinterested witnesses having personal knowledge of the facts; a public hearing is held on each application; and no new application may be filed by the applicant within 12 months after disallowance.

California and one or two other States separate real from personal property.

Florida gives assistance to legitimate dependents of recipient who may be unable to care for themselves.

Illinois and one or two other States have a provision that residence may not be established for the purpose of qualifying.

In Iowa granting power may permit applicant to take up residence outside of State, for reasons of infirmity of age, health, or economic necessity, in a privately supported benevolent or fraternal institution, or in a privately supported hospital or sanitarium, except institutions for feeble-minded and insane, or in the household of a relative or friend.

In Nevada payment of old-age assistance grants may be made to the governing authorities of any charitable, benevolent, or fraternal institution in the State.

In New Jersey county welfare board may file with court or register of deeds a certificate showing amount of aid given, which becomes a legal claim against both the person and his estate and has the force of a judgment with priority over all unsecured claims.

In New York ownership of an insurance policy in any amount does not bar applicant from receiving aid, but public welfare department may take a lien against it.

In Ohio insurance policy of applicant in an amount over \$250 must be placed under trusteeship of division.

In Oregon the amount of old-age assistance granted is a claim against the recipient and his estate, and also against persons liable for his support.

In Pennsylvania the board must conduct its investigation through an investigator, who must swear before the board to a complete report on all matters stated in the application.

In Rhode Island applicant may be required to sell his property; and as to any real property not required to be sold, the applicant may be required to give a mortgage to the general treasurer and to his successors in office, to secure repayment of any aid given under the act; and also to give a power of attorney to the chief of the division of old-age securities to manage such property and to pay its income thereof to the applicant.

Texas is the only State that has not provided for a recovery of money legally paid to recipient and only provides recovery in the case of misrepresentation as to value of property or income.

In West Virginia applicant must submit an agreement to grant the State a lien on all his property as a condition of assistance, and must assign life-insurance policies; but the lien must not be enforced against the real estate occupied by surviving spouse unless such person is a widow who remarries, or unless there is a threatened or actual transfer of the property.

#### *Discussion*

Mr. McLOGAN. I want to call attention to the fact that the program refers to "old-age pensions." The report of the committee refers to "old-age assistance laws." That was done purposely, so that the subject might be distinguished from old-age benefits as provided by the Social Security Act and administered entirely by the Federal Government.

It is the opinion of your committee that it would be unwise to recommend to the different States any so-called "model old-age assistance bill." It is the thought of the committee, after a careful examination of the provisions contained in the different State laws, that the better way to approach the subject matter would be through a recommendation to the different States that such provisions as are deemed desirable be embodied in any new bill or in any amendment to the present old-age assistance laws.

The report which I have just presented is an analysis of the old-age assistance laws of 44 States, showing what States have and have not been approved by the Social Security Board, which State laws are mandatory or optional, and also giving each and every requirement and provision on citizenship, residence, social conditions, limitations on property and income, maximum allowance, funeral expenses, administrative agencies, source of funds, the matter of a fair hearing before a State department, report to Federal Social Security Board, reimbursement to the Federal Government, liens on property of applicant, and unique or special provisions, together with the names of the States where the laws contain such provisions.

Your committee recommends that a round-table discussion be held, where members of the organization who are interested in taking part in the discussion can consider the different provisions, and that such round table report to the convention the provisions deemed to be desirable and advantageous, with a recommendation that such provisions be embodied in any new law or amendments to existing laws by each of the States and Territories. The committee believes that any recommendation made prior to a round-table discussion of the subject matter would be premature.

I appreciate that the time of this convention is short, and I do not know whether it will be possible to have a round-table discussion. If it is impossible, I hope that before the State legislatures meet a committee can get together and go over these provisions and make such recommendations. Personally, I think that coming here, or any place else, and reading a lot of reports avail us very little beyond what we get out of the discussions. But for practical purposes I think this body must take some action and make recommendations to the States. Then I think that should be followed up by some agent of the association, some individual who will appear before the committees of the legislatures of the different States and give them a picture of this organization, its make-up, etc., and impress upon them that this association makes certain recommendations after thorough deliberation. My experience has been that when you can do that the road is made much easier for the enactment of provisions into law.

Chairman DAVIE. At this time it is an unusual pleasure to introduce to you Maj. C. R. Newcombe, of the Workmen's Compensation Board of Manitoba, Canada.

Major NEWCOMBE. About 15 years ago I happened to be traveling down the Winnipeg River. The evening had come and we were canoeing along, very tired, when a fine big island loomed up ahead of us. We wanted the guide to pull in there for supper, but he refused to land there, so we paddled on for about 4 miles more until we found a place. It was not until a couple of years afterwards that I found out why that Indian guide would not pull in to that island. One day I asked him and he told me that it was a "ghost" island. He said that for hundreds of years his people had traveled along there, and that at that island they used to turn off the old folks of the band who could no longer take their part in the chase. They were given a little bundle of food and marooned on the island, and they left their bones there.

In our workmen's compensation work we have established what in the army we used to call an "ambulance column." We have felt that we have progressed a little further than our Indian friends and should make some better provision for the aged than marooning them on an island. We have been trying in Manitoba to administer some scheme of old-age pensions to take care of the dependent and broken-down who have been following the human trail for 70 long years. We have been administering an old-age pension law for more than 8 years and in our small Province—small in population (only 700,000 people), though not in area—we have already expended on old-age pension some 14 million dollars. Our annual bill at the present time amounts to between 2½ and 3 million dollars. A Federal old-age pensions act was passed by the Parliament in Ottawa in 1927, the Provinces coming in on it by way of a contract with His Majesty the

King. The Province of Manitoba pays 25 percent of the amount expended in the Province for old-age pensions. In addition, the Province pays the total cost of administration.

We have an act that is simple in its terms. To qualify one must have reached the age of 70 years, must have been a resident in Canada for 20 years and in the Province of Manitoba for at least 5 years, must be a British subject—the only exception being the married woman who, before her marriage, was a British subject and is now a widow—and have an income not in excess of \$365 per year. The maximum payment is \$20 a month or \$240 per year, and the average payment is somewhere in the neighborhood of \$19 per month. At the present time we are paying between 11,000 and 12,000 pensioners each month.

Incidentally, I note from the very excellent report prepared by Mr. McLogan's committee that it is the intention of many of your States to lower the age limit to 65. An elementary study of your census tables, if they are arranged in age groups, will show you that that will double the cost of old-age pensions in the United States over and above what it is in Canada. The cost of the pension scheme that is outlined would mean an expenditure of rather more than a billion dollars a year in the United States. It is to be regretted that those persons who have tried to induce governments to undertake pension systems have invariably underestimated very considerably the amount of money required to meet the bill. In 1908, when Mr. Hasquith introduced the first old-age pension bill in Great Britain, he told the British House of Commons that actuaries had made a very careful study of the whole situation and that they had assured him that the total annual cost would not exceed 6 million pounds, and inside of 5 years the annual cost was more than double what Mr. Hasquith considered his outside estimate.

I had a very interesting experience some 6 or 7 years ago when a neighboring Province came in on the scheme. The chairman of the commission appointed to administer old-age pensions wrote to me, asking if, in view of our experience, I could give him the number of persons in his Province who would probably apply for pensions under the conditions and would probably be found to be entitled to pensions. I took the last census tables I could get for that Province, had the actuarial life-expectancy tables applied to the under-age groups up to the time that he actually asked me to make the estimate, took the percentage of that group that had been paid in Manitoba, and wrote him that he could expect on the first of December following, for the purposes of making up a budget, to pay 39,000 pensioners. He wrote and thanked me profusely for all the time and trouble that I had spent on the job, but said that he could assure me, from a personal investigation he had made and from a census, that 22,000 would be the most they would have on their list. On the first of December I wrote and asked him, and he was paying 38,942.

The experience in old-age pensions in Canada seems to show that of the age group beyond 70, as shown in your census records, roughly 40 percent will be found eligible under the \$365-a-year clause. That was the experience of Australia after Australia had been operating an old-age pension for some 12 years. That experience has been rather thrown out of gear by the serious financial condition in which we have found ourselves in the whole world and in this North American continent of ours. At the present time in Manitoba we are paying just about 50 percent of the total number of persons within the age group 70 years and over.

We have found the problem of administration not too difficult. Some 8 years ago, when the Province of Manitoba decided to go into the scheme, the Premier of the Province asked the workmen's compensation commission to organize the set-up, saying that as soon as we got it organized he would relieve us of the work. That was more than 8 years ago and we are still carrying on the job.

The determination of age is rather difficult in many cases. You will find that the people from Central Europe, or from Europe generally, can produce birth certificates. When they are from Central Europe, I suggest that you scrutinize them with more than ordinary care. You will find them, as a rule, giving the date of birth and underneath a transcription in Latin of that date. We used to find that on some birth certificates an erasure had been made in the figures; for instance a person born in 1869 would be shown as having been born in 1861, by just eliminating the loop of the nine. But most of these people did not know that right beneath was a translation in Latin of the figures. Also, persons who could not qualify were able, by the payment of a suitable fee, to get a birth certificate for any age they wanted to name. I did not know that until a friend of mine in northern Manitoba wrote to me in connection with the application of an individual for an old-age pension. My friend wrote that the papers were all right, but that he had known the individual for 20 years and could not figure out how he could be 70 years of age. I wrote to the consul, asking if he would have a check made of the date. He replied that he had asked a judge of the supreme court, who held trials in that area, and who was a friend of his, to visit the church where that record was made and personally to supervise the transcript of the birth certificate. To my amazement I found a difference of 8 years between the certificate which had been sent in and the certificate which was transcribed under the watching eye of a supreme court judge. It could not have been a clerical error, because in both cases the figures were translated into Latin words.

Our greatest help has been the tie-up with the Federal census authorities, who have been good enough to search for us the censuses of 30 years or more back for records of any person who applies for an old-age pension. Old Bibles are brought in as evidence of age.

Two or three weeks ago one was brought in. The ink looked rather recent, and I suggested to the old lady and her daughter that it seemed almost as if that date had been written in not so very long ago. The old lady said that the Bible had been in the family for many years. I looked at the flyleaf and it was printed in 1913. So it must have been some years after her birth that it was printed. But the census tie-up is remarkably accurate. Age is fairly difficult to establish, but when you get baptismal certificates they are pretty good, though of course the birth certificate is best, unless it has been forged. Baptismal records are very good, and the Roman Catholic friends keep the best records. Evidence of birth is one of the very difficult problems of administration. Residence can be verified in directories, and you can always find someone who knows where the person has lived for the preceding 20 years. The only person I ever had any real trouble with was an old man who had been a miner in the Yukon country. The Federal authorities were rather peeved that I could not fix a street address for the old boy, but we got over that difficulty.

You will find little or no difficulty, if your experience is like ours, with nationality. Your real difficulty will come when you try to establish minima. A recent amendment to our act placed the determination of minima in the first instance with the local council, with an appeal to our board. We have always found the councils of the municipalities or districts rather more generous in the matter of estimating the minimum than even we were. We have had some experience in getting refunds. We file liens on the property, and then when the old person dies we try to recover what we can. We have not been very successful in that—last year we recovered about one-half of 1 percent of the money expended, because most of the old people are poor. I remember one old chap brought to me a suitcase full of stock certificates that he had accumulated. He said that some day they would make me rich. We had them in our safe for 2 or 3 years and then, at his request, I took them to a reputable firm of brokers. They said there was not one in the whole bunch that was worth the paper it was printed on.

In our small Province we are administering between  $2\frac{1}{2}$  and 3 million dollars each year. Our cost of administration is very low. Last year it was less than 1 percent of the total amount expended.

I am glad to have had this opportunity of speaking to this gathering. I recognize the community, the remarkable similarity of our problems. You can and do help us, and if there is anything we can do to repay you we will be only too glad to do it.

Chairman DAVIE. Our next speaker, Mr. H. J. Berrodin, of the Ohio Department of Public Welfare, is unable to be present, but I have here a paper which he has prepared for this discussion, and I wish it read into the record.

[Mr. Berrodin's paper was read by the secretary, as follows:]

Mr. BERRODIN. It seems to me that the approach to the administration of old-age aid or assistance, commonly called old-age pensions, depends considerably upon the philosophy of those in charge of the administration. The State laws provide the basic principles which are to govern the administration, but there is still a wide range of problems left to the sound discretion of those in charge of administering the law. The law lays the foundation, as it were, and the administrator must build the superstructure. If he is thoroughly sympathetic with the social security idea and has devoted his own thought and labor toward developing public opinion on that subject, he will give a much more humanitarian and liberal administration of the law than one who has not been intimately associated with this program for social justice. I have been identified with this great cause for many years and am happy in having helped to make it the law of the land.

Naturally, therefore, we have brought to the administration of the law in Ohio a sympathetic attitude in harmony with our previous activities. Section 29 of the Ohio law provides in part as follows: "This act shall be liberally construed to accomplish the purposes thereof." I am fully in accord with this provision, and from the beginning of my administration I have been guided by the spirit of this section in dealing with the many problems which have confronted us, although under our Ohio law the aid granted does not constitute a pension. Still, public opinion demands that the word "need" as used in the law should not be interpreted too literally. Too technical construction would not permit the granting of sufficient aid to give the aged that "adequate assistance" to which they are entitled, and which the Federal Social Security Act contemplates.

This afternoon I want to discuss three of the most important questions which confront an administrator of old-age assistance. The first is that of our attitude toward responsible relatives. In Ohio the only legally responsible relatives are the adult children and the husband or wife of the applicant for aid. The children, if financially able to take care of their parent or parents, are responsible by law for their support, for which the husband is responsible by virtue of the law and the marriage relationship. If he is unable to support his wife, then she is responsible to the extent to which she is able to contribute. The statement of the law as to the financial responsibility of the relatives for the support of their parents is a simple matter, but the application of the law to the facts, and the determination of responsibility, present problems which only a broad understanding of the factors involved and a practical common-sense viewpoint can hope to solve with justice to all parties concerned.

In the so-called Sherrill Survey, the Ohio Division of Aid for the Aged was roundly criticized because it did not press the relatives more strongly for support. An investigation disclosed that most of the

cases on which the criticism was based were not because of responsible relatives at all, but because of other relatives who had been taking care of the applicants, perhaps for years; and it was only natural that in the midst of the depression they would seek to unload their burden onto the State, which had provided support for just such cases. In many of the cases cited, these relatives were not really able financially to keep the applicants, even in normal times.

Where the responsible relative is a wage earner and married, his first concern should be for his own family, and he should not be asked to support his parents, unless he is earning a saving wage; and 90 per cent of wage earners in this country today are not earning a saving wage. If there are children, the responsible relative should be allowed to lay aside sufficient money to rear and educate them; also to set aside funds for sickness and future unemployment and inevitable old age. If he is paying for a home, he should be permitted to amortize the principal over a period of peak income, depending largely on his age. If his age is less than 35 years, he should be allowed 10 years' amortization. If past 35 years of age, 3 to 5 years. The law was not intended to lower the standard of living of American people; but if we saddle too much of the load upon the children by way of parent support, we will do that very thing. If we should exact the last ounce of flesh from the responsible relative and cause him to lose his home, it would discourage thrift and most certainly impoverish him to such an extent that he too would eventually build himself up for old-age assistance. We do not think that a responsible relative should be denied even an automobile in these days when automobiles have become necessities in so many families and play such an important part in the well-being and comfort of families.

So that the problem of the responsible relative insofar as it affects the administration of the old-age assistance laws is one that must be considered from many angles. The question whether the relative is financially responsible for the support of his parent cannot be determined by any fixed, arbitrary standard of income applicable to all alike, but is one that must be determined on the merits of each individual case after considering all facts. In no other way can the administration of this law be carried on without causing hardship and injustice to a large part of the people upon whose support in part depends the continuance of these laws on the statute books, not only of the various States, but of the Federal Government as well.

The second question concerns our attitude toward property holdings of applicants for aid.

The original Ohio law made it optional with the division whether or not it would require an applicant for aid to transfer his property or assign his insurance for the purpose of reimbursement of aid paid; and from the beginning we have required the transfer of property

and the assignment of insurance. Our law also made it necessary for us to charge 5 percent of the net equity of the property, where the property did not produce a reasonable income. This resulted in reducing some of the awards of applicants who had accumulated a little property through hard work and thrift. Its real effect was to penalize thrift, as an applicant with property could not be paid as large an award as those who had nothing. We found that a real injustice was done in a great many cases; and this provision of the law has caused much criticism.

This unpopular provision of the Ohio law was changed recently by the legislature, so that it is now optional with the applicants for aid whether or not they transfer their property to the State. The only penalty for not transferring their property is that we are required to charge 5 percent of the net equity, thus reducing the awards of those who keep their property, while if they transfer the property no deduction is made, and the award is consequently larger than if they had not done so. This, we believe, will be found more satisfactory and will serve as a reward for those applicants who have by their efforts added to the wealth of the State. This amendment has been in effect for only a short time, but we believe one of the most generally criticized parts of the law has thereby been removed. No interest is now charged on bills against the estates of deceased recipients, as was formerly the case, when 4 percent was charged.

These changes now permit us to make maximum awards where the need exists, provided the applicants are willing to transfer their property to the State.

The third question concerns the personnel necessary to the proper administration of the old-age assistance law in our State.

I wish to quote from a resolution adopted by the Fraternal Order of Eagles at their national convention in Chicago.

*Resolved*, That our order insist, first, that those in charge of investigations, case work, and general administration of these laws shall be chosen from among those who have experience and genuine interest in humanitarian activities, and, second, that they shall not be discriminated against as employees because they do not have credits in the social science courses of colleges and universities. The prime requisite of employees who contact the dependents who will be benefited by these laws is that they have a broad sympathy with those that need aid. Common sense and a knowledge of human nature gained through experience and personal contacts are much more to be desired in an administrator than technical training. Common sense, a sympathetic attitude toward those needing aid, and the experiences gained from human contacts are all important.

There is a tremendously strong feeling in Ohio that local people with ability, courtesy, and human kindness are best fitted to determine their neighbors' needs. For after all, if we are to build old-age assistance on a permanent foundation, the laws of the respective States must be administered by people who are sincerely and earnestly interested in seeing that each aged person seeking care is given every

consideration to which he is entitled; that the investigations are thorough, yet handled courteously and tactfully; and that all available resources of our offices are placed at the disposal of the needy aged, in order to insure the maximum degree of peace and happiness to those whose last years of life are entrusted to our care.

Mr. MAGNUSON (Washington, D. C.). Mr. McLogan made an interesting suggestion, contemplating the possibility of a subcommittee acting further upon the report, and perhaps agreeing upon what seemed to it general principles which this group might adopt with respect to old-age pension systems. I do not know whether that is a suggestion to follow up—whether it is impossible, or whether we are not nearly enough agreed among ourselves to arrive at a report—but I think for those States that are handling old-age pensions it would be a useful thing to do. In the District of Columbia we have a peculiar administrative device. The board of public welfare, under the supervision of the commissioners, administers the law. The director of public welfare has seen fit to appoint a small advisory citizens' committee, of which I happen to be chairman. The board calls us in every so often and goes over with us all their problem cases, those which they themselves do not know whether they ought to approve or disapprove. We do not know who the persons are, of course, but the cases are presented to us and we are asked to give our collective judgment upon them. Something like that might come up before a committee here which would be studying the problem. I was also struck by the same thing as to the unemployment-compensation report. Here is a report which covers the whole question but offers no conclusion as to basic principles for a law. Of course, I realize that that is perhaps a hazardous thing to do, inasmuch as the Social Security Board itself has sent out model laws—two kinds in fact, so perhaps it is futile to ask this body to agree upon principles of unemployment compensation. And so I think that the suggestion Mr. McLogan made of extending these committees during this conference in order that they may bring out a report in which they will agree on principles might be useful. I hesitate to make the suggestion because I think it ought to be discussed. It might be a good idea to add four or six persons to each of these committees, which would meet and discuss and agree upon recommendations. I think they could agree on some reasonable and useful conclusions regarding old-age pensions, though I am not so sure as to unemployment compensation.

Chairman DAVIE. I appreciate Mr. McLogan's remarks, but it appears to me if we are to do that we should take it up at the business session the closing day. I should be disposed to rule any such motion out of order unless there is objection by the membership.

President CRAWFORD. Mr. McLogan might arrange with his committee and a few of the delegates present to take time tomorrow to

consider this matter and be prepared to submit some report to the business session Saturday morning. I am quite sure that there are a number of people here who are sufficiently interested to devote themselves to it.

Mr. McLOGAN. I want to call the attention of Major Newcombe of Manitoba to the fact that we are confronted with this dilemma, that our States must make the age 65 years if they expect to get any reimbursement or matching of funds from the Federal Government. For that reason it would be idle for us to recommend to the States placing the age limit at any other place than 65, because that would cut them off in a year or two from getting any contribution from the Federal Government. The Social Security Act provides that the Federal Government will match dollar for dollar, for any individual receiving old-age assistance, up to a maximum of \$30 in any 1 month. With regard to this meeting, I may be optimistic, but it does appear to me that with this analysis a group could sit down and arrive at some conclusions and come back to this body with a concise report. If this body thinks it is not desirable to arrive at any definite conclusions at this session, take the other suggestion that an interim committee be empowered to report back to the executive board. The reason that I insist that it do not take the form of a report back to the next session of this organization is that in 1937—within a few months—almost every State is going to change its old-age assistance laws, and I think we should have some recommendations to submit when the legislatures meet.

Mr. LUBIN. In estimating income, Major Newcombe, is the income supposed to be earned income or income from investments, or would you also take into consideration income paid by children? One of our problems has been whether or not that income is to take into consideration the ability of children to support their parents, which in the opinion of many of us should be eliminated from this consideration. The fact that one has children who could afford to support him should not be considered.

Major NEWCOMBE. We did not in the earlier stages of our administration. Then the Province of Manitoba passed a parents' maintenance act. Ordinarily, if there are children who are earning and who should, all things being considered, be able to make a reasonable contribution, that is taken into account, but we do not press it unduly. We do take into account income on investments.

## Supplementary Report and Recommendations of Committee on Old-Age Pensions

BY HARRY R. McLOGAN, *Chairman*

After participating in a round-table discussion where the different provisions of the State laws relative to old-age assistance were considered, to the end that old-age assistance laws in the different States may be made more uniform than at present and that certain minimum standards of assistance to the needy aged of the United States may be provided for in such State laws, we respectfully recommend that this Association take action and in turn recommend to the different State legislatures that the herewith submitted provisions be made part of their respective old-age assistance laws.

### RECOMMENDATIONS

*Mandatory.*—We recommend that each State old-age assistance law be mandatory in its operation in each governmental subdivision of the State.

*Age requirement.*—We recommend that the age requirement be set at 65 years while the age requirement in the Social Security Act remains at 65 years, with a provision automatically reducing the age requirement below 65 years to meet any reduction in the age requirement in the Federal law.

*Citizenship.*—We recommend that the applicant must be a citizen of the United States, born in the United States, or having resided in the United States at least 25 years.

*Residence.*—We recommend that applicant must have resided in the State 5 years out of the last 9 years preceding the application, 1 year of which must be immediately preceding the filing of application, and in those States where the source of fund is from the county or local subdivisions, applicant must have resided in the county 1 year immediately preceding the filing of application: *Provided, however,* That where recipient, with the consent of State agency, removes to another county of the State, he shall be entitled thereafter to receive assistance from the county from which he has removed for the period of 1 year; *and provided further,* If applicant has not resided in county 1 year preceding filing of application, but meets the State residence requirement, assistance shall be paid entirely out of State funds.

*Social conditions.*—(1) Applicant must not receive any other form of relief from State, except hospital, medical, and surgical expenses. (2) Applicant must not, because of physical condition, be in need of continual institutional care.

*Limitation on property and income.*—(1) Applicant's real property must not exceed \$5,000, or personal property must not exceed \$500, in addition to an exemption of \$500 of household goods. (2) Applicant's income, if single, must not exceed the maximum amount of assistance allowed, and if married, the income of husband or wife, or both, must not exceed twice the maximum amount of assistance allowed. (3) Nonincome-producing property owned by applicant shall not be taken into consideration in computing his income.

*Maximum and minimum allowances.*—We recommend that the maximum allowance of old-age assistance in any State law be not fixed at less than \$30 per month, and that the minimum assistance granted to any individual be fixed at the sum of \$10 per month.

*Funeral expenses.*—We recommend, in addition to the above grant, which is given to the applicant during his life, that a grant for funeral expenses be allowed not to exceed \$100.

*Fair hearing before State agency.*—We recommend that each State law provide for a fair hearing before the State agency which either administers or supervises the administration of the law.

*Report to Federal Board.*—We recommend that the State law require that the State agency report to the Federal Security Board, so as to enable the State to receive Federal aid.

*Provision for reimbursement to Federal Government.*—We recommend that the State law provide that 50 percent of whatever is recovered be paid to the United States Government.

*Liens on property of applicant.*—We recommend that the State law provide for the filing with a court or the register of deeds a certificate showing amount of aid given to the applicant, which becomes a lien on the real estate of the recipient for the total amount of aid granted with interest at 3 percent, and that the applicant be not required to transfer his real estate as a condition precedent to receiving old-age assistance.

### *Discussion*

Mr. McLOGAN (Wisconsin). In a great many States the Social Security Act has no provisions with reference to county requirements and requires that all who comply with State requirements be eligible for old-age assistance. There has been some difficulty between the counties, and there has been some tendency on the part of recipients to move from one county to another because of higher scales of benefits being given. That is the reason for requiring that they must get the consent of the State agency before removing. Then again, for instance in the law in Wisconsin as well as in many other States, when a person moves out of the county he is no longer a resident of the county, and is automatically cut off before action upon an application in the new county can be had, resulting in a lapse of as much as 3 or 4 months with no assistance.

Mr. LUBIN (Washington, D. C.). What does the Social Security Board do in regard to counties?

Mr. McLOGAN. It makes no mandatory provision for the State with reference to county residence. Whether or not the county pays the grant is not a question to be determined by the Social Security Board. Of course you do not have this trouble where the source of the funds is entirely State funds, but in the great majority of States where 50 percent is provided by the Social Security Board, the remaining 50 percent is divided between the State and the counties.

We have not attempted here to make every recommendation that would bring the old-age assistance laws up to what we think would be nearly perfect. All we are attempting here is to submit such provisions as will bring the laws much nearer uniformity throughout the Union.

Mr. MAGNUSON (Washington, D. C.). Are those residence requirements you suggest in line with the national act?

Mr. McLOGAN. Yes; identical.

Mr. MAGNUSSON. Are any residence requirements that you have there not in the Social Security Act?

Mr. McLOGAN. The Social Security Act provides that no citizen of the United States shall be denied old-age assistance within a State. Under the act some States can be more liberal but cannot be more restricted.

President CRAWFORD. This is really a business meeting. We need more time to discuss these things and to digest them. We have not had that time during this conference, and I hope we may have an opportunity to do so next time. I think we had better refrain from asking any more questions.

Mr. WILCOX (Washington, D. C.). I would suggest that this report be accepted and made available in detail to the members of the association before so final an action as the adoption of the report is taken. I move that this report be accepted and made available to the members with the intention of adopting it later, after all the details have been gone over more carefully—not at this session.

Mr. McLOGAN. I have no objection. I appreciate the fact that members here have not had time, but I want to call attention to this one point—if it is intended by the motion that the next convention, a year hence, take action, I am of the opinion that the usefulness of this report will be passed.

Mr. WILCOX. Is there any provision in our constitution for the use of a letter ballot?

President CRAWFORD. Not that I am aware of.

Mr. LOGAN. Does the executive board meet within the next few months?

President CRAWFORD. There is a recommendation being submitted that the executive board meet at least once within the coming year, before the next convention, and as early as possible after this meeting.

Mr. McLOGAN. I would suggest, then, that the report be sent out and then referred to the executive board for action. The reason for that is that all the State legislatures are going to meet, and if you wait until next September the report will not be effective at all.

President CRAWFORD. The executive board has power to act through the mail, and it could deal with it without a formal meeting. But can the executive board adopt a report on behalf of this association?

Mr. McLOGAN. I should think so, providing this convention gave it that power.

[Mr. Wilcox moved that the report be accepted and referred to the executive board with power to act in the matter of adopting it. Motion carried.]

# Minimum-Wage Laws

---

## Present Status of Minimum-Wage Laws

*Report of Committee on Minimum-Wage Laws, by FRIEDA S. MILLER, Chairman*

The 12 months since the last annual meeting of the International Association of Governmental Labor Officials has been a momentous period for minimum-wage legislation in the United States, although not altogether a happy one. The outstanding event of this period was the decision of the United States Supreme Court declaring unconstitutional certain vital aspects of the New York State minimum-fair-wage law in a five to four decision.

This decision followed one by the highest court of New York State, which some months earlier had concluded, again by a divided vote, that the act under consideration could not be differentiated from the District of Columbia law which the Supreme Court had declared unconstitutional in 1923. The majority of the New York Court of Appeals felt itself bound by that earlier decision and passed the question of deciding the constitutionality of the current statute on to the Supreme Court.

The fate of the New York act, however, has not yet been completely determined, since a petition for a rehearing has been filed on the ground that the Supreme Court in its majority opinion has stated "he [the appellant] is not entitled and does not ask to be heard upon the question whether the Adkins case should be overruled." The Attorney General points out that "he sought to have these issues determined by" the Court and now asks for a consideration of the constitutional issues, urging,

Surely, before such statute is finally struck down, a deliberate and full reconsideration should be given of the issues on the merits, and a decision reached that will leave no doubt where the way lies and where action by legislation may or may not tread.

Other important court action involving the minimum-wage laws of the States of Washington, Illinois, and Ohio is at this moment pending. In April the highest court of the State of Washington upheld the wage claim of a woman seeking to collect wages due her under the law of that State. The case has now been appealed to the United States Supreme Court by the employer.

In Illinois, where three directory orders have been issued, a taxpayer filed suit last March to enjoin State officials from spending money for the operation of the minimum-wage law, but hearing on the suit was postponed. The act was alleged to be invalid for the following reasons: Violation of the State and Federal constitutions by unlawful delegation of judicial and legislative power; violation of the due process provisions of both constitutions; violation of unreasonable search and seizure provisions of both constitutions; violation of the Federal Constitution by impairing obligation of contracts; failure to set out the entire act when the amendment purporting to revive the act was adopted in 1935.

In Ohio a hearing has been held in a Federal court on an injunction suit brought by a woman working in the dry-cleaning industry against the application of minimum wage to her. She claims that her freedom of contract is interfered with by the application of the act. The Ohio court has granted 30 days for the filing of factual briefs by either side, to present what evidence can be assembled showing the actual effect of the wage order on the position of women coming under its terms.

A summary of the objective events in the field of minimum-wage legislation during the year 1935-36 must include also the record of the passage of a new law setting up minimum-fair-wage machinery by the State of Rhode Island and effective in March of this year.

Following the decision by the Supreme Court on the New York State statute, Massachusetts enacted a new law, designed to place its wage-fixing machinery on a health basis and making a commission comprised of the commissioner of health, the commissioner of public welfare, and the commissioner of labor as chairman, responsible for its enforcement. A directory order governing women and minors in retail stores went into effect July 1st in Massachusetts.

A record of administrative progress during 1935-36 in the States with the newer type of law where woman-employing industries are still being studied for the application of wage orders to them is encouraging despite the difficulties encountered. New Hampshire has issued its second directory order, which became effective April 1st, covering women in restaurants; also a new directory order, 1A, for the laundry industry, which allows for apprenticeship rates.

A new directory order was issued by Ohio for food establishments and housekeeping. It became effective July 1st.

Wisconsin has recently included spinach under its order for the canning industry.

The sixth order to be issued by North Dakota on May 28 of this year extended to minors (under 18) the provisions of the five minimum-wage orders already in effect.

New Hampshire has made studies preparatory to new directory orders in the clothing and accessories industries, knit goods, and

beauty parlors. A clothing wage board is expected to report on September 10th.

The New Jersey Legislature allowed an appropriation for the administration of the State minimum-wage law for the current year, thus making possible, for the first time, effective work under a statute which was passed in 1933. An advisory committee has been appointed and work has already begun on research, statistics, and the collection of data on labor conditions throughout the State.

In New York State, discussion naturally ranges all the way from concern about immediate and future action under the present law, to proposals for new laws and consideration of possible constitutional amendments. Already two quite different proposals for a new law have been made to the labor department—one for a new act from which all reference to cost of living has been removed, and another making the maintenance of unfair competition compulsory on employers and defining a minimum fair wage as a measure of fair competition. The department expects that there are likely to be still other proposals and plans to give complete study to everything that is suggested, because it wants an effective and workable measure ready for presentation to the legislature.

For this body, the most important aspect of all this activity is the unanticipated volume and force of the reaction in favor of minimum-wage legislation and opposed to the nullification thereof by the Supreme Court which followed the decision of June 1st. This has expressed itself in a variety of ways. The newspaper comment—news, editorials, and letters from readers—is astonishing in its volume, its widespread origin, and the overwhelming support for such legislation which it expresses. I quote from an analysis published in the *New Republic* of July 15th of editorial comment alone:

Newspapers that had applauded the death of the N. R. A., the Guffey coal-control bill, and the A. A. A., admitted editorially that the Supreme Court was going too far when it killed the minimum-wage law. They went even further and declared that if it were impossible to pass legislation for the protection of women and children which would stand up within the present confines of the Constitution, then the Constitution would have to be amended.

Out of 344 editorials on the minimum-wage decision, there were only 10 that approved the decision. Of the nine newspapers represented (two editorials were from the same paper), six were from the deep South, two from New England, and one from up-State New York. All were from cheap-labor sections, the majority from textile-mill towns.

Editorials criticizing this decision came from such conservative newspapers as the *New York Times*, *Washington Post*, *Richmond Times-Dispatch*, *Baltimore Sun*, *New York Herald Tribune*, *Kansas City Star*, and *Boston Herald*.

The belief in the need for minimum-wage legislation expressed in the press is reflected also in the decisions of a conference called by the Secretary of Labor, Frances Perkins, of officials of State labor departments enforcing minimum-wage laws, which was held in Washington

on June 16th. States with the older type of law expressed themselves definitely as convinced that the decision would make no difference in their enforcement activities and that they would be able to enforce their laws as formerly. States with statutes like the New York law also announced their determination to continue enforcement, pointing out that these laws represent the decision of their legislatures as to what they believe is a desirable measure of industrial regulation for the State. Since then, Rhode Island has developed a program of activity under its recently enacted statute and is launching a minimum-wage study of the jewelry industry.

I believe that the I. A. G. L. O. must face certain obvious conclusions from the events of the past year, namely, that public opinion more strongly and more generally than ever before is in favor of legislation which provides for the setting of minimum-wage standards, but that the way in which effect is to be given to the public will is neither clear nor simple. Massachusetts came to a prompt decision by revising the basis on which its legislation rests, making the issue of wages as a health measure its principal reliance. Other bases have been suggested for new legislation and doubtless additional ones will be brought forward. On the other hand, the future of minimum wage has been linked with the proposal of a constitutional amendment. Not, however, with one form of amendment but with a great variety of proposals all the way from a proposition giving explicit authority to the States, or to the Federal Government, or to both, to fix wages, to general-welfare amendments of very wide scope, and not omitting a series of proposals for technical amendments that would limit the application of the due-process clause and of still others proposing changes in the power, structure, etc., of the Supreme Court as the most direct and effective way of promoting social legislation.

Your committee, considering the future of minimum wage at this point, is of the opinion that the constitutional aspect of such legislation is in fact the foremost question in this field today. It believes that the machinery set up in the acts recently adjudicated is well suited to accomplish the purpose intended, and can, for the time being, be accepted as adequate. It recommends that attention be given rather to the methods by which such legislation can best be put on a secure constitutional foundation. To that end it recommends specifically that this association go on record in favor of new State legislation for minimum wage on whatever bases the States involved regard as adequate. It recommends further the appointment of a special continuing committee to study the question of constitutional amendment between now and the 1937 meeting, and that the committee include in its study the question whether minimum-wage legislation should cover men as well as women and minors in the sweated industries, and report its recommendations.

**Status of Minimum-Wage Legislation in Canada**

The year 1935-36 has been significant for minimum-wage legislation in Canada.

In order to implement its ratification of the International Labor Organization draft conventions on the 8-hour day, minimum wages, and the weekly day of rest, the Dominion Government in the spring session of 1935 passed minimum wage and hours legislation to be effective throughout all Canada. Prior to this time such legislation had, under the British North America Act, been the exclusive right of the Provinces, and they challenged the constitutional right of the Dominion Government to enter this field even as a means of carrying out its treaty obligations. The Dominion Government in turn insisted that it had the right to give legislative effect to obligations undertaken under the terms of an international treaty.

The British North America Act, passed in 1867, at the time of confederation, is in effect the constitution of Canada. It sets out the rights of the Provinces and the Dominion Government, in the sense that the Constitution of the United States defines the rights of the States and the Federal Government. In case of dispute arising over the rights of the Provinces and the Dominion in matters of jurisdiction under the British North America Act, the constitutional point must be decided by the Supreme Court of Canada with the right of appeal to the Judicial Committee of the Privy Council.

A Dominion election followed shortly after the minimum-wage legislation was passed, and the new government decided to refer this and other reform measures to the Supreme Court of Canada to test its constitutionality. On June 17, 1936, after 5 months of deliberation the decision of the judges revealed that three supported the authority of the Dominion Government in the field of minimum-wage legislation and three dissented from this decision. Pending the appeal decision to the Privy Council, the Provinces will continue to assume authority over minimum-wage legislation.

Eight of the nine Provinces of Canada have passed minimum-wage legislation for female employees in the following years: British Columbia and Manitoba, 1918; Saskatchewan, 1919; Alberta and Ontario, 1920; Quebec, 1919, proclaimed 1926; Nova Scotia, 1920, put into effect 1930; New Brunswick, 1930. The New Brunswick act is not in force.

British Columbia passed a Male Minimum Wage Act in 1934 (detailed report appended).

Manitoba, by statute in 1934, provided that such regulations of the Female Minimum Wage Act as may be applicable shall cover males under 18 and that no male person 18 years of age or over shall be paid less than 25 cents an hour.

Alberta and Ontario provide by means of the Industrial Standards Act that an agreement between a substantial group of employers and employees may by the action of the Minister of Labor be extended to include all employees and employers within the industry. Only the wages and hours terms of these arrangements are made binding.

In March 1936, in Ontario, such agreements included logging industry, cloak and suit industry, millinery, furniture, carpenters, plumbers, paperhangers, painters and decorators, glaziers, electricians, plasterers, tile setters, bakers, bricklayers, and stonemasons, and common laborers. The agreements are in some instances Province-wide and in others confined to limited areas.

In New Brunswick by the Forest Operation Act of 1934, hours of work and wages have been regulated in the lumbering and logging industry.

In Quebec there has been an increase of 1,179 in the number of establishments covered by the female-minimum-wage orders and a publicity press has been inaugurated to create favorable public sentiment. The Collective Labor Agreements Extension Act, 1934, provides for the legislation of the wages-and-hours terms of a collective agreement to bind all employers and employees in the industry in the district covered by the agreement. Numerous agreements have been legalized under this legislation.

#### **History of Minimum-Wage Legislation in British Columbia, Canada (1918-36)**

In view of the steady progress maintained over a period of 18 years and of the recent venture into the field of minimum wages for men, since 1934, the interest of this conference may be aroused by the following brief summary of minimum-wage legislation in British Columbia.

The Province has great natural resources of minerals and forests, waiting to be made accessible and developed. Resultant problems might easily have engrossed the full attention of the people and government. In view of the circumstances, it is interesting to note that British Columbia many times has been a pioneer in social legislation. This is especially true in the field of minimum-wage legislation, where, since the first act was passed in 1918, the scope has been increased until at the present time it extends to a far-reaching protection both for men and women in the major industries, trades, and occupations.

One can state with assurance that the boards strove to secure as high a minimum as possible, but their judgment has been tempered with the important principle that the orders, above all, must be practicable for the whole range of the industries covered. As a result, it has been possible to be consistent in the enforcement of orders, and general public respect for the sincerity and purpose of minimum-wage legislation has followed. The interest of the public marked the early efforts for minimum wages and has been sustained throughout.

From 1914 to 1918 various organizations of both men and women, including labor and what is known as the disinterested public, made repeated representations to the government for minimum-wage legislation. In April 1918 the Women's Minimum Wage Act was passed. The State of Washington had similar legislation in 1913, and the precedents established there were quite closely followed in British Columbia.

The act provided that the administration be given to a board of three members, consisting of the deputy minister of labor as chairman and two members appointed by the Lieutenant Governor in council. One of the members was to be a woman. The board was empowered to determine for girls and women both wages and conditions of labor and to issue orders assuring a wage "adequate to supply the necessary cost of living." Before setting an order the board was obliged to call a public meeting, where employers, employees, and one or more of the disinterested public must be present. Recommendations passed at such a meeting were to be issued in the form of legal orders, provided the board was agreed. Such a method might well seem irksome. It probably made it difficult to get a true expression of the opinion of employees. It did, however, serve to preserve public interest and favorable sentiment and to create a new relationship between employer and employee.

The first extension of the powers of the board allowed them to set a limit to the hours of work. Within 2 years nine orders had been written covering mercantile industry, laundry, dyeing, and dry cleaning industries, public housekeeping occupation, manufacturing industry, telegraph and telephone occupation, office occupation, personal-service occupation, fishing industry, and fruit and vegetable industry. The rates set varied with each order; the lowest was \$12.75 for a week of 48 hours in the mercantile industry, and the highest was \$15.50 in the fishing industry. Apprenticeship rates were also set, varying in the amount paid and length of time according to the necessity of the trade or occupation under consideration. The rates set in these orders have been maintained even throughout the depression years, with the exception of a small concession granted to the fruit and vegetable industry.

The original minimum-wage board served for many years and this continuity of service was inestimably advantageous. After the first task of passing the orders, much was needed to make such orders an integral part of the legislation of the Province. Proper enforcement was a necessity, and yet it must be applied with tact and explanation of educational value. Legal procedure was taken only after every other attempt at settlement had been made. Both employers and employees needed to learn the value of records; in fact, they needed to be taught the fundamental values and necessity of minimum-wage legislation.

As the years followed, greater emphasis was placed on enforcement. One inspector was appointed, a greater number of cases were submitted to the court, and the names of the firms involved published in the annual report. In 1933 the board reports: "The burden of administering the act and orders has been heavy when, owing to general business conditions, a certain element in the employing class seemed to devote more energy towards evading regulations than in the direction of efficient management to comply with the law. \* \* \* While our duties are laid down by the act, from which we cannot deviate, our efforts to assist employer and employee will not relax, our aim being at all times to administer the law with a tolerant understanding."

The year 1934 was a momentous one for labor legislation in British Columbia. The Female Minimum Wage Act was amended, the Male Minimum Wage Act passed in 1929 but never given effect, was also amended, as well as the Hours of Work Act.

Provision was made to establish a board of industrial relations to administer the three acts. It is obligatory that the deputy minister of labor be chairman, the chairman of the economic council be a member, that three other members be appointed by the lieutenant governor in council, and that one of these must be a woman.

Under authority of the Male Minimum Wage Act, with the amendments of 1935, the board may, after such inquiry as it considers adequate, fix a minimum wage for all male employees of any age in any trade, industry, business, or occupation (except farm laborers) on an hourly, daily, weekly, or monthly basis. It may authorize the payment of a lesser wage than the minimum rate set to handicapped employees or apprentices, and may restrict the application of the order to a designated part or parts of the Province.

Up to July 31, 1936, orders have been made to cover logging industries, sawmill industry, tie-cutting operations, taxicab driver, manufacturing of shingle bolts, box manufacturing, barbers, mercantile industry, wood-cutting industry, shingle industry, baking industry, stationary steam engineers, elevator operators, shipbuilding industry, fruit and vegetable industry, janitors, transportation industry, bus drivers, first-aid attendants, and woodworking industry. The orders set out a minimum wage for experienced adult employees, and in those industries where younger men are employed make provision for a graduated scale beginning on a lower rate, based in some instances on age and in others on experience. In general, the rates in industries competing in export markets have been lower than in those catering to local requirements. Many employers have welcomed the orders of the board as a stabilizing factor in the wage structure. The employees, especially unorganized groups, have appreciated the benefits accruing from the orders, and public sentiment supports the legislation quite remarkably.

In general the Female Minimum Wage Act gives the board similar authority over woman workers, exclusive of domestic workers and fruit pickers, as that set out in the Male Minimum Wage Act. It provides that male employees engaged in work usually done by women, unless covered by an order under the Male Minimum Wage Act, shall be paid at rates set out in the wage orders for females. In addition to the nine orders of the original minimum-wage board, rates have been set for janitresses.

An accurate estimate indicated that in July 1935, 110,000 persons of both sexes came under minimum-wage orders. Although there were many contributing factors to the rapid increase in pay rolls since 1934, it is believed minimum wages have had great effect.

The board has incorporated the principle of the 48-hour week in most orders, as set out in the Hours of Work Act, allowing exemptions only for emergencies and in certain industries and occupations in which its application would be impracticable.

In some orders a higher hourly rate has been set when the working week consists of less than 40 hours and it has been provided that in any one day the part-time worker shall not be paid less than the equivalent of the wage for 4 hours. The results have indicated that this policy should be extended to all classifications marked by part-time employment.

The staff of inspectors has been increased from 2 to 16 since 1934 to provide for consistent enforcement of the comprehensive orders.

In 1935, under the Minimum Wage Acts the board of industrial relations has collected \$15,660.47 for men and \$27,022.65 for women. In 1936, during the first 7 months approximately \$13,000 has been collected for women and \$17,000 for men.

The woman workers in British Columbia have not organized in unions to any great extent, and there is a large number of male employees in the same position. The legal minimum wage and hours of work afford protection of great value to them. It can be stated that the necessity and value of the work of the board of industrial relations is at present definitely established.

### *Discussion*

Chairman POWERS. To start the discussion we shall call on the Honorable Henry Epstein, solicitor general of the State of New York.

Mr. EPSTEIN. The subject of minimum wage carries with it, in my opinion, the most essential treatment of the problem of individual liberty under the Constitution of the United States that any problem of a legal character involving social legislation may present, and that involves the concept that has been prevalent of liberty as noninterference with the individual, whether that liberty be the personal liberty of the individual or the liberty of his action as evidenced in

contracts for his labor. This country for 100 years or more has, as a result of following the concept of noninterference in the field of advancing agriculture, won for its reward a drought and erosion of parched lands.

It was quite natural in days when a landed frontier was unlimited that complete freedom from interference should prevail. With the development of our great industrial and commercial progress within the last hundred years, also as a result of the complete free play of economic forces and the acceptance of this fetish of noninterference, we have now witnessed a drought of opportunity for employment and a rapidly increasing erosion of the moral fiber of the great mass of people who work in this country.

And back of it all, I should say, there lies the basic misconception of liberty under the Constitution of the United States—that liberty under the Constitution means noninterference with the forces of economics and with individual and collective activity insofar as our commercial and industrial life is concerned.

The Constitution itself does not define the “liberty” that is vouchsafed in its preamble. Nor are we free to presume a definition intended to perpetuate itself or its economic concomitants in the background of 150 years ago. At the time of the writing of the Constitution the industrial revolution was unknown. Political freedom—political “liberty”—and a freedom from interference by an arbitrary government were the basis of the “liberty” conceived therein. Economic “liberty”, too, but a liberty based wholly upon noninterference. The fourteen amendments, the Bill of Rights, were designed to assure, in certain fields, that noninterference thought to be the basis of liberty. Yet we know in this world of change that even definitions change and concepts change. Certainly in the law we know that decisions and the bases thereof change with changed circumstances. The fourteenth amendment was itself designed to bring about protection and political freedom to a slave class. Its language and theory follow the principle set forth in the fifth amendment restricting the Federal Government’s interference with “liberty” or “property.” Yet we know that the extent to which that “liberty” may necessitate restrictions upon the free play of economic forces and individual effort is, and should be, the constant concern of legislatures and the courts. It will continue so to be.

Mr. Justice Sutherland wrote for the Court in *Adkins v. Children’s Hospital* (261 U. S. 255), denying the power of a sovereign government to regulate working conditions by defining and enforcing a minimum wage for women. In the depths of the present depression, Mr. Justice Roberts wrote for the Court in *Nebbia v. People* (291 U. S. 502) that economic policies must be left to the determination of the legislatures. These two apparently irreconcilable theses of consti-

tutional government came into what would seem to be head-on collision in the New York minimum-wage-law case of *Tipaldo v. Morehead*. By the date of the *Nebbia case*, however, one was led to believe that even Mr. Justice Sutherland had become convert. Some years after the decision in *Adkins v. Children's Hospital* (the District of Columbia minimum-wage case in 1923), Justice Sutherland, in writing for the court in *Euclid v. Ambler Realty Co.* (272 U. S. 365), thus stated the principle of change:

Regulations, the wisdom, necessity, and validity of which, as applied to existing conditions, are so apparent that they are now uniformly sustained, a century ago, or even half a century ago, probably would have been rejected as arbitrary and oppressive. \* \* \* In a changing world, it is impossible that it should be otherwise.

Mr. Justice Butler in the *Tipaldo case* has said:

The decision and the reasoning upon which it rests [the *Adkins case*] clearly show that the State is without power by any form of legislation to prohibit, change, or nullify contracts between employers and adult woman workers as to the amount of wages to be paid.

It is plain that under circumstance such as those portrayed in the "factual background", prescribing of minimum wages for women alone would unreasonably restrain them in competition with men and then arbitrarily to deprive them of employment and a fair chance to find work.

In considering any such legislative solution, we must, it would appear in the light of the *Adkins* and *Tipaldo cases*, treat men and women alike. This should prove no substantial obstacle, since experience does not reveal any danger to the wage levels of men in setting a minimum which would protect women within the same industrial field. But we face a more sturdy barrier in the inescapable inference from the case that it is outside the very power of the State or Federal Government to interfere directly with the wage contract by setting the price thereof through a minimum wage. There is left open the indirect or incidental approach through other and accepted regulatory methods, if it can be so attained. To that end I would venture to offer two suggestions: one, the more likely to be sustained, bearing what at first glance may appear to be a "radical" touch—yet not in truth such; the other—more doubtful, yet not clearly outside the constitutional fences—having a more conservative approach.

The ethical right of every worker, man or woman, to a living wage may be conceded. One of the declared and important purposes of trade organizations is to secure it (p. 558).

Statutes of many States assert and protect the right to organize, to protest, to strike, to bargain and enforce collective bargains, to affiliate with other workers' organizations. Contracts aimed against labor organizations, contracts discriminatory in character, are outlawed—all to safeguard the movement of trade-union and labor organization.

The public policy of New York State is definitely committed to favorable action in matters of labor organization for collective bargaining. To the end that such policy may be furthered where conditions indicate that wages are not commensurate with the services rendered, whether by reason of unequal bargaining power, exploitation, or lack of employee organization, it is suggested that legislation authorize the State itself through its industrial commissioner to educate and assist the workers within an industry in organization. The machinery need not be complicated nor far removed from that for minimum-wage investigation. If it is a proper public policy to favor and protect labor organization, trade-unionism, for collective bargaining, it should be appropriate for governmental action in aiding workers to attain such unity.

The labor department of a State, through its duly accredited and authorized representatives, should have access to industrial and commercial places of employment, plants, and the like, where more than a specified minimum of workers are employed (say 10), in order to establish contact with, to communicate with, and to assist employees in establishing effective employee organizations for collective bargaining. This need not interfere with working hours or contracts of labor.

Here, too, we find an unplowed and fertile field for the development of an industrial and administrative court system, the suggestion for which has already been made by the American Bar Association. What better field for an industrial-court system, with a final tribunal within its own mechanism, to develop an entire and appropriate jurisprudence in labor problems, than in the field of wage disputes in our industrial life? What better start in a field where both capital and labor shall have State aid and supervision in the organization and presentation of conflicting views? What more appropriate method than this to attempt to solve these paramount problems of our social and economic system, unless we are to allow the law of the jungle under the guise of "laissez faire" to wreck our capitalist society? I offer this as a first method, and a constitutional method of solving minimum-wage and other labor disputes—of saving our capitalist system from the class struggle that is its bugaboo and may be its ruin.

As to the second proposal. "Unfair competition" is a term now generally known and well understood. In the field of the law it has also a well-established status. Standards of business have been raised by the outlawing of certain methods of competition found to be destructive of commerce and trade. The Federal Trade Commission has over a period of years laid a foundation for certain types of actions based on unfair practices, and the courts have continually been confronted with like problems. Legislatures have made business practices the subject of repeated studies, and laws have been enacted to enforce proper business standards and to banish destructive and "unfair" methods of business and trade activities. No hard and fast

category of definition has been possible for the term, and none has been devised. "Unfair competition", therefore, remains a conclusion drawn from facts revealed in particular practices as developed in industrial or commercial life.

Since the direct approach to the minimum-wage problem, as affecting women alone, is prohibited, and probably as affecting both, we may inquire into what form of indirect method, other than the first suggestion, may be available, and perhaps one not so disturbing to recognized legislative doctrine. Let us try to approach the minimum-wage question from the avenue of "unfair competition." Contracts and agreements and various activities in restraint of trade, by article 22 of the general business law of New York State, have been declared against public policy and void. Yet in subdivision 3 of section 340 of said article we find it clearly set forth that the labor of human beings is not a commodity or article of commerce in the same sense as are other articles in industrial or commercial life. The provisions of law applicable to business combinations in general do not apply to labor.

3. The labor of human beings shall not be deemed or held to be a commodity or article of commerce as such terms are used in this section and nothing herein contained shall be deemed to prohibit or restrict the right of working men to combine in unions, organizations and associations, not organized for the purpose of profit.

This amendment, enacted by chapter 804, Laws of 1935, marks the end of a long struggle of labor for such legislative declaration of the public policy of New York State. It followed shortly after the passage of the minimum-wage laws and the unemployment-insurance statute. The first suggestion advanced herein finds ample support in the public policy of the sovereign State thus enunciated. But even more pertinent is this enactment to the second proposal, that of outlawing as "unfair competition" the use of the wage differential as the basis thereof.

Since it is opposed to the public policy of the State to have human labor deemed an article of commerce or commodity, it is highly appropriate to proceed one step farther and declare as contrary to the public policy of the State the use, as a basis for competition in the sales of the products of human labor, of the differences in wages for identical tasks or services within a specified industry. It would follow that competition in the sales of commodities or services in trade and industry, insofar as based upon wage differentials for identical or like tasks in the same trade or industry, may properly be declared to be "unfair competition" in the eyes of the law, contrary to the public welfare and policy of the State and so be barred.

The machinery need not differ too materially from that heretofore devised for the minimum-wage laws. It is in the theory underlying the statute, and the approach, through a recognized field of the law

to attain its end, that we find a plausible basis for sustaining this method of legislating a minimum wage. The "minimum fair wage" would represent the reasonable fair value of the services or occupation within a specified industry or trade, determined by a stated method, on the basis of which fair competition in the marketing of the products of such labor, be it commodity or service, may be maintained. It is "fair competition" on the basis of the wage element that is sought to be attained. In such statutory method, the following would be some of the factors to be necessarily considered in arriving at the "minimum fair wage":

- (a) The proportion of labor cost to the total cost of the commodity or service.
- (b) The proportion of labor cost to the sales value of the commodity or service.
- (c) The proportion that the cost of the particular service, work, or occupation bears to the total labor cost of the commodity or service.
- (d) The prevailing rate of wage for the specified service, class of service, or occupation in the industry, in a locality of reasonably sizable proportions.
- (e) The reasonable value of the service or class of service with relation to other factors in the industry or trade affected and under inquiry.

Investigations and inquiry by the State department of labor and its accredited representatives; reports of findings on the factors necessary to a determination; hearings for receipt of evidence on the factors entering into the determination of the issue; report of the wage board or industrial commission; final hearings by the commissioner and the order of the wage, with opportunity for review, would be the logical and advisable procedural technique. It is not new nor complicated. While an industrial or administrative tribunal would, perhaps, be more suited to review such determinations in our present society, it in no manner makes such necessary. Presently available court review by certiorari of administrative orders and determinations would be adequate and protect against any attack on the ground of "due process." It is, be it again stressed, not in the mechanics, but in the different approach and the underlying thesis that we may find greater likelihood of sustaining a "minimum fair wage" arrived at by the method thus outlined. It is essential to the rationale of these suggestions that the labor of men as well as of women be subject to its operation.

To capital, fully as much as, if not more than, to labor, should such proposals appeal. We must recognize that we are in the midst of serious social and economic flux. We must adapt our society to these changed conditions. You cannot sweep back the tides with a broom. New channels must be dug to carry the waters that would else engulf our institutions and method of life. Our laws are tested against the touchstone of a dual constitutional system, maintained through delicate balancing of judicial processes. It is entirely possible that an approach from a wholly different concept may be successful when the partial frontal attack has failed. At least we must seek the answer.

The boldness of the advance often proves the best strategy, and in this case may forestall greater difficulties which might otherwise develop into a critical struggle of capital and labor.

If labor of human beings is not an article of commerce or commodity, then a "minimum fair wage" is essential to equality to liberty under the Constitution. If we are to preserve our dual constitutional system and a society of private property, then to the States should be open every reasonable approach consistent with the declared public policy of such State.

The new wine cannot be poured into the old crocks, encrusted with the accumulated coverings of age and riddled with the mildew and hoar of past years. New bottles must be fashioned more in keeping with the taste and the better able to hold the freshness of the brew of an altered society.

Chairman POWERS. Miss Maud Swett, of the Wisconsin Industrial Commission, will continue this discussion.

MISS SWETT. I am not so sure, after Mr. Epstein's discussion, that what I have to say will sound like a continuation or going backwards. It was suggested that in my discussion of this subject, because of a number of early experiences of Wisconsin in the administration of minimum-wage law, I might speak on some phases of our law which might be helpful to some of the other States that have had little or no experience with this type of labor legislation. I do not think I can speak of that so that it will be intelligible to some of you who do not know how we administer our law unless I speak of the kind of law we have. We have the same kind of law that all of the States have which provide that women and minors should be paid at least a living wage—a wage that would enable the woman or the minor to maintain herself or himself under conditions consistent with her or his welfare. "Welfare" is defined as reasonable comfort, reasonable physical well-being, decency, and moral well-being.

After the *Tipaldo case* one employer secured an injunction against the commission to restrain it from enforcing the minimum-wage law insofar as it applied to adult women employed in his plant. The legislature then amended the law so that, as far as adult women were concerned, provisions relating thereto were taken out of the body of the law. As it applied to minors, it was left exactly as it was before. It provided that adult women should not be paid oppressive wages—defined as a wage unreasonable and inadequate for the services rendered. Instead of taking the question up industry by industry, our law says that no employer shall pay an oppressive wage to minors or adult women. The commission has adopted the policy of stating to the employer that if he does not pay what he must pay under the legislation the wage will be considered oppressive, in the absence of proof to the contrary on the part of the employer. We have gone on

administering the living-wage standard of the law as originally adopted. Theoretically we were probably wrong; practically, we were able to ride out the *Adkins case* decision. I have found in my experience with employers that it is easy to convince them that it is good social policy for an employer to guarantee to his employees a living wage, that he has no right to ask to be an employer unless he can do that. He can see the fallacy of providing a reasonably safe and sanitary place to work, with a limitation against hours, without also providing a decent living wage.

One thing that I am glad of is that our law covers all employers. I think as a whole they accept a thing more readily if they feel that every other employer is covered by the same restriction. It takes too long, for another thing, to do this industry by industry. There is also an advantage in having on your advisory board representatives of different industries. When you have representatives of one industry only, they stress too much the difficulties they meet in paying what you are trying to arrive at as a reasonable compensation. We had employers from different industries on our board, and could rely upon employers in some industries to do missionary work on other employer members. The laundry employers spurred on the hosiery owners to accept a higher rate than the hosiery people felt at first they could accept. Another thing that I hope you will keep closely related, is your home-work law and your minimum-wage law. There is one way of reaching the evils in home work—one of the big evils—and you can do it before the work is done. It is very difficult to go into a home to observe whether the child-labor law is being complied with or whether the hour law is being complied with, but you can set your rate so that it is adequate before you grant the permit to do the home work—do the enforcing ahead of time. Another thing that we have found of great help is a wage-collection law. If you do not have a wage-collection law in your State, then it would be well to have in your minimum-wage law something which would give you that same authority of taking the assignment of the wage to enforce the collection, if necessary, through suit. We have found that particularly helpful as it applies to some of the small employers and the employers of domestic help. You may not want your law to cover domestic service—and it does let you in for a lot of grief. However, I am glad that ours does. Through the wage-claims law and the minimum-wage law I think we have been able to make the life of the domestic servant during this period somewhat easier than it was before. In speaking before women's clubs, I have had to say some pretty harsh things and go back over the history of domestic service in this country to soften them up a bit and get them to acknowledge that servants should receive a living wage the same as anyone else, and that they should not feel that they were doing a social service when they provide room and board for servants. Some people feel that the more a

person needs a job the harder he ought to work and the less he ought to be paid.

Another important thing is to make your administration as simple as possible, and in the drafting of your laws have that in mind. There are a lot of things we should like to know, but we do have to make as simple as possible the records the employer has to keep and the reports he has to furnish to the administration. There are certain records that the employer must keep, and failure to do so should be considered just as serious a violation of the order as the failure to pay the rate prescribed, but there is a limit to what we can ask the employer to furnish in the way of reports and records. When our minimum-wage legislation was fairly new in its administration, we were criticized somewhat for permitting a learning period at a lesser rate than the experience rate. Then we were criticized because we did not ask for registration of women and minors every time they changed jobs. Anyone who has done administration work knows that that would be almost impossible. My experience has been that that was one thing we did not need to ask for. Our experience shows that the employer usually takes the statement on the application, or if it is not a written application, he usually takes the oral statement of the applicant at its face value. In those cases where he does not, it can usually be proved. That is one instance of what I mean by simplifying your administration. Do not ask for too much detail. Of course, in checking up on cases you have to go into all the details.

I have not meant this to sound like advice. There are lots of other things I should like to tell you about. I was just looking over the information compiled for the biennial report ending July 30 of this year, and 59 percent of the amounts collected under the minimum-wage law was collected for adult women.

Chairman POWERS. The subject is now open for discussion from the floor.

Mr. MURPHY (Oklahoma). For more than 40 years I have been connected with organized labor and have been very active in the movement up until recent years. There was a time when we were 100 percent against a minimum-wage law of any kind. We are getting over that, and the attitude in our part of the country is now almost the opposite. I think the time has arrived for the enactment of minimum-wage laws.

President CRAWFORD. In Ontario there is one development that might be of interest. We are faced with the problem of establishing a minimum wage for men. The minimum-wage board has opposed it until just recently. We will probably have an act passed at the coming session of the legislature. Two years ago we endeavored to pave the way by introducing the principles expounded by Mr. Epstein. We put on the statute books an act which is called the Industrial

Standards Act, under which the department calls representative conferences of employers and employees, and they formulate the schedule of minimum wages and hours in the industry on the basis of elimination of unfair competition. When the minister is satisfied that the conference drafting the schedules is a proper and sufficient representation of the industry, the schedules are given the force of law and enforced by the minimum-wage board. We have hoped that would pave the way for a proper type of minimum wage for men, but we are forced to move rapidly, and I fear that the pressure will be so great that we will have to adopt a minimum-wage act for men similar to that for women. We have recognized that weakness, although there is no constitutional problem whatever in Canada—it is a matter of jurisdiction and a matter of policy.

Mr. WALLING (Rhode Island). Mr. Epstein has made an interesting and valuable suggestion, and it would be too bad if we adjourned without further consideration of his suggestion. I wonder if he would be willing to simplify a bit for us the administration which he envisages under this unfair-competition theory, particularly with regard to the enforcement of it. Would it be by injunction by one employer against another, or would there be a central governmental organization with responsibility for administering the thing?

Mr. EPSTEIN. You would have a board which would determine, after a careful study, in a certain industry when unfair competition, in the sense of competition based upon wage differentials for identical tasks, exists. Within that industry, it is felt, some employers are exploiting labor and others are not. Following certain standards which the law must definitely set up, inquiry is made, experts are sent in to study the various plants in the industry, and the study is presented to the wage board. The board makes its findings, and on the basis of those findings it determines that in that industry unfair competition exists on the basis of wages paid for identical tasks, and in order to eliminate that unfair competition it is necessary to establish a fair minimum wage. It, therefore, sets a fair minimum wage through machinery similar to that which we now have but with a much more careful study of the labor costs. Then if a person pays less than the minimum wage he can be enjoined or convicted of a violation or a misdemeanor. It must necessarily be handled industry by industry, because we must face the fact that no statute will be sustained fixing a wage without reference to the problems of each industry individually. We must also face the fact that we have certain standards laid down by cases under our Constitution, and when you try to make a sweeping minimum-wage approach directly, involving all employers, you are faced with the problem that you are not fixing a wage with relation to the services but with relation to outside factors. You say there are certain practices which should be prohibited because they are destruc-

tive of decent business. You add to those, such as purloining a man's trade mark, saying, with fair prices you may not sell below cost. You say, if the declared public policy of your State is that you shall not use human labor as a commodity, then you must not utilize human labor as the major basis for competition. The courts have, themselves, opened up that approach. I do not see how they can get away from that approach. You cannot interfere with the wage contract directly; you cannot differentiate between adult men and women. The courts have said all that, but they have also said in any number of cases that you can prevent destructive practices in business by outlawing them as unfair. They have therefore themselves opened up the approach that you can outlaw as unfair competition the use and exploitation of labor by the use of wage differentials in order to sell the product. I have a feeling that that psychology may be just the one to appeal to the courts at this moment in order to capitalize on the reaction that has come from the direct approach.

Mr. KOSSORIS (Washington, D. C.). Is it your opinion that regulation by States of that type would be preferable to Federal regulation?

Mr. EPSTEIN. My feeling about that is this: At the present, at least, the actual labor and the control of employment are still regarded as a State problem, and without a Federal amendment you will not be able to enact legislation to control the problem throughout the Nation. I have no illusions about the facility for obtaining any such Federal amendment. Therefore, I say the problem must be faced as a State problem and approached by the State. The control and regulation of interstate commerce have not yet been extended, and I do not think they will be extended, at least within a reasonable time.

Mr. MAGNUSON (Washington, D. C.). What cases can you cite where the fixing of wages does not run into that? Would the court believe that all differentials in wages are unfair competition?

Mr. EPSTEIN. The fixation of wages is merely one added factor that you now begin to put on unfair practices. For identical tasks in the same industry the use of a wage differential as a basis for competition is unfair when the public policy of the State has been declared to be contrary to the use of human labor in the same manner as the use of the product itself which is being manufactured.

Mr. MAGNUSON. What cases have you in mind?

Mr. EPSTEIN. You have no cases on the direct approach to labor, but you do have cases in which the courts have said that you may regulate fair competition in industry.

Mr. MAGNUSON. You rely wholly upon the argument that a differential in wage can be reduced to the same ground as some of these unethical practices we call unfair competition?

Mr. EPSTEIN. I rely upon that analogy plus the fact that the States have thus far been able to declare that human labor must not be

considered as a commodity or article of commerce. The Federal Constitution merely is a grant of power by the State governments. There is no provision in the Federal Constitution which says that a State may not declare it against public policy to use human labor as a commodity. The indications of the child-labor case are precisely that—that a State may prohibit child labor and the Federal government may not. I have no doubt whatsoever that a State statute, which, instead of outlawing child labor, says that if you utilize the labor of children as a major basis in the cost of your product to compete on the open market, that may be held to be unfair competition within the State in the sale of that product, and therefore be barred. No doubt the Federal Government would hold that to be constitutional. The utilization of a wage differential within an industry for identical tasks is also unfair competition and may therefore be abolished. I cannot see, under the Federal Constitution, any distinction in principle between those two approaches.

# Women in Industry

---

## Status of Women in Industry, 1935-36

*Report of Committee on Women in Industry, by MARY ANDERSON, Chairman*

In our annual discussion of labor legislation for women we need to look both backward and forward, to find out where we stand at present and what our immediate objectives should be. It is necessary to formulate a clear-cut program of procedure to help the country emerge from its confused state concerning certain phases of labor legislation.

As we consider this year the question of special labor laws for women, we are disturbed at what seems to be an impasse, in at least one field, resulting from two of the recent United States Supreme Court decisions, the first in May 1935 declaring the N. R. A. codes unconstitutional, the second in June 1936 invalidating the New York minimum-wage law for adult women. As President Roosevelt pointed out, these decisions appear to create a no-man's land into which neither the Federal nor State Governments can venture with legislation intended to promote the welfare of workers in certain respects, particularly in regard to minimum wages. We realize that, unfortunately, stranded in this seemingly forbidden territory are hundreds of thousands of industrial women.

This brings up an important related question—why should there be special labor legislation for woman wage earners as apart from men? A controversy is made of this question by people who take their stand on abstract theories instead of facing facts. Practically all authorities agree that ideally labor legislation in general should apply alike to both sexes, but as realists we analyze the situation briefly as follows:

Women, because of their weaker economic status, are in even greater need of labor legislation than are men. Women more than men have been and still are much more definitely exploited by unscrupulous employers. Women, so largely concentrated in the unskilled, low-paid, and highly seasonal industries, have not been organized into trade-unions to anything like the same extent as have men, and therefore have not been able to combat injustice and build up better employment standards for themselves through collective-bargaining methods. Some decades ago it became evident that a method must be evolved to strengthen women's economic status to

such an extent that it would be on a par with the best position achieved by men. This was necessary in the interests, not only of woman workers, but of men, with whom women had been forced to become unwilling competitors. Special labor laws to safeguard hours, wages, and other employment conditions appeared to be the best means of achieving the immediate steps toward equality. Experience has proved that such laws have in many instances brought the benefits of better standards to both women and men, and that they have not caused discrimination against the employment of women. Today, perhaps even more than in the past, it is essential for the general welfare to safeguard the standards of woman workers through legislation, since technological changes leading to simplification of jobs in many industries have made it possible for women to be substituted for men in an increasing number of fields. Unless legal safeguards prevent employers from employing women under low standards, we are in grave danger of having general labor standards, and in fact our whole economic system, even more seriously undermined than in the past.

In this connection, it is necessary to point out that a great responsibility rests with the State departments of labor as well as with the Women's Bureau of the United States Department of Labor, in making public the real facts concerning women's industrial conditions and problems. Great confusion on this matter has been created by the activities of the National Women's Party in furthering their "equal rights amendment." Clarity can be brought to the situation only by responsible agencies making public the facts which show the urgent need of labor laws for women.

According to our present outlook, State labor legislation seems to be the most practical route to travel in order to arrive at the desired goal of better standards. Along this road, however, we encounter serious problems. One great difficulty is the lack of uniformity in the labor laws for women found in the various States. Because of industrial competition among the States having unequal legal standards, these differences in laws mean hardships both for the woman workers and for the employers who use woman labor. These inequalities lead to serious consequences, such as the tendency for employers to migrate from States with better laws to those with lower legal standards, and, as a result of such moves, for workers to be left stranded without possibility of finding jobs in their own industrial fields and too often without opportunity for any employment. Inequalities in laws mean in some instances that employers remaining in the States with the more progressive legislation may have their businesses undermined by competing employers operating under lower legal standards in other States. To overcome such difficulties there is needed much speeding up in the enactment of more uniform State laws.

Therefore we shall find it of real value to take stock of the situation at this time, to stress the needs of wage-earning women in certain respects, to summarize the legal steps taken in the past year to meet these needs, to analyze the present status and weaknesses of existing State labor legislation for women, and to consider essential items that should be included in an expanded and speeded-up program of State labor laws.

In this report I shall give detailed attention particularly to hours of labor, night work, and industrial home work from the viewpoint of women, merely touching upon the vital matter of minimum-wage legislation, which will be the subject of a special report at this conference.

#### Hours of Labor

Though it is important, in our present mechanical age of specialization and speed, for all workers to have short hours of labor in the interests of their health and welfare, it is even more essential for women than for men. Most women in industry carry a heavy burden of home duties outside of their employed hours. Moreover, in many instances employers are able to work women longer hours than men because men are safeguarded more extensively by trade-union agreements. For women as for men, short hours in industry are necessary to take up the unemployment slack brought about by technological changes and depression retrenchments.

*Legislation enacted since October 1, 1935.*—As comparatively few State legislatures have held regular sessions during the past year, the progress in regard to special labor laws for women has been limited, and achievements in the field of hour legislation exceedingly few. However, a significant advance in regard to a law actually enacted and put into effect was made in Rhode Island, with the reduction in the working hours of women in manufacturing, mechanical, and mercantile establishments from 10 hours daily and 54 a week to a maximum of 9 hours a day and 48 a week. The law allows 9½ hours a day if the 48 hours are worked in 5 days. This measure is of interest, since it is the first definite step taken by any State in the field of special hour legislation for women toward encouragement of the 5-day week. Though South Carolina passed a law limiting the hours of both men and women in textile mills to 8 a day and 40 a week, the law contains the provision that it shall remain inoperative until a similar bill is passed in Georgia and North Carolina. This law is at least a significant gesture in pointing the way, for though it is not at present effective, it could eventually lead to noteworthy progress in legal standards in the South. In South Carolina also a bill limiting the hours of women in mercantile establishments, laundries, and bakeries to a 10-hour day and a 50-hour 6-day week was passed by the house but not by the senate.

Other hour bills of interest were introduced into legislatures and passed by one house. For example, a bill limiting the hours of women in industry to 8 a day and 48 a week was passed by both houses in the Louisiana legislature but was vetoed by the Governor. In Virginia a bill reducing women's hours from 10 to 8 a day was passed by the house, but was killed in the senate committee. In New York the senate passed a bill reducing the hours of woman employees in restaurants from 9 daily and 54 weekly to 8 a day and 48 a week and extending such maximum hours to hotels. The bill was killed in the house.

*Night work.*—An important part of the whole subject of women's hours of labor is that of their employment at night. Though authorities concerned with the welfare of woman workers advocate the abolition of night work for women on the basis of securing for them and their families a healthful and decent kind of human existence, and though a large proportion of the industrial women in the country are not covered by legislation prohibiting night employment, the past year marks almost no legislation along these lines. In Massachusetts the night-work law was amended to add the phrases "girls under 21" and "mechanical establishments" to a previous act forbidding employment of women 21 years of age and over from 10 p. m. to 6 a. m. An act was passed by the Massachusetts Legislature continuing until April 1, 1937, the suspension of the ruling that prohibits women's employment in six branches of the textile industry after 6 p. m.

An unsuccessful attempt was made in Rhode Island to enact a night-work law for women, and in New Jersey to provide penalties for violation of the State legislation prohibiting women's employment at night in manufacturing, bakeries, and laundries, from 10 p. m. to 6 a. m.

*Present status of State hour legislation.*—The situation in regard to the State hour laws for women at present may be summarized as follows:

Only 4 States—Alabama, Florida, Iowa, and West Virginia—have no law of any sort regulating the working hours of women. Indiana has but one limitation of hours—that prohibiting the employment of women at night in manufacturing.

All other States, the District of Columbia, and Puerto Rico have definitely forbidden the employment of women for more than a certain number of hours a day or week, or have penalized all employment beyond certain specified hours by providing that it must be paid for at an increased rate. In many States, however, the number of industries or occupations coming under the law is so small as to affect only a small proportion of all wage-earning women in the State. No State has regulated each industry or occupation by the passage of all types of hour laws. California has the most inclusive hour legislation.

Oregon, with a 44-hour week for women in two industries, can point to the shortest week ever put into effect by a State law.

Only 7 States—Arizona, California, Kansas, New Mexico, New York, Utah, and Wyoming—the District of Columbia, and Puerto Rico have written into their statute books the 8-hour day combined with the 48-hour week for women in some industries or occupations. Though for the most part these are not industrial States, the fact that New York, the largest industrial State in the country, has established the 8-hour day and 48-hour week stresses the possibility and feasibility of all States having similar legislation in the near future. Four other States and one of the seven just listed have an 8-hour daily limit but permit weekly hours in excess of 48 in certain industries or occupations, and four have a 48-hour weekly limit but permit 9 hours a day.

At the other end of the scale of hour legislation are the 19 States in which women may work 10 hours or more daily in some industries or occupations, and the 16 States that permit a working week in excess of 54 hours.

In regard to night-work legislation, 16 States and Puerto Rico prohibit night work for women in certain industries or occupations. The laws of three of these States cover manufacturing only, the law in one applies only to mercantile establishments, and in two others only a small occupational group in each is covered. The period during which night work is prohibited most commonly is from 10 p. m. to 6 a. m.

*Standards for State legislation on hours.*—In discussing advisable standards or essentials for State hour legislation, we wish to quote from the report of the committee on hours of labor as adopted at the Second National Conference on Labor Legislation held in Asheville, N. C., October 4-5, 1935, at the call of the Secretary of Labor.

For 2 years under the N. R. A. codes, the bulk of American industry has adjusted itself to a 40-hour schedule with benefits in both production and reemployment. \* \* \* We believe that the adoption of a schedule of not more than 40 hours by State law in all States will promote the welfare of the Nation for the following reasons: The increase in man-hour production in recent decades has released vast numbers of employees who are not being absorbed in normal economic processes and a workweek of not to exceed 40 hours will serve to give employment to additional persons without adverse effects upon national production. Such benefits as have accrued from the hours regulations of the N. R. A. are being slowly dissipated. American employers have been able to adjust themselves to a 40-hour schedule under codes, and there is no serious question that, on the basis of output and technology, industry can bear the added cost. While shortened hours have hitherto been looked upon as welfare legislation, providing leisure and better conditions for workers, there has been a growing consciousness, not only in this country but all over the world, that a close relationship exists between efficiency and the hours and earnings of the working population. This principle was recognized in the United States through the N. R. A. and throughout the world by the action in June of this year (1935) of the International Labor Conference in adopting the principle of the 40-hour week.

The most desirable standards or essentials for hour legislation as formulated by authorities in the past 3 years may be outlined as follows:

The application of hour legislation, preferably to both men and women, but most certainly to women when men are definitely excluded.

Limitation of maximum hours in industry in general to 8 a day and 40 a week.

At least 1 day of rest in every 7 calendar days.

A lunch period of at least a half hour when a working shift exceeds 6 hours' continuous labor.

Elimination of night work between midnight and 6 a. m., for all employees in manufacturing, mercantile, and mechanical establishments except in continuous processes and other obviously necessary occupations. Prohibition of night work during these hours in service industries in which adjustments can be made to carry the work on by day. Emphasis is placed on the necessity in drafting night-work laws of recognizing differences in different occupations, industries, and localities, and dealing with special circumstances in such a way that they do not interfere with the development of the main body of legislation.

In a consideration of essentials for hour legislation I wish to call attention to a discussion in the report of the Third Southern Regional Conference on Labor Standards held in Columbia, S. C., January 1936. This report recommends "that a practical program for the progressive and rapid reduction of daily and weekly hours for workers be adopted, and that consideration be given to the best hours laws now in effect in the most legislatively advanced industrial States within the competitive area of the southern section of the United States."

It is of interest in this connection to refer again to the 8-hour day and 40-hour week bill passed by South Carolina to be operative only when similar laws are enacted by two neighboring and competing States. We know that some firms in the Southern States still have the 40-hour week in force in their plants, and that such a schedule often is more feasible than the much longer one permitted by the laws of so many States. It seems to me that we should recommend a practical legislative program, one aiming at not more than an 8-hour day and a 40-hour week. If all States in the country were to enact such a law it would be a great step forward.

#### Industrial Home Work

The next important subject that comes up for discussion in connection with labor laws for women is that of industrial home work.

The problem of home work is a particularly serious one because of its far-reaching disastrous effects and because of the need for compre-

hensive and widespread legislation to counteract the evils of this system. When manufacturers, to save overhead expense, send out work to be done in homes, the results are very likely to be shocking exploitation of the women and children who do the work, jeopardizing their health and family life, and undermining factory wages and labor standards, besides the cost to taxpayers who must supplement the low earnings of home workers by relief funds and also must bear the expense of inspection required by legislation in some States, though such inspection is generally inadequate for protection of the consumers' health.

A report on the subject adopted a year ago by the Second National Conference on Labor Legislation stated that "evidences are now available that various processes in some 75 or more manufacturing industries are being given out to be done in homes, that such work is carried on in practically every State in the Union." The report stated further "that the only way to control these growing evils of industrial home work is by its complete abolition", and the committee recommended "as the best method of reaching this goal the enactment of State legislation which will control and ultimately abolish the giving out of work to be done in homes."

*Legislation enacted since October 1, 1935.*—In the year since the adoption of this report, however, very little progress has been made in the States. In fact, only one of the many States without home-work legislation joined the ranks of the States having some type of law. Rhode Island passed a law last April, which went into effect June 1, prohibiting industrial home work except when employers' licenses and home workers' certificates are obtained from the director of labor. It provides specifically for the issuance of certificates to home workers 50 years of age or over and to home workers physically unable to go to a factory. The law provides for issuance of licenses and certificates in any industry in which industrial home work is customary in Rhode Island, unless the workers and the public are jeopardized. It provides for annual graduated employers' license fee. It grants the director of labor power to make rules and regulations concerning home work and specifies certain requirements to be met where home work is permitted; for example, no child under 16 is to be employed. The law exempts individuals or organizations engaged in providing work of a philanthropic, educational, or therapeutic nature.

A noteworthy advance was made in New York in this field when the industrial commissioner, acting on authority given in a law enacted in March 1935, issued his first order banning home work in a particular industry. According to this order all home work in the men's and boys' outer clothing industry was made illegal after April 25, 1936. Prior to the N. R. A. this industry was outstanding in its use of home work. Under the N. R. A. home work was prohibited, and since the

N. R. A. this prohibition has been enforced effectively in the New York City area by strong union organization and employer cooperation. Both these groups were represented at the public hearing and supported the proposal in order to check a tendency on the part of certain firms to return to home work. Commissioner Andrews' order canceled all outstanding home-work permits and certificates. In the merchant- and custom-tailoring branch of the industry, employers were allowed until July 1 to make the necessary adjustments, and in this branch provision is made for the granting of special home-work permits and certificates for aged and disabled workers, under rigid regulations and with the requirement that complete records of production and wages be kept by both employer and home worker.

During the year's legislative session, Massachusetts attempted without success to amend its home-work law by prohibiting such work except by aged or incapacitated home workers. In New Jersey a bill was introduced to prohibit home work in certain specified industries, to make prohibitions possible in other industries by order of the commissioner of labor, and to regulate continuing home work, but the bill was killed in the senate.

The Connecticut Department of Labor and Factory Inspection has reported that its State law on home work, passed in May 1935, has practically eliminated home work in the State, and that in at least two industries—fabricated metal and lace—home work has been brought into the factory with minimum rates of pay which are a great deal higher than those paid formerly and which enable the workers in the factories to earn at least \$13 a week.

*Present status of State home-work legislation.*—To date one-third of the States (16) have some sort of home-work law. Eight of these States have prohibited such work except for immediate members of a family and all except one of these have established by law certain regulations that must be met before work in homes is permitted. In general these requirements are cleanliness, adequate lighting and ventilation, and freedom from contagious and infectious disease. In three States—Connecticut, New York, and Rhode Island—all home workers must be certificated. In four States a member of the family desiring to do home work must secure a license to use the premises for such work, while eight States require the employer to be licensed to give out home work. In five States—Connecticut, New York, Pennsylvania, Rhode Island, and Wisconsin—labor laws for women and minors are applicable to home as well as to factory workers. A few States prohibit the manufacture of certain articles in the home.

*Standards for State legislation in home work.*—You may remember that it was suggested at the conference in Asheville last year that the United States Department of Labor act as a clearing house for information on the passage of industrial home-work goods across State lines, and that the possibilities of Federal legislation to control this

practice be explored. A committee of seven was appointed by the Secretary of Labor to act on this suggestion. Because of frequent requests for drafts of a standard State bill, the committee has given its first attention to this, and such a bill has been drafted and is now available.

The bill is aimed at home work as a method of industrial production; that is, home work given out by and returned to an employer. The bill approaches a solution to the difficulties of control by holding the employer who initiates the home-work process responsible for the conditions under which the work is done, or, if the employer lives in another State, the local contractor who represents him is held responsible. It requires every employer who sends work into homes for processing to secure from the State department of labor a permit, which may be revoked whenever the conditions under which the work is performed are found to be in violation of certain recognized industrial standards. It provides for complete prohibition of industrial home work in certain types of commodities, such as toys and children's clothing, the manufacture of which by means of industrial home work constitutes a special health menace to the ultimate consumer.

The bill furthermore empowers the State labor commissioner to prohibit home work in other industries or parts of industries wherein the practice of home work is found to be injurious to the home workers themselves or to the factory workers in those industries, and makes provision for the procedure necessary to establish these prohibitions. It imposes a special tax on home-work employers on the basis that home work has persisted because of the competitive advantages which the home-work employer has over the factory employer, and that the fee will help to equalize the situation and eliminate the chief cause for practicing the home-work system.

In the meantime, a means of reporting interstate shipment of home-work goods has been established. There is evidence leading to the belief that the passage of home-work goods across State lines from an employer in one State to home workers living elsewhere has become an increasing practice, and a number of the administrators of State home-work laws have become concerned about the practical difficulties of control which this practice has created. The United States Department of Labor is cooperating with State departments of labor in an interstate program to collect specific and detailed information on the extent and character of the interstate shipment of industrial home work.

#### **Recent and Current Minimum-Wage Legislation**

No report on women in industry is complete without attention to the important subject of minimum-wage legislation, but since a detailed discussion of this will be given in another report, I shall merely

stress here the main facts as to recent developments and the current situation.

The year, as we all know, has been a crucial one in this field. In the first place, it was encouraging to see gradual progress in some respects being made throughout the year. Rhode Island passed a minimum-wage law last March and appropriated money for administration of the law. The New Jersey Legislature also appropriated money for the establishment of a minimum-wage division to administer its minimum-wage law passed in 1933. Several of the minimum-wage States have established and put into effect rates in certain industries. On the other hand, the United States Supreme Court's 5-to-4 decision June 1 invalidated the administration of the New York law for adult women. However, the Attorney General of New York has asked the Supreme Court to grant a rehearing on this case. In Washington and Ohio also the State law was brought into the courts. In Washington the constitutionality of the law was upheld in the higher tribunal in the State; the case has now been appealed to the United States Supreme Court by employers. In Ohio, where the case was taken directly into a Federal court, no decision has as yet been handed down.

Two minimum-wage conferences were sponsored by the Women's Bureau of the United States Department of Labor and attended by representatives from minimum-wage States. The purpose of these conferences was to establish uniform standards for the effective administration of minimum-wage laws. A conference on the minimum-wage situation was called by Secretary Perkins after the Supreme Court decision and attended by representatives from 11 of the minimum-wage States. The conferees agreed that they had no choice but to enforce the laws of their States, which are an expression of the will of their citizens. It was decided that investigations of wages paid in industries not yet covered by minimum-wage orders will be continued and the results of these studies made public.

Following the Supreme Court decision invalidating the New York law, the Massachusetts General Court amended its law in several respects, chiefly by placing minimum-wage administration in the department of public health, under a three-headed commission composed of the commissioner of public health, the commissioner of public welfare, and the commissioner of labor and industries, the last named being designated as chairman.

At present 17 States have minimum-wage legislation. These laws are broad in their coverage of industries and were enacted to apply to women and minors, except in South Dakota where only women and girls are covered. The law is in operation for minors only in Minnesota, the attorney general of the State having ruled in 1925 that the law was unconstitutional for adult women.

### Other Developments During the Year

*Interstate compacts.*—Related to the question of minimum-wage legislation is the interstate-compact movement, which during the past year received some impetus. In May, Rhode Island ratified the interstate compact on minimum-wage legislation entered into in 1934 by seven States—Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island, in which these States agree as to the general administrative standards to be included in their minimum-wage laws. Rhode Island is the third of the seven States to take this step, Massachusetts and New Hampshire having already done so.

*Bureau of women and children.*—During the year Louisiana in reorganizing its department of labor established a bureau of women and children.

*The Walsh-Healey Act.*—It is a matter of interest to women to point out another important labor act passed by the Seventy-fourth Congress. We refer to the Walsh-Healey Act, which stipulates that in the future the Federal Government can award contracts only to firms conforming to fair labor standards in connection with its orders for the manufacture or furnishing of materials, equipment, articles, and supplies in amounts exceeding \$10,000, other than contracts of such materials as may usually be bought in the open market, of perishables, of agricultural or farm products (transportation and communication contracts also being exempted). The act requires that the employees to be used in the performance of the contract shall be paid not less than the prevailing minimum wage; that no such employee will be permitted to work in excess of 8 hours a day, or 40 hours a week; that no boys under 16 years of age and no girls under 18, and no convict labor will be employed; that no part of the contract will be performed under working conditions which are unsanitary, hazardous, or dangerous to the health and safety of employees, and that the contractor is the manufacturer of or a regular dealer in the materials to be manufactured. The Secretary of Labor is vested with authority to administer the act. The minimum wage to be paid by such contractors are those wages which the Secretary of Labor determines to be "the prevailing minimum wages for persons employed on similar work or in the particular or similar industries \* \* \* operating in the locality." In any contract where an increase in maximum hours of labor is permitted by the Secretary of Labor, the rate of pay shall be not less than one and one-half times the basic hourly rate. The Secretary of Labor shall have authority from time to time to make, amend, and rescind all rules and regulations necessary to carry out the provisions of the act, and to make exceptions when justice and public interest will be served thereby.

This act will prove particularly helpful to woman workers. In the past the Government in awarding contracts has been forced to accept the lowest bid, and has had no authority to specify under what labor standards the orders should be filled. As a result the employer who used sweat-shop methods of long hours and low pay could underbid the fair employers with better labor standards. Thus the Federal Government was in the deplorable position of being forced to accept goods made under unfair conditions, while it was doing all in its power to raise labor standards in private employment. Where contracts had to be placed with firms having low standards, this injustice fell heavily on woman wage earners, since they are employed to such a great extent in factories making many of the kinds of goods which the Federal Government uses.

Secretary Perkins announced July 18 that "As a matter of practice the first industries which will be studied with a view to fixing the minimum wages will be those in which the minimum wages are known by practical experience to be below a decent standard of living." The law goes into effect on September 28.

#### **Legislation Affecting the Employment of Women in the Canadian Provinces in 1935 and 1936**

It seems proper to include in this discussion the following report submitted by Miss Margaret McIntosh of the Department of Labor of Canada:

Apart from amendments to minimum-wage legislation in nearly all the Canadian Provinces in 1935 and 1936, there was little provincial legislation concerning the employment of women in Canada during these years.

In Quebec, the Industrial and Commercial Establishments Act was amended in 1935 to enable women and young persons to be employed on a two-shift system in factories if the system is authorized by the factory inspector. Before this amendment, these classes could not be employed between the hours of 9 p. m. and 6 a. m. Work could continue until 9 p. m. on not more than 36 days in a year but, normally, women could not be employed after 6 p. m. Under the 1935 amendment, women may be employed on one of two shifts of not more than 8 hours each. The two shifts may not exceed 16 hours in all and must fall within the period between 6 a. m. and 11 p. m. Wherever women are working on the two-shift system, an hour for a meal must be allowed between 10 a. m. and noon and between 6 p. m. and 8 p. m.

A similar provision was made in the Ontario law in 1932.

In Ontario, the sections of the Factory Act dealing with home work were revised in 1936 to give some protection to the wages of home workers as well as to public health. In recent years, home work has been resorted to as a means of evading minimum-wage laws. Employers giving out work to be done at home and home workers must have permits from the factory inspector. A permit may be granted to an employer only if the inspector is satisfied that he is likely to comply with minimum-wage orders. Registers of workers must be kept by employers showing the names and addresses, articles given out, dates of employment, and wages paid. Wages must be in accordance with minimum-wage orders. Provision is made for safeguarding the public health as in the old act.

### Conclusion

In conclusion it need scarcely be emphasized what responsibility rests with the men and women who are representatives of the State labor departments to act in the capacity of both guides and sponsors in regard to the legislative program for women in industry that should be carried on in their States during the coming year. The value in helping to meet this responsibility of special women's divisions within the State departments of labor needs to be stressed. At present such divisions have been established in only about one-fourth of our States, but experience has been sufficient to show that they have done much both to insure adequate enforcement of the existing laws and to aid in pointing the path to the need for new legislation.

All except a few of the State legislatures are scheduled to hold regular sessions in 1937 and possibly the others may meet in special session. A concerted and uniform drive in all States against long hours, unfair wages, and the evils of industrial home work should result in substantial legislative advances. Judging from certain straws in the wind, we have reason to believe that conditions are ripe for the success of such a procedure. We know that many employers are still adhering to the 40-hour week of the N. R. A. codes and would not oppose reduction in the maximum hours for women allowed by law in their States, provided adjoining and competing States took similar steps. Public opinion in all sections of the country, as reflected in newspapers and periodicals just after the Supreme Court decision last June on the New York minimum-wage case, seemed preponderantly in favor of minimum-wage legislation for women. The sentiment against industrial home work has been growing as the public has become increasingly aware of such evils. Moreover, in view of the upturn of business and industry in so many directions, it seems practicable under such conditions to push in a widespread way the enactment of laws to guarantee to a much greater extent the welfare of women. Also it is well to take such steps while the devastating effects of exploitation of workers, resulting from lack of adequate labor legislation to safeguard their interests during the depression, are a matter of such recent experience.

In this whole program the State departments of labor can look to the Federal Department of Labor for every possible assistance. We can cooperate by making special investigations, by furnishing information concerning conditions in particular States, by serving as consultants, by calling conferences to give impetus to State efforts, and by acting as a general clearing house. Any or all of these we shall be more than glad to do.

### *Discussion*

Chairman POWERS. I next introduce Mrs. Daisy L. Gulick, of the Commission of Labor and Industry of the State of Kansas.

Mrs. GULICK. As Miss Anderson has so well covered the report of all the States, I thought it might be of interest to touch upon some phases of women in industry that concern our own State.

So much has been said and written about women in industry that it would seem there was no further need for discussion of this subject. The fight for better working conditions has been as long as our industrial life, but owing to the apathy of the great majority in regard to rules and regulations for female workers this subject is ever before us. It has been said that more than 10,000,000 women in the United States leave homes daily to go to work for pay. Legislation of some sort concerning the employment of women has been enacted in practically every State in the Union. The State of Kansas, exercising its police and sovereign power, has declared that long-continued hours and insanitary conditions of labor exercise a pernicious effect on the health and welfare of women, learners and apprentices, and minors. It is unlawful to employ women and minors in any industry or occupation within the State of Kansas under conditions of labor detrimental to their health or welfare.

Our courts generally have upheld reasonable statutes or orders of authorized commissions with reference to the hours of service and working conditions made to promote the general welfare under the police power of the State.

The first act relating to labor of women in Kansas was the law concerning the rights of married women, which was passed in 1868. That same year the legislature passed a law concerning minors for service. The first apprentice law was passed in 1868. The first real child-labor law was passed in 1889, and in 1903 the law was changed. In 1901 a law was passed prohibiting boys under 12 from working in mines. In 1909 more legislation was passed in regard to minors, but in 1917 several laws were passed which made a marked change in the conditions of employment of children. At the present time no children under 16 years of age are permitted to work in any mine, factory, or any place detrimental to their health or welfare.

The departments of state which have had charge of the administration of labor laws in Kansas are: Bureau of labor, 1885-98; State society of labor and industry, 1899-1912; department of labor and industry, 1913-19; court of industrial relations, 1920-25; public service commission, 1926-28; commission of labor and industry, 1929 on.

Jurisdiction conferred by law upon the industrial welfare commission was transferred to the commission of labor and industry, and all orders and rules made by the industrial welfare commission are now in full force. The commission of labor and industry may establish such standard of hours and conditions of labor for women and minors employed within this State as shall be held reasonable and not detrimental to their health and welfare. The commission may establish

different maximum hours and standards for each class in an occupation in different localities in the State when, in the judgment of the commission, the different conditions obtaining justify such action.

It was under the department of labor and industry that the industrial welfare orders were promulgated. In 1915, orders were issued for the regulation of hours, wages, and sanitary conditions for women and minors in manufacturing, laundry, mercantile, public housekeeping, and telephone industries.

In 1925 the Kansas Supreme Court declared the minimum-wage law for women unconstitutional. In 1927 the orders were rewritten and readopted by the public service commission, eliminating the unconstitutional features therefrom. We do not have an enforceable minimum-wage law in this State.

A question for discussion is: Is it more advantageous to have the standards established by the commission of labor and industry, which would make it easier to change the standards when changing conditions or new knowledge makes change desirable, permits of greater diversity between different industries and occupations to fit their different needs and problems, and makes possible the use in forming standards of advisory committees made up of interested parties, which sometimes results in more practicable standards and more willing compliance; or would the desired result be better obtained in a statute limiting working hours alike in all occupations?

In some Kansas factories where output is seasonal, the commission of labor and industry has granted permits for night work of women, which gave increased employment. This type of night shift began in the evening and terminated not later than 12 o'clock midnight. There can be no denying the fact that very few industries may expect to be always free from sudden demands for extra output, which cannot be met through normal working hours. When an occasional emergency has arisen, this permit has been granted.

#### Married Women

A question receiving considerable discussion in our State is: Shall married women work when husbands are employed? With a scarcity of jobs an attack has been made on the married woman and her right to work. In some cases married women have been dismissed, and it is now the rule in many large industries and utility companies to bar married women.

Large increases in the proportion of gainfully employed married women occurred between 1890 and 1930, according to information of the 1930 census of population made public by the Census Bureau. Of married women, only 4.6 percent were working in 1890, while 11.7 percent, or 3,071,302, were occupied at the time of the last census. Of all working women, the married ones constituted 28.9 percent in

1930, against 13.9 percent four decades before. More than half the single women and those whose marital status was not reported were gainfully employed in 1930, while about 34 percent of the widowed and divorced women were working. With 29.9 percent of its married women gainfully employed, the District of Columbia led all the States in this respect, and is followed by the southern States of South Carolina, Mississippi, and Florida. In the District of Columbia, however, married women formed only 36.8 percent of the total of all working women, and was outranked by several States. Nebraska, Arizona, Mississippi, and Florida all reported more than 40 percent of the gainfully employed women were married. Half the women of 25 or over who apply for work at labor exchanges in England are married.

Married women who are both wage earners and home makers are the most criticized and the least understood of all groups of workers. In a majority of cases husbands are receiving inadequate wages to maintain a decent standard of living for the family, and the wife's income is necessary to keep home and family together and to give children a better education, or perhaps to support elderly parents or relatives.

The married woman has always played an important part in feeding and clothing the family. If a married woman is working one may be quite sure that her husband is unemployed or his wages are too low properly to feed and clothe the family. The course of women's wages fluctuates, rising in time of prosperity and falling in time of depression. Women's wages as a rule are far below those of men. A decent standard of living for a family costs no less when the family is supported by a woman than it does if a man is the breadwinner.

The purpose of the minimum-wage movement in the United States during the past 20 years has been to secure for woman workers by law a wage that will at least insure for them the essentials of living commensurate with the American standard. Standard of living has been described as, "The mode of activity and scale of comfort which a person has come to regard as indispensable to his happiness, and to secure and retain which he is willing to make any reasonable sacrifice." The attitude of a laborer toward his wage or the use to which he puts his wage is an index of his standard of living. If wages are low, the wage earner's family must submit to the evils of overcrowded and insanitary dwellings, which play an important part in the continued existence of low standards of morals. If wages are so reduced that the family must accept alms or help from organized charity groups, the family is forced to enter the ranks of paupers, and thus society is compelled to become a party in lowering his standard of living. The desire to raise and maintain a higher standard of living has been the inspiration for States to make rules and regulations for the betterment of the worker.

What method should be pursued to combat this discrimination against married women, whose need for employment is as serious as that of any other group, and assure her more security in her job?

#### Uniformity of Federal and State Regulations

When sewing rooms and packing plants were established in Kansas under the N. R. A. the State labor department insisted that they, as well as individual factories, comply with the Kansas State labor laws. At first there was some resentment in regard to this, but in time the supervisors agreed with our point of view that State labor laws should prevail. Another difficulty encountered was the long hours required of office girls in the Federal offices. As we do not have a personal service law, we had no jurisdiction over them. It would seem that we, as labor officials who are interested in shorter hours and minimum wage, should do all in our power to have these hours regulated. Just as the individual man has cooperated with his neighbor, so should the States cooperate in securing uniform rules and regulations for woman workers in like occupations.

Some needed legislation in Kansas as well as in other States should be passed in regard to collection of wages. Judicial power and a sufficient appropriation should be granted to the labor commissioner, making it possible to maintain a staff for the collecting of small sums for working women and minors without cost to the worker.

We do not feel that industrial leaders are devoid of an altruistic interest in the welfare of their fellow men. Industries become more impersonal as they gain in size, and are becoming greater only insofar as they recognize that the great masses of the employees are the most vital part of the organization. We believe the businessman is coming more and more to realize that long-continued hours and insanitary conditions are not conducive to productive efficiency, that improved health of his workers means more loyal and contented personnel, and that better results are obtained through cooperation rather than coercion.

Chairman POWERS. I will now call on Mrs. Louise I. Blodgett, of the Department of Labor of Rhode Island.

Mrs. BLODGETT. Rhode Island is the smallest State in the Union, but it has an unusually large proportion of employed women—in fact, larger than any other State in the Union save one. Women also went into industry earlier in Rhode Island than in any other State. The first cotton mill was established in Pawtucket, R. I. Samuel Slater brought the plans for cotton machinery over from England in his head. He went to Pawtucket and boarded in the Wilkinson House and behind locked doors put the plans on paper. He married Hannah Wilkinson, and the first cotton mill was actually functioning there in December 1790. The third week of its existence a woman was

employed—the first woman to be employed in a factory in America, so far as I can find out. As other cotton mills and woolen and worsted mills were established women were employed.

In 1894 the first legislature of Rhode Island reported that they visited 207 cotton, woolen, and worsted mills, and in those mills 27,760 men and 21,067 women and 4,706 children under 16 were working. Less than 45 percent of the people employed in textile mills were men; the rest were women and children. That was probably because the wages of the head of the family were inadequate to support the family, and hence the employment of women and children. Also the working conditions were very bad. During my early school days, before the day of the factory cafeteria, we used to have quite a long noon recess, and when the first bell rang at 11:25 about a quarter of the class rushed out to go home and get the freshly packed dinner pails to carry to the members of the family working in the mill. These working conditions did show up in the general health and welfare of the people of Rhode Island. An unusually high death rate from tuberculosis was disclosed a few years later, and at the time of the World War a larger proportion of drafted men were rejected as physically unfit in Rhode Island than in any other State.

Gradually laws were passed which eliminated the scandalous employment of children in Rhode Island, but in all the 145 years that women were employed there were until this year only two laws passed for the protection of women—the hours law, which provided for 60 hours, and later for 54 hours, per week, and the law providing that seats should be provided for women. Neither of these laws were very well enforced. Up to this year the chamber of commerce in Pawtucket advocated that the laws were most favorable to the employer and the argument evidently had a widespread appeal because it boasted the most diversified industries of any city of its size in the country.

The year 1936 has been a momentous one for women in industry in Rhode Island. Seemingly insurmountable obstacles seemed to vanish as the legislature passed one law after another. From now on the women will share in the benefits of the Rhode Island laws and in the benefits of the amendment to the workmen's compensation law, with coverage of practically all industrial diseases, to many of which women are more susceptible than men. There were enacted this year three laws of primary importance to women—the minimum-wage law, a home-work law, and the 48-hour week law.

The Minimum Wage Act provides for the creation of a division of women and children to administer labor laws for women and children and to protect their general welfare. Under this minimum-wage law we have completed our first survey in the jewelry industry. The jewelry industry employs more women than any other industry except textiles in Rhode Island. When we got about two-thirds through we did a little summarizing, and our report might start off somewhat in

the style of *The Tale of Two Cities*: The jewelry industry is the best and the worst of industries, the highest and the lowest paying industry. Pearls denote wealth, but pearls in Providence, R. I., denote poverty. The artificial-pearl industry pays less than any other industry. Sterling silver pays very high wages. Gold plate, rings, and metal findings pay fairly well. One thing that surprised us was that 10-cent-store jewelry, for the chain stores, pays by no means the lowest wages. Possibly it is because the industry copies expensive novelties that have been successful and gets them before the public without any middleman, and so pays wages that are about medium. It pays higher wages than the men's jewelry industry. Summarizing the industry as a whole, 2½ percent of the workers were earning less than 20 cents an hour. On the other hand, 6½ percent were earning 75 cents or more an hour. Twenty-five percent were earning 27 cents or less an hour, which is rather interesting because under the N. R. A. 27 cents was the code minimum for learners and only 10 percent in any firm could be classified as learners. This shows that the N. R. A. standards are going into the discard. In other ways, too, we are finding that they are more or less a memory. Practically all firms are off the 40-hour week. The 48-hour law is putting our employers at great disadvantage with the New Jersey employers, who have a 54-hour law.

We are interested in getting the garment industries and the electrical plants under wage orders as soon as possible, because we have found an influx of firms in those two branches that we suspect are running away from wage orders in neighboring States. The first home-work law in Rhode Island provides for licensing employers and certification of employees. It provides that licenses should not be issued where wages will jeopardize factory workers, but it is difficult to administer. Some of the manufacturers do raise the home-work rates and some discontinue home work, and we have had them bring down factory rates. It provides that the home work should be delivered and collected at no expense to the employee. Some of them agree and do it; others agree to do it and do not. The employees sometimes pay two or three carfares each day to get their home work. The employer in one case got employees to sign a paper saying that they go downtown anyway and it does not put them to any extra expense. If you remove the employer's license for this, you feel that the home worker may be going hungry. So it is not a very satisfactory law to administer. A good many of the employers who want to send out home work just want to do it in peak seasons. There are a few who send out certain processes throughout the entire year and do not do this work in the factories at all; but most of them, as, for instance, the jewelers and paper-box manufacturers, want to do it in their peak seasons. Until television is perfected and all the homes are equipped with it, I do not

know how we are going to prevent child labor occasionally, and the neighbors from coming in and helping.

We thought that the 54-hour law was as firmly impressed on Rhode Island as the Rock of Gibraltar. It seemed absolutely impossible to change it. A 48-hour law has been introduced every year since 1914. It was reported out of committee only once in 1922. The Democrats then carried on a filibuster to wear down Republican opposition. They had a gas bomb exploded in the senate and went away and stayed away several weeks. This year it was passed, but not without a struggle. It was finally passed at 6 o'clock in the morning at the end of their last long legislative day. Party lines on both sides were broken and it passed with a majority of just one vote. We think it is quite an achievement. It has somewhat unique features such as including business establishments with mercantile establishments. The law has an unusually large coverage. We interpret as a business establishment any concern that is run primarily for profit. Boys of 16 and 17 years are included in the hours regulation in our 48-hour law, and as Miss Anderson pointed out, it allows for a longer working day if the establishment is on a 5-day week. We thought that the prominent achievement was a little clause that required employers to post their minimum-wage rates--both hourly and/or piece rates. We hoped that it would have the effect of encouraging employers to post at least a substantial wage and then live up to it. I think in some cases it has had a desirable effect. The employers did not understand it at first. It has been quite interesting to see what wages were posted and to compare them with the actual pay rolls. One manufacturer was quite satisfied to post a minimum of 10 cents an hour and another said: "Well, the minimum wage in this establishment is 25 cents but I don't like to post 25 cents an hour, because so many of them get less."

Our problems of administration are many. A great many fears are coming up all the time and we are uncertain about a great many things, but instead of telling you about them, I will, in closing, say that we are very glad that in the next set of maps the Women's Bureau gets out Rhode Island will probably be a white State instead of a black or yellow State.

Mr. MAGNUSON (Washington, D. C.). You gave your figures by States, Miss Anderson. Is it possible to say to what extent the textile industry is on the 40-hour week?

Miss ANDERSON. The textile industries work all kinds of hours. Some of them are on the 40-hour week, but you may have a textile mill in the same State that is working longer hours than that. There has been no uniformity since the N. R. A. was declared unconstitutional, and there had never been any uniformity until the N. R. A. came into existence.

Mr. WILCOX (Washington, D. C.). In your excellent report, Miss Anderson, you say: "Inequalities lead to serious consequences, such as the tendency for employers to migrate from States with better laws to those with lower legal standards, and, as a result of such moves, for workers to be left stranded without possibility of finding jobs in their own industrial fields and too often without opportunity for any employment." When I was in New York I made a study of that, trying to get real instances, studying anything that could be offered by the chamber of commerce and several other organizations, and the more we tried to run down particular instances the more we found that some other reason than difference in labor standards was the basic reason for migration. Mr. Swanish prepared an article recently showing to what extent towns have offered exemption from taxes, etc. I wonder if we should include this statement about the migration. If the facts are so it should be said, of course, but I wonder if it is so essentially in the picture that we should set it forth as one of the results of social legislation.

MISS ANDERSON. I was talking about labor standards. I was not going into the whole situation. It is true that in the last few years we also made a study of that question and did not find that labor laws entered much into migration. In the past few years, however, various studies have shown that a great many industries go into the smaller States, where the standards for labor are lower and where they can get people for less money, to get away from unions and from labor standards that may have been set by the States where they were doing business. There are, of course, a lot of other things that enter into the situation. In talking to one textile manufacturer who has five big mills in South Carolina I tried to induce him, before the N. R. A., to introduce some labor standards, because he was a pretty decent employer. He said that he could not do it because of his credit; that he was not sufficiently established in his own right. I then asked him why he had moved to South Carolina from Massachusetts. He said, "You know, we have the 48-hour week in Massachusetts." I said, "But what else did you move to South Carolina for?" "Well," he said, "I moved here because we pay no tax for 5 years and after that we are established pretty well. We build our mill village, and we control our tax. We do not come within the city limit; we are in the country, and we pay very little tax. We are close to the raw material; we have very cheap labor; and we can ship just as easily from Atlanta to New York as we can from Boston to New York." You are right that there are all kinds of things that enter into the situation but labor standards is one of them.

Mr. PATTON (New York). We have just completed a detailed study in New York State of every manufacturing industry listed by the Census Bureau from 1919 through 1933, the latest year for which

census figures are available. The only industry of significance in New York State which has suffered a relative disadvantage is the textile-industry group. We have taken every State in the Union in which textiles are an important part, and discovered that the textile industry has not moved from New York to New Jersey, Pennsylvania, etc., but it has fanned out into a large number of States. In Tennessee from 1918 to 1933 the textile industry increased 20 percent.

Mr. NATES (South Carolina). I think I ought to say something about the 40-hour bill that was passed in South Carolina. It is true that the majority of the textile manufacturers in South Carolina have come from the New England States, as Miss Anderson said, because they can get cheap labor, and also very low taxes. Of course the 5-year limit has run out now. We had a very hard time getting this 40-hour bill passed. Many of the members of the house and senate felt that if we passed such a law it would run the manufacturers out of the State of South Carolina into other territory. The result was that an amendment to the bill was introduced in the house providing that when all other States in the Union passed a 40-hour bill our bill would go into effect. Later another amendment was introduced providing that our bill would go into effect when six other States passed similar laws—Virginia, North Carolina, Alabama, Tennessee, Mississippi, and Georgia. We killed that amendment, but when the two-State amendment came along it passed by a majority of about six votes. Then in the senate we lacked only three votes of killing that amendment. The big argument was that this 40-hour week is only a gentleman's agreement, and if South Carolina had a 40-hour law for the textile industry, with, you might say, no law at all in Georgia, and with North Carolina on about a 60-hour week, it would work a hardship on our manufacturers and possibly bankrupt some of them. That is the reason the 40-hour bill passed was not to go into effect immediately, but we are hoping that our sister State will take action with regard to shortening the hours there.

It is our intention to introduce a general 48-hour bill for the textile and all other industries in South Carolina. The law in regard to the textile industry is for 55 hours per week. Approximately 93 percent of the textile mills in South Carolina are still paying the minimum wage and working only 40 hours a week, most of them in two shifts and some in three shifts, but we cannot get rid of that 7 percent of chisellers unless we do have regulation through laws. South Carolina, I believe, passed as many labor laws as any other State in the Union in the past session. Since we now have a department of labor we are hopeful of getting in the session which convenes in January more laws to help labor as a whole. I am hoping to get some very useful information here to carry back. Our general assembly is considerably

changed this year, but it set up a department of labor, which is to make a survey and report back to the general assembly at the next session as to the labor legislation that is needed in South Carolina. Of course, I know that since the regional labor conference was held in Columbia last June, the manufacturers are beginning to look at human needs more than ever before. That conference has done a great deal of good, and the N. R. A. has done a great deal of good. Many other things have helped the manufacturers to realize that they must put human rights above profit rights, but if it had not been for the labor representatives staying with the members of the house and senate the 6 months they were in session we would not have gotten these bills passed.

# Child Labor

## Problems of Child Labor

*Report of Committee on Child Labor, by L. METCALFE WALLING, Chairman*

The past year has been a significant one in the history of child-labor legislation. It is the year following the invalidation of the N. R. A. codes and the consequent removal of their effect in bringing about higher standards for employment of children throughout the country than had ever existed under State legislation alone. It seems significant, therefore, to review briefly the standards advocated by the International Association of Governmental Labor Officials during the period when the N. R. A. was in effect and their advance as shown by enactment into State law.

Briefly, these standards as recommended in 1935 for adoption by State legislatures are:

1. A 16-year minimum age for employment in all occupations during school hours and in factories at any time, and a 14-year minimum for nonfactory work outside school hours.
2. An 8-hour day and a 40-hour week for minors under 18.
3. Prohibition of night work for at least a 13-hour period for minors under 16 and at least an 8-hour period for minors between 16 and 18.
4. Requirement of employment certificates for minors under 18.
5. Adequate protection of minors under 18 from dangerous work or work involving health hazards.

Standards recommended by the association at previous periods have covered employment of children in street trades, provision for additional compensation under workmen's compensation laws in case of minors illegally employed, and regulation of industrial home work.

The appointment of the committee on child labor in 1932 was concrete evidence of the association's deep interest in the problems of working children—an interest which has been continuous since its organization. The committee began work immediately, and drafted and approved a preliminary set of standards for a general child-labor law for the use of the conference of national organizations interested in child welfare held in Washington in December of that year, to consider the acute child-labor problems that had developed with increasing unemployment. These standards were substantially the same as those which were approved in 1935, special emphasis being placed on the 16-year minimum age. At that time only two States had this

minimum even for factory work, though for a long time the conviction had been growing that children need the years up to 16 for normal development both mentally and physically. Two national conferences, the Conference on Child Welfare called in 1918 by President Wilson and the White House Conference in 1930, had urged such a standard. Nevertheless, in spite of repeated efforts in many States, little progress had been made beyond the 14-year minimum which had been the standard of the first uniform child-labor law adopted by the Conference of Commissioners on Uniform State Laws as early as 1911, and which had been incorporated in the first and second Federal child-labor laws as the standard for factory work. In the early years of the industrial depression, however, the economic waste of allowing children of 14 and 15 to leave school for work when millions of adults were unemployed had been urged as a powerful argument for keeping these children in school, and the facts brought out at the 1932 conference as to return of sweatshop conditions in many places added weight to its strong recommendation for higher child-labor standards. In the following year two States—Wisconsin and Utah—passed laws which included the 16-year minimum and incorporated numerous other advances. Then came the N. R. A., when a 16-year standard was adopted for employment in practically all the industries operating under the act, thus establishing throughout the country a 16-year minimum in industry and trade. The general acceptance of this standard by industry showed that the adjustment was practicable, and while the N. R. A. was still in effect three additional States—Connecticut, New York, and Pennsylvania—adopted the same standard. Rhode Island in 1936 became the eighth State to put this standard into law, Ohio, and Montana, which had adopted this standard in 1921 and 1907 respectively, completing the list.

#### Maximum Hours

Maximum hours of labor standards at the time this committee was appointed had on the whole progressed more rapidly than those affecting minimum age. For a number of years, the 8-hour day and 48-hour week, at least for children under 16, had been fairly general, although a few States permitted children of these ages to be employed for 9, 10, and even unlimited daily hours. For the most part, however, the protection of an 8-hour day and 48-hour week was not extended to 16- and 17-year old minors. In 1935 Pennsylvania reduced hours for children under 16 from 9 a day and 51 a week to 8 a day and 44 a week, and extended the regulation to all minors under 18. In 1936 Rhode Island reduced daily hours for minors under 16, establishing the first 40-hour week for such children, and also fixed a 9-hour day and a 48-hour week for minors of 16 and 17 years. Utah reduced hours of labor for minors in 1933, and in 1935 Massachusetts, New

York, and North Carolina put into effect higher standards for the 16- and 17-year-old group. At the present time two States—Utah and Pennsylvania—have a 44-hour week for minors under 18, and four others (Mississippi, New Mexico, New York, and Virginia) have this standard for minors under 16. Seven States—Florida, Georgia, Idaho, Michigan, New Hampshire, South Carolina, and South Dakota—still permit a longer day than 8 hours for children under 16.

#### Night Work

As to night work, about half the States come fairly close to the 13 prohibited night hours for minors under 16 recommended by the Association, but two States still have no prohibition, a number of others prohibit night work for a shorter period, and only seven States and the District of Columbia meet the standard set for 16- and 17-year-old minors.

#### Hazardous Occupations

In the protection of working minors from hazardous occupations some advance has been made. A number of the members of the International Association of Governmental Labor Officials were represented on the committee of experts which was formed as a result of the 1930 White House Conference on Child Health and Protection to draw up standards regarding hazardous occupations. Enactment of a general 16-year minimum age is in itself an advance in the protection of minors from hazardous occupations, because many of the accidents to minors are caused by factory machines. However, this does not protect the boys and girls 16 and 17 years old. In a few States advance to the 16-year minimum age requirement has been accompanied by further restriction of hazardous occupations for 16- and 17-year-old boys and girls.

#### Employment Certificates

But improved standards, as this organization is well aware, are of little use without adequate provision for administration. With advances to a 16-year minimum there has not been sufficient extension of the employment-certificate provisions to minors of 16 and 17. These children should be required to have regular employment certificates for each job, in order that the enforcing official may know something of the kinds of work they are doing and the conditions under which they work.

#### Industrial Home Work

The past few years have seen a notable advance in attempts to regulate industrial home work. Under the N. R. A. codes the prohibition of industrial home work in many industries where the practice had been common resulted in a useful accumulation of experience as

to both the practicability and the advisability of such prohibition. Connecticut and Rhode Island have passed industrial home-work laws, and New York has revised its law, making it State-wide in application and providing for complete prohibition by the labor department in certain instances. The first step taken under this provision is the prohibition of home work in the men's clothing industry—a notable advance through State law in an industry which on the whole has been for many years partially dependent on this method of production.

#### Progress in 1936

A survey of child-labor legislation enacted in the year 1936 alone shows that significant progress has been made, although not to the extent hoped for when the final draft of recommendations was adopted by this organization last year. Rhode Island has set a precedent by adopting a 40-hour week for minors under 16 and has put into effect a 16-year minimum age for work during school hours and for work in factories at any time. A 9-hour day and 48-hour week for minors of 16 and 17 years, and for all females in manufacturing, mercantile, or business establishments, with a 9½-hour day allowed to make a 5-day week, has also been established in Rhode Island. A law providing for double compensation to illegally employed minors was also passed by the Rhode Island Legislature in 1936. Illinois, in enacting its workmen's occupational diseases act, provided 50 percent additional compensation for minors under 16 illegally employed on the last day of exposure. In Virginia a bill to establish a minimum age of 16 for general employment, with regulation to 18 years, was introduced, but only a few minor amendments were passed. The minimum age for work in a limited list of hazardous occupations was raised from 16 to 18, with the addition of a few new occupations; a badge requirement was established for newspaper-carrier boys; and the provision of the law regarding theatrical performances, previously prohibited for girls under 18 and boys under 16, was liberalized to allow children of any age to appear once a week in nonprofessional amateur performances on permit.

Many other hoped-for advances failed of enactment. For instance in California, Massachusetts, Maryland, Texas, and West Virginia, bills to establish 16 years as the minimum age for employment failed, and attempts to advance hours of labor standards also failed in some States.

Thus, although we may point to some accomplishments, the goal is still far off. It still appears that a Federal minimum is necessary if we are to have an adequate uniform level below which no State may fall, in order to protect not alone the child worker but also the employer who wishes to uphold high child-labor standards. A beginning of such a Federal minimum may be seen in the new Walsh-

Healey law which requires employers taking Government contracts to comply with certain labor standards. This law, however, affects only a small proportion of employers in the country. The uniform protection for all children still depends upon the child-labor amendment which would make possible a uniform minimum of protection in every State.

#### Street Trades

In some States where great progress has been made in eliminating child labor in factories and stores, little boys and even girls are still selling newspapers and magazines on the streets and in cafes. Usually boys are required to have badges in order to sell in public places, but they turn over the actual selling to little brothers and friends who make a pathetic appeal to customers and policemen alike. The street-trades laws are enforced by local police jointly with the school authorities or labor departments in some States, and in only four States—Massachusetts, Minnesota, Rhode Island, and Wisconsin (in first class cities)—are the departments of labor not given power to enforce the street-trades laws. We submit that enforcement of the street-trades laws should be turned over to the State departments of labor, which are better equipped to enforce them than are the police, who are concerned primarily with the public order and safety. It is as essentially an administrative function of a labor department as child-labor regulation. The police are by and large making no attempt to prevent small children of 8, 9, and 10 years getting their first work experience in the night life of the streets, cafes, bowling alleys, and saloons, and it seems unlikely that there will ever be proper enforcement under present conditions.

#### Recommendations

Your committee makes the following specific recommendations: We reaffirm the 16-year minimum age requirement for all occupations during school hours and in factories at any time, and the 14-year minimum for nonfactory work outside school hours; the 8-hour day and 40-hour week for minors under 18; the prohibition of night work for at least a 13-hour period for minors under 16 and for at least an 8-hour period for minors between 16 and 18; the requirement of employment certificates for minors under 18; the prohibition of employment of minors under 18 in dangerous work or work involving health hazards; and we recommend that the State departments of labor be given jurisdiction to draw up from time to time specific occupations and processes which should be prohibited as dangerous. We reaffirm the standards adopted by the Association in 1933 imposing a minimum age of 14 years for boys and 18 for girls for selling newspapers, magazines, or periodicals in public places or for exercising the trade of bootblacks, except that boys of 12 and over may have paper routes

for the distribution of newspapers, magazines, or periodicals in residential districts.

We further recommend that State departments of labor, rather than the local police, enforce the street-trades laws, and that a minimum age of 14 for boys and 18 for girls be required for exercising the street trades except in the case of "paper boys", who may be permitted to have a fixed route at the age of 12.

We reiterate the previous stand of the Association that uniform and adequate protection for all child workers will never be attained until the Federal Government is given power to act through an amendment to the Federal Constitution.

TABLE 6.—How the standards recommended by the International Association of Governmental Labor Officials are met by existing State child-labor laws

Subject	I. A. G. L. O. standard	States having laws meeting I. A. G. L. O. standard
Minimum age.....	16 years for factory work and for all employment during school hours; 14 outside school hours for nonfactory work.	8 States approximate this standard (Connecticut, Montana, New York, Ohio, Pennsylvania, Rhode Island, Utah, Wisconsin). Of these, 4 have a 16-year minimum in factories at any time (Montana, Pennsylvania, Rhode Island, Utah), and 1 (Connecticut) has this minimum in factories and stores at any time. During the N. R. A. a 16-year age minimum was general for practically all industries.
Maximum daily hours.....	8-hour day for minors under 18.	7 States and the District of Columbia have an 8-hour day for minors of both sexes up to 18 years (California, Montana, New York, North Dakota, Pennsylvania, Utah, Washington); 6 other States have this standard for girls up to 18 (Arizona, Colorado, Indiana, Nevada, New Mexico, Wyoming); 39 States have an 8-hour day for minors under 16 years of age.
Maximum weekly hours...	40-hour week for minors under 18.	While no State has established a 40-hour week for minors under 18, this was general standard of N. R. A. codes for adults and minors alike. Rhode Island has a 40-hour week for children under 16. 2 States (Pennsylvania, Utah) have a 44-hour week for minors under 18; 4 other States (Mississippi, New Mexico, New York, Virginia) have a 44-hour week for minors under 16.
Night work.....	Prohibited for 13 night hours for minors under 16. Prohibited for 8 night hours for minors 16 to 18.	10 States meet this standard (Iowa, Kansas, Kentucky, New York, Ohio, Oklahoma, Oregon, Utah, Virginia, Wisconsin). 7 States and the District of Columbia meet this standard (Arkansas, California, Connecticut, Kansas, Massachusetts, Ohio, Washington).
Employment certificates...	Required for minors under 18.	11 States <sup>1</sup> and the District of Columbia require employment certificates for minors under 18 (Michigan, Nevada, New York, Ohio, Oregon, Pennsylvania, Utah, Wisconsin, and, where continuation schools are established, California, Oklahoma, Washington).
Hazardous occupations....	Minors under 18 prohibited from work in a comprehensive list of hazardous occupations. State agency authorized to designate occupations hazardous to minors under 18 and to prohibit employment.	No State equals this standard in all respects though many State laws have some of the same prohibitions. 13 States and the District of Columbia have an agency with such authority (Arizona, Kansas, Massachusetts, Michigan, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Utah, Washington, Wisconsin); 12 other States have such an agency with power extending to minors under 16.

<sup>1</sup> 1 other State (Alabama) requires employment certificates to 17 years; 7 States require age certificates at least to 18 years: Connecticut; Indiana (by ruling); Georgia, Montana, and Tennessee (for certain employments only); Massachusetts (educational certificate); Louisiana (in practice in New Orleans only, for girls).

The experience during the N. R. A. period indicates the practicality of eliminating child labor and we urge that the Association exert whatever influence it can in consolidating the gains which were so spectacularly made under the codes of fair competition. It is no longer a tenable argument to say that the labor of children under 16 in industry is essential to the functioning of the economic process, and we congratulate those States and those employers who have realized the social gain in the elimination of child labor and who are taking a firm stand to prevent its recurrence.

### *Discussion*

Chairman TONE. I will call on Maj. A. L. Fletcher, of the Department of Labor of North Carolina.

Mr. FLETCHER. The report submitted by our child labor committee is very encouraging. When our association set up this committee and started it to work back in 1932, there were only two States in the Union—Ohio and Montana—which forbade the employment of children under 16 in manufacturing establishments. In the year following Utah and Wisconsin adopted a 16-year age limit for children in industry, and during N. R. A. days, Connecticut, New York, and Pennsylvania adopted the same standard. To Rhode Island, which is under the splendid leadership of the chairman of our committee, goes credit for the adoption in 1936 of a child-labor law modeled closely after the law proposed by our child-labor committee and approved by our association. Today eight States have adopted the 16-year age limit.

To the casual observer this may not appear to be particularly encouraging—8 States and 40 to go—but when you consider that those 8 include New York, Ohio, Pennsylvania, Rhode Island, Connecticut, and Wisconsin, all of them industrial leaders, you realize that great progress has been made.

All of you who have been interested in progressive legislation have heard the old, old argument about the peril of taxing industry in your State with burdens and restrictions not placed upon competing industries in other States. That argument has lost us many battles in North Carolina and may lose others for us, but I believe that it is going to be easier sailing next January when I can say to our legislators that the biggest competitors of our manufacturers are bound by the same restrictions which I am asking the legislature to place upon our North Carolina industries.

I think the representatives of the Children's Bureau of the United States Department of Labor who are here today will bear me out in the statement that we have made the most of our child-labor statutes in North Carolina. Under the rule-making power of the commissioner, we have thrown just as many safeguards around the child as the basic law of the State will permit. I realize that we can go no farther until

our State adopts a better child-labor law, or until the Federal child-labor amendment becomes law.

In our State, the State federation of labor has again declared for the amendment and will urge it upon the legislature. In my opinion it will fail of approval as it has failed before. To our State belongs the dubious distinction of having been the first State to reject it. You will recall that Congress proposed it in 1924. We had a special session of our legislature in 1924, and a resolution was adopted unanimously and with great enthusiasm rejecting the amendment. The legislature of 1935 killed it and, in my opinion, the legislature of 1937 will do likewise.

Why? Well, they talk about many things, principally States' rights, unwarranted interference with rights of parents by governmental agencies, unfair restrictions on industry, etc.

I have in mind a campaign of education and personal contact before our legislature meets, that will carry me into every industrial county in our State and will enable me to see every important employer. Many of these men have said to me and to others that they do not want child labor and favor the exclusion of children under 16 from their factories, but they are most emphatically against the Federal child-labor amendment.

To these men I am going to say that I differ with them about the Federal child-labor amendment, but that I am not inclined to argue about it if they will come out for a State law that will outlaw the labor of children under 16. Now that I can show them that their principal competitors in the North and East have already adopted such a law, I believe it is going to be possible to secure its passage in North Carolina. I have used the model law drafted by the child-labor committee of our association, with very few changes, for a new North Carolina child-labor law, and I expect to present it to the people of our State before the legislature convenes.

I am glad to be able to report that child-labor violations are almost unknown in North Carolina. Our employers are obeying the law, and such violations as occur are mainly in rural or semirural communities, where children follow various street trades without supervision. We do not have enough money and personnel to deal adequately with this situation, but we do what we can.

In the larger towns and cities we have no trouble in supervising the working of newspaper boys, because our newspapers cooperate with us exceedingly well. In 1935-36 we certified 967 boys to engage in newspaper deliveries and street sales. This was a gain of almost 400 over the previous year, a result of both improved law enforcement and of the decided upturn in business.

The records of my office show that 716 children under 16 were certified to work in North Carolina business and industrial establishments

between July 1, 1935, and June 30, 1936. Of these, 504 received certificates for full-time jobs and 212 for part-time jobs. It is significant that 492, or more than 60 percent, of these children were certified for work in mercantile, service, or other miscellaneous places of business. Only 156 were certified to work in our textile mills, our largest industry and the one that formerly used many thousands of children.

Back in 1922-23, when our law permitted children of 12 and 13 to hold full-time jobs in any kind of industry, our records show a total of 9,753 certified, 6,901 of them in textiles. In 1926-27, which was our peak year after the law was amended to fix the age limit for manufacturing establishments at 14, we certified 8,302, of whom 6,081 were for textile mills.

While the N. R. A. was in existence, child labor passed out of the picture and nobody was hurt by its passing. Our manufacturers have learned this lesson, and I know they are not eager for the return of children to their mills. In my State, our leading textile manufacturers have used every means in their power to induce their associates to observe the child-labor provisions of the cotton-textile code, and it is significant that these larger mills do not employ children under 16. On September 1, 1936, only 49 of the 720 textile manufacturing establishments of the State had outstanding child-labor certificates, and all of these were small mills, located in rural areas. For example, in our big industrial county of Durham, no child under 16 was certified to work in a textile mill; in Forsyth, only 1; in Alamance, 4; in Guilford, 4; in Mecklenburg, 1; in Gaston, with 104 mills, only 23. These are the State's largest industrial counties.

While the situation is nothing to worry about, I do not think it wise to overlook the lessons of the past. Always, as business improved, child labor has increased, and I am going to do everything in my power to make it impossible for the old conditions which I have told you about to return in North Carolina.

Chairman TONE. I will now call on Mr. W. E. Jacobs, of the Department of Labor of Tennessee.

Mr. JACOBS. It is not my purpose in this brief paper to prescribe a panacea, legislative or otherwise, which will cure the ills centering around child labor. The problem is too complex and far reaching to be dealt with in any such manner. It is, however, my aim to present to you some of the fundamental principles involved, as I see them, hoping that what I say will in some measure help all of us to work more effectively toward bringing about a national child-labor situation which will more closely approximate the ideal.

In order to determine the obstacles which must be overcome in order that we may reach an objective, it is first necessary that we not only have an objective, but also that we agree upon that objective. The following definition of an ideal child-labor situation is tentatively offered as an objective upon which we might all agree;

An ideal child-labor situation would be achieved when every child could receive the maximum character building benefits which result from the performance of regular duties, provided that the performance of such duties does not in any way hinder the child's process of developing into a good citizen.

The metamorphosis of the American family from a social unit almost complete in itself to a group of individuals living in a situation almost entirely free from the necessity of mutual home endeavor has resulted in the elimination of childhood chores. This situation is in a large measure responsible for the present unprecedented instability of our youth. One of our most difficult tasks is to find a substitute for these chores which will not violate the principles of our previously stated objective for child labor.

One important group of families has largely escaped this metamorphosis—farm families. I believe that the training in responsibility and the rewards of disciplined effort gained in the early life on the farm of many of our most prominent men has been greatly instrumental in enabling these men to gain their present positions of prominence.

Before we can determine whether or not certain existing child-labor situations hinder the child's process of developing into a good citizen, we must first approximate an agreement upon what are the factors which tend to make a good citizen, considering only those factors over which we can reasonably hope to exercise some control.

In my opinion, these factors are: 1. The possession of organic health; 2. Adequate opportunity to live a normal life. Man's necessary triumvirate of existence is work, play, and religion, with the emphasis on play where children are concerned; 3. Adequate opportunity for the individual to attain his maximum vocational efficiency in order to insure the highest possible degree of personal economic security; 4. Adequate opportunity to engage in cooperative endeavor so that habits and ideals of cooperative living may be built up.

Obviously, then, a child would be hindered from developing into a good citizen if: 1. He were forced to do such work, and under such conditions, as would injure his present or future organic health; 2. He did no work at all; 3. He had not adequate opportunity for play, particularly cooperative play; 4. He worked under conditions normally degrading; 5. His work prevented him from acquiring vocational skills and knowledge necessary to develop his potential usefulness as a worker to the highest possible degree.

Assuming that we are now agreed upon our objective, our one really big problem remains. How are we going to bring about conditions in harmony with our objective? Legal methods have never been completely effective in creating an ideal social situation of any sort. Our recent experience with the prohibition amendment is one indication of the truth of this statement. Legal regulations are effective in controlling some of the worst features of a social situation. Such

regulations can and should be Federal in character, and Federal regulations should be the first step, but must not be so comprehensive or detailed as to conflict with peculiarly local situations. I believe that the proposed Federal child-labor amendment is as effective and comprehensive as it is possible for such Federal regulations to be without seriously conflicting with local problems.

The effectiveness of any law is dependent upon the preponderance of public opinion behind it. The more localized the law in its application, the greater the probability of there being such a unanimity of public opinion, and hence the greater the probability of its success. In like manner, the problem of creating a desirable public opinion and attitude in regard to child labor is greatly minimized by such localization of effort.

It seems to me, then, that after Federal regulation has done all it can do, the next logical thing to do is for all of us to bend our efforts toward the creation of localized public opinion and attitudes in line with our ideas about an ideal child-labor situation, so that effective local regulations may be established and maintained. A first step in this direction would be the proposal of certain minimum standards for child labor in our own individual city or county.

We should also carefully scrutinize and analyze existing and proposed State and Federal legislation to see if they contain regulations too broad to be applicable to the State or Nation as a whole. In other words, we should make sure that such regulations are capable of being supported by State and National public opinion. In this connection we must again set up our proposed minimum standards.

At all times we must keep in mind that if we keep the objective of producing good citizens foremost we will incidentally render the greatest possible long-range contribution to the creation of an ideal economic order, for no country can advance economically or otherwise beyond the sum total of the possibilities represented by its citizenship.

Mr. PATTON (New York). Mr. Fletcher, do the few child-labor certificates in North Carolina mean that only that few children are employed?

Mr. FLETCHER. We firmly believe that is so, Mr. Patton.

Mr. PATTON. Well, I congratulate you.

Mr. FLETCHER. We do not have such a large force of factory inspectors in North Carolina, but we do have a provision whereby every county has a welfare officer who is a representative of the department of labor. That gives us a careful check.

Mr. PATTON. Is it not voluntary, and not mandatory, with the officer to make those inspections?

Mr. FLETCHER. He is a salaried man.

Mr. McSHANE (Utah). I should like to ask Mr. Fletcher if he thinks it important that an amendment to the Federal Constitution be

adopted in order to help them out in North Carolina. It seems to me that he has done a most splendid job without such an instrumentality.

Mr. FLETCHER. We have gone as far as we can without a Federal amendment or without a new State law limiting the age for employment. In our State under our present law children from 14 to 16 may be employed in the mills, and there are now actually 156 certified to work in textile mills in North Carolina.

Mr. McSHANE. But a Federal amendment to our Constitution will not help you. If you want to help yourself, you can reduce that, can you not? A Federal amendment will not be necessary to enable your own legislature to make a further reduction, will it?

Mr. FLETCHER. That is what I am going to try to do, but I do not know whether I can.

Mr. MURPHY (Oklahoma). I want to congratulate Mr. Fletcher and the people of North Carolina. It certainly is a happy revelation to know of such wonderful progress.

Mr. LORENZ (New Jersey). The approval of working certificates for children between 14 and 16 years of age in New Jersey, as a basis for determining the increase or decrease in child labor, may be interesting at this time. For the fiscal year 1933-34, 2,108 certificates were approved; for 1934-35, 1,934 certificates were approved; and for 1935-36, 4,230 certificates were approved. The fiscal year 1934-35 included the period during which the N. R. A. codes practically outlawed the employment of children under 16 except at domestic service and farm work.

The period following the discontinuance of N. R. A. showed a decided jump, but probably also reflects some slight improvement in business conditions, as we estimate that at least 80 percent of these certificates have been approved for domestic service and farm work. The increase is nothing to be alarmed about as yet, except as showing the trend, as it is quite evident from the certificates themselves that full employment opportunities for children in our State, as evidenced during 1928-29, do not as yet exist. In that fiscal year the schools issued and the labor department approved 18,024 certificates.

Mr. LUBIN (Washington, D. C.). I should like to have a few minutes' discussion devoted to the problems Mr. Jacobs raised, namely, the importance of providing work for children. I hate publicly to take issue with Mr. Jacobs, but I do not feel that any person who was compelled to work as a child, particularly at the expense of play, ever gained anything by the process. Members of my family who were brought up on farms have ever since detested going visiting on a farm. The feeling is that compulsory work for children is necessary to the development of manhood and character, and I should like to hear the attitudes of the people here, to see whether that feeling is justified.

Mr. JACOBS. If the child lives to be 18 or 20 years old without any responsibility, after that age he will not accept any responsibility.

Mr. LUBIN. I wonder whether you teach children to assume responsibility by making them work. I am not so sure that Mr. Jacobs believes that himself. I know he would not make his child work.

Mr. McSHANE. In the final analysis, is it not the particular child and the particular conditions under which he is working that tell whether or not he should be employed? There are some children, perhaps, who should never be employed at hard manual labor. Certainly no child should be employed where conditions are not ideal, but I do not subscribe to that philosophy which says that a child should never learn to work. I know fellows who, as orphans, never knew what it was not to be hungry until they could go out and with their own hands do things to sustain them and build up their bodies. This year, I have two grown sons, one 15 and one 16, in the National Guard. They are real fellows, and can take their place with any man. To say they should not work when they have an opportunity would be foolish. They will be better men if they do work when they are not required to be in school. So I think the physique of the child and the conditions under which he works are the important factors.

Chairman TONE. I think Mr. Lubin's intention was to open up a discussion on vocational guidance or finding out just where a child belongs in this world, as far as work is concerned, instead of having him accept the first job that shows itself. Does anyone else want to discuss the subject?

Mr. NATES (South Carolina). In my State there was an incident which was corrected immediately. About 2 weeks ago I had a telephone call that a boy was working in a hot-dog stand, and that he had been working there for several days without any sleep. I sent the chief inspector there to make an investigation—it was only two or three blocks from the office. We learned that that child was working in a dairy from 12 at night until an early hour in the morning, and then going to work at the hot-dog stand and working through to a late hour at night. He had worked 4 days and nights and had taken 11 aspirin tablets that day to keep awake. We have a law that a child must go to school until he is 14 years of age. He was only 11, so the inspectors took him off the job and carried him home. The law has no penalty. So we do need child-labor laws with some teeth in them. We have the same law that North Carolina has for textile mills, I believe. So far, the commissioner of agriculture and commerce has issued 32 permits, and since June 1 I have issued enough to bring it up to a total of 40 for the past year. We have no law in my State governing the hours for minors in mercantile establishments or any other industry except the textile industry. We are going to

try to get some laws passed, however, that will cut out child labor generally in South Carolina.

Mr. MURPHY. Our child-labor law provides that no child under 16 years can be employed in any gainful occupation, except agriculture and domestic service, more than 8 hours in any 1 day or 48 hours in any 1 week, with 1 full hour off for noontime meal and rest. That takes in every gainful occupation except agriculture and domestic service.

Mr. CRAWFORD (Ontario). Reverting to Dr. Lubin's question, I believe that a child should engage in some purposeful activity, so that when he reaches the age when he should go to work he will go into it with some training for work. I do not believe that child labor is any training for future life. It is, to my mind, a handicap rather than an asset, but it is a greater handicap and a pitiful thing when children are brought up to the age of 16 in idleness, with no purposeful activity at all.

Miss McCONNELL (Washington, D. C.). The training which children get in some kind of educational opportunity certainly gives them better training for useful citizenship and useful work when they become an appropriate age to go to work than if they are taken out of school before they have an opportunity for adequate training, to go into whatever kind of a routine job they can get at that age. Many employers in this country today say they will not take boys and girls for the better jobs in their establishments unless they have finished high school or until they are 16 or 18 years of age. When I was in the Pennsylvania State Department of Labor we had the dubious distinction of having one of the largest child-employing groups of industries in the country. The outstanding industrial establishments of the State of their own volition made rules and regulations establishing a higher minimum age for entrance into employment in their plants than we had been able to establish through State law.

Mr. LUBIN. In that connection, we have just completed a study of engineers and the effect of the depression on engineers. One of the things we tried to find out was the effect education has upon their future. We found that the group who went through engineering school, by the time they were 23 years of age were not making the money that the boys who had learned the job in the plant but not gone to school were making; by the time they were 30 the boys who went to school were way ahead, and by 45 or 50 they were making three times as much.

# Wage-Collection Laws

---

## Wage-Collection Laws and Their Administration

*Report of Committee on Wage-Collection Laws, by E. I. McKINLEY, Chairman*

For the great number of wage earners who are completely dependent each week upon their wages it is important to receive their pay without delay. To the individual worker the loss of a week's wages brings want and privation. No statistics exist which tell the extent to which wages are unpaid, but that many workers have had the experience of not being able to secure their pay is clear. The records of legal-aid societies, of State labor departments, and of small-claims courts indicate that many employees receive their wages only after bringing legal action or threatening to do so. A recent publication of the Federal Bureau of Labor Statistics relating to the Growth of Legal-Aid Work in the United States says that during the decade from 1924 to 1933 over 20 percent of the cases undertaken by legal-aid societies involved wage claims. The total number of wage-claim cases handled by such societies within that same period of time exceeded 300,000. The Commissioner of Labor and Statistics of California reported that in his State alone for the fiscal year ending June 30, 1934, more than \$1,000,000 was collected for some 60,000 employees. These figures, of course, are confined to those workers who have brought their cases to the attention of either the legal-aid societies or the State administrative officials charged with the duty of aiding employees to secure their wages.

Many workers cannot bring their cases to the courts. The expense and the delay of litigation make it difficult for the wage earner to get his day in court. The plaintiff who is seeking to obtain wages which are due him is at great disadvantage. Crowded dockets and the necessity of observing procedural forms delay the final disposition of cases. But an employee cannot wait for his pay envelope. He needs immediately for the present necessities of life the money which he has earned. Even a short delay causes hardship. To give an employee his wages after the lapse of some weeks and often of months which it takes to dispose of cases in the courts is a denial of justice.

Moreover, litigation in the courts of law is expensive. There are fees for filing the case, fees for issuing the summons and subpoenas. There are entry fees. Many people have not the ready money to

make the necessary prepayment of such costs. Then, too, the amount of money involved in single wage-claim cases is usually small. To the average worker the few dollars which may be withheld from his weekly earnings are very important. But the costs of bringing civil action in courts are out of all proportion to the amount of money involved, and in many instances exceed the possible recovery for which claim is made.

In addition the claimant in court needs a lawyer. Although a man may represent himself in court and prepare and argue his own case, the average layman cannot be expected to cope successfully with legal technicalities in opposition to an adversary represented by a trained lawyer. Most wage earners cannot afford the expense of hiring an attorney. Without the opportunity to secure legal advice, a claimant is faced with a serious handicap in prosecuting his wage claim.

The disadvantages which face the wage claimant were early recognized. In 1879 the Massachusetts Legislature passed the first statute which attempted to mitigate the plight of the worker who found it necessary to go to the law for aid in securing his wages. This act required weekly payment of wages. Since that time a number of States have passed different types of wage-payment and wage-collection laws. The present draft prepared by the committee has taken those features from the various laws which it felt are most workable and best in making it possible for the wage earner to recover his wages. In the suggested draft it has included those devices which it is hoped will make for a speedy and inexpensive procedure in the settlement of wage claims.

The proposed draft requires all employers to pay employees their wages in full, semimonthly. It requires that discharged employees be paid within 24 hours of the discharge. Those who resign are to be paid within 72 hours of their resignation. Where employees strike, they must be paid wages which are due them on the next regular pay day. These provisions appear in many State statutes relating to wage payment and wage collection.

A very important section of the draft places the enforcement of these provisions with the State labor commissioner, or the equivalent administrative officer. The official in charge has the power to hold hearings and take testimony. It has been the experience of those State labor commissioners who have the duty of administering wage-payment laws that most cases are settled at this point of the proceeding. Here the labor commissioner and his staff can advise the worker as to his rights, whether he has a claim or not, and how to go about obtaining his wages. Many wage-claim disputes arise because of misunderstandings as to the obligation of the parties. The commissioner, through his power to obtain the facts, can determine the wages which the parties have agreed upon and usually obtain a settlement.

Empowering the commissioner of labor to enforce the law and hold hearings goes far in remedying the inadequacies of the law with respect to the wage earner and his claims. An administrative official handling wage-claim cases has, by virtue of specialization, an advantage over the courts which must render decisions covering the entire field of the law. Nor is the labor commissioner bound by the technical rules of procedure and evidence which cause so much delay in litigation. Through the method of informal hearings the commissioner can speedily determine the facts of the case and usually persuade the contestants to settle upon the basis of his findings.

But all cases cannot be settled by the commissioner. There are claims the validity of which must be decided by the courts since the parties can come to no agreement. To aid the wage claimant who is thus compelled to go to court, this draft permits the commissioner to take assignments of the worker's claim and sue the employer on behalf of the claimant. This relieves the worker from the necessity of hiring a lawyer to secure wages due him.

The committee believes that the enactment of statutes following the pattern of this draft will do much to meet the present inadequacies of the law with respect to wage claimants. Labor commissioners having the power to enforce wage-payment laws in conjunction with legal-aid societies and small-claim courts, where these exist, will make it possible for wage earners to receive that legal protection which the law entitles them. Criticism and correction of this preliminary draft is invited in the hope that in its final form the model bill will achieve its aim.

#### Proposed State Wage-Payment and Wage-Collection Law <sup>1</sup>

SECTION 1. *Definitions.*—(a) Whenever used in this act, "employer" includes every person, firm, partnership, association, corporation, receiver or other officer of a court of this State, and any agent or officer of any of the above-mentioned classes, employing any person in this State.

(b) "Wages" shall mean all amounts at which the labor or service rendered is recompensed, whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other method of calculating such amount.

SEC. 2. *Semimonthly pay day.*—Every employer shall pay to his employees the wages earned semimonthly or twice during each calendar month, on days to be designated in advance by the employer as the regular pay day: *Provided*, That the employer shall pay for services rendered during the first and fifteenth days, inclusive, of any calendar month, by the eighteenth day of the month during which the said services were rendered; and for all services rendered between the sixteenth and last days, inclusive, of any calendar month, he shall pay by the third day of the following month. He shall pay such wages in full, in lawful money of the United States, or checks on banks, convertible into cash on demand at full face value thereof.

<sup>1</sup> Recommended by International Association of Governmental Labor Officials, Sept. 26, 1936. (See p. 230).

Drafted by the following joint committee appointed by the Secretary of Labor and the president of the International Association of Governmental Labor Officials: E. I. McKinley, chairman, Commissioner, Bureau of Labor and Statistics of Arkansas; Morgan Mooney, Deputy Commissioner of Labor of Connecticut; W. A. Pat Murphy, Commissioner of Labor of Oklahoma; Harry R. McLogan, member of Industrial Commission of Wisconsin; O. B. Chapman, director, Department of Industrial Relations of Ohio. Secretary to committee, Jean A. Flexner, U. S. Department of Labor; legal adviser, Henry Lehman, U. S. Department of Labor.

Additional copies may be obtained by writing to the Division of Labor Standards, U. S. Department of Labor, Washington, D. C.

SEC. 3. *Posting and notification.*—(a) It shall be the duty of every employer to notify his employees in writing at the time of hiring of the day, the hour therein and place of payment, of the rate of pay, and of any change with respect to any of these items prior to the time of said change. Alternatively, however, every employer shall have the option of giving such notification by posting the aforementioned facts, and keeping them posted, conspicuously at or near the place of work where such posted notice can be seen by each employee as he comes or goes to his place of work.

(b) Every employer shall post and keep posted, in a similar manner as prescribed for the posting in paragraph (a) of this section, an abstract of this act furnished by the labor commissioner; *Provided, however,* That the provisions of paragraph (b) of this section shall not apply to domestic labor in private homes or agricultural labor.

(c) Failure to post and to keep posted any notice or abstract as well as any failure to give written notice as prescribed in this section shall be deemed a misdemeanor, and punishable as such.

SEC. 4. *Employees who are separated from pay roll before pay days.*—(a) *Discharged employees.* Whenever an employer separates an employee from the pay roll the unpaid wages or compensation of such employee shall become due immediately, and the employer shall pay such wages to the employee within 24 hours of the time of separation.

In case of any failure to pay wages due an employee within 24 hours of a demand therefor, the wages of such employee shall continue from the date of separation until paid at the same rate which said employee received at the time of the separation. The employee may recover the penalty thus accruing to him in a civil action. Said action must be commenced within 60 days from the date of separation: *Provided, however,* That any employee who secretes or absents himself to avoid payment to him or who refuses to receive payment when tendered shall not be entitled to any penalty under this paragraph for such time as he avoids payment.

(b) *Employees quitting.*—Whenever an employee (not having a written contract for a definite period) quits or resigns his employment, the wages or compensation earned shall become due and payable not later than 72 hours thereafter, unless such employee shall have given 72 hours' previous notice of his intention to quit, in which latter case such employee shall receive his wages and compensation at the time of quitting.

(c) *Industrial disputes.*—In the event of the suspension of work as the result of an industrial dispute, the wages and compensation earned and unpaid at the time of said suspension shall become due and payable at the next regular pay day, as provided in section 2 of this act, including, without abatement or reduction, all amounts due all persons whose work has been suspended as a result of such industrial dispute, together with any deposit or other guaranty held by the employer for the faithful performance of the duties of the employment.

SEC. 5. *Unconditional payment of wages conceded to be due.*—In case of a dispute over wages, the employer shall give written notice to the employee of the amount of wages which he concedes to be due and shall pay such amount without condition within the time set by this act: *Provided,* That acceptance by the employee of any payment made hereunder shall not constitute a release as to the balance of his claim.

SEC. 6. *Provisions of law may not be waived by agreement.*—Nothing contained in this act shall in any way limit or prohibit the payment of wages or compensation at more frequent intervals, or in greater amounts or in full when or before due, but no provision of this act can in any way be contravened or set aside by a private agreement.

SEC. 7. *Employer's responsibility for contractor's pay roll.*—(a) Whenever an employer shall contract with another, herein called the subcontractor, for the performance of the employer's work, then it shall be the duty of such an employer to provide in such contract that the employees of the subcontractor shall be paid according to the provisions of this act; and in the event that such subcontractor shall fail to pay wages to his employees as specified in this act, such employer shall become civilly liable to the employees of the subcontractor to the extent that such work is performed under such contract in the same manner as if said employees were directly employed by such employer.

(b) The provisions of paragraph (a) of this section shall likewise be deemed applicable to any person, firm, partnership, association or corporation who not being an employer, and hereinafter referred to in this act as an "indirect employer", contracts with a subcontractor for the performance of his work.

SEC. 8. *Enforcement.*—(a) It shall be the duty of the labor commissioner to insure compliance with the provisions of this act, to investigate as to any violations of this act, and to institute or cause to be instituted actions for penalties and forfeitures provided hereunder. The labor commissioner may hold hearings to satisfy himself as to the justice of any claim, and he shall cooperate with any employee in the enforcement of a claim against his employer or any "indirect employer" as defined in section 7, in any case whenever, in his opinion, the claim is just and valid.

(b) It shall be mandatory upon all district attorneys and prosecuting attorneys of this State to prosecute all cases, both civilly and criminally, which shall be referred by the labor commissioner to such officers.

(c) It shall be the duty of all such officers to prosecute actions, both civil and criminal, for such violations of this act as come to their knowledge and to enforce the provisions hereof independently.

SEC. 9. *Records, subpoenas, etc.*—(a) Every employer shall keep a true and accurate record of hours worked and wages paid each pay period to each employee in such form as may be prescribed by the labor commissioner. He shall keep such records on file for at least 1 year after the entry of the record.

(b) The labor commissioner and his authorized representatives shall have the right to enter any place of employment for the purpose of inspecting such records and seeing that all provisions of this act are complied with: *Provided, however,* That paragraphs (a) and (b) of this section shall not apply to domestic service in private homes, nor to agricultural labor.

(c) Any effort of an employer to obstruct the labor commissioner and his authorized representatives in the performance of their duties shall be deemed a violation of this act and punishable as such.

(d) The labor commissioner and his authorized representatives shall have power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, pay rolls, documents, and testimony, and to take depositions and affidavits in any proceeding before said labor commissioner.

(e) In case of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witnesses to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the circuit court of any county, or the judge thereof, on application by the commissioner, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

SEC. 10. *Personnel.*—The labor commissioner, pursuant to the law of this State, may employ such clerical and other assistants as may be necessary to carry out the purposes of this act, and shall fix the compensation of such employees and may also, to carry out such purposes, incur reasonable and necessary traveling expenses for the said commissioner, his deputies, and assistants.

SEC. 11. *Forfeiture and penalties.*—(a) Any employer who shall violate or fail to comply with any of the provisions of this act, shall forfeit \$10 for each such violation or noncompliance. Each day of failure to pay wages due such employees at the time specified in this act shall raise a separate and distinct forfeiture. All such forfeitures shall be recovered in an action of debt in the name of the State of-----

(b) Any employer who shall violate, or fail to comply with any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$25 nor more than \$50 for each separate offense, or by imprisonment of not less than 10 nor more than 90 days, or by both such fine and imprisonment.

(c) Any employer who, having the ability to pay, shall willfully refuse to pay the wages due and payable when demanded, as in this act provided, or who shall falsely deny the amount thereof, or that the same is due, with intent to secure for himself, or any other person, any discount upon such indebtedness, or with intent to annoy, harass, or oppress, or hinder or delay, or defraud, the person to whom such indebtedness is due, or who hires additional employees without advising each of them of every wage claim due and unpaid and of every judgment that the employer has failed to satisfy, shall in addition to any other penalty imposed upon him by this act, be guilty of a misdemeanor, punishable by a fine of not less than \$50 and not exceeding \$100, or by imprisonment for a period not less than 1 month and not to exceed 3 months, or both, if the sum involved does not exceed \$200; and if the sum exceeds \$200, by imprisonment for not less than 6 months nor more than 1 year.

SEC. 12. *Assignment of wage claims to labor commissioner for recovery by civil action.*—The labor commissioner shall have power and authority to take assignments of wage claims, rights of action for penalties provided by section 4 of this act, mechanics' and other liens of workers, not to exceed \$200 in the case of any one claim without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner, are entitled to the services of the commissioner and who, in his judgment, have claims which are valid and enforceable in the courts. The commissioner shall have power to join various claimants in one preferred claim or lien, and in case of suit to join them in one cause of action.

SEC. 13. *Costs of civil actions by labor commissioner.*—(a) In all actions brought by the labor commissioner as assignee under section 12 of this act, no court costs of any nature shall be required to be advanced nor shall any bond or other security therefor be required from the said commissioner in connection with the same.

(b) And any sheriff, constable or other officer requested by the said commissioner to serve summons, writs, complaints, orders, including any garnishment papers and all necessary and legal papers, within his jurisdiction, shall do so without requiring the commissioner to advance the fees or furnish any security or bond therefor.

(c) Whenever the commissioner shall require that the sheriff, constable or other officer whose duty it is to seize property or levy thereon in any attachment proceedings, or to satisfy any wage claim judgment, said officer shall do so without requiring the commissioner to furnish any security or bond in such action. And such officer in carrying out the provisions of this paragraph shall not be responsible in damages for any wrongful seizure made in good faith.

But whenever anyone other than the defendant claims the right of possession or ownership to such seized property, then in such case the officer may permit such claimant to have the custody of such property pending a determination of the court as to who has right of possession or ownership of such property.

(d) Any garnishee defendant shall be required to appear and make answer in any such action, as required by law, without having paid to him in advance witness fees, but such witness fees shall be included as part of the taxable costs of such action.

Out of any recovery on a judgment in such a suit, there shall be paid: First, the witness fees to the garnishee defendant; second, the wage claims involved; third, the sheriff's or constable's fees; and fourth, the court costs.

SEC. 14. *Separability of provisions.*—If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances shall not be affected thereby.

*Memorandum to accompany draft<sup>2</sup> of wage-payment and wage-collection law*

This draft bill does not propose a new and untried piece of legislation, but is a composite of the provisions found in existing State laws. While no one law contains all of the suggestions, there is a background of experience for each of the following sections. What the draft attempts is to select from existing statutes and administrative practices those which seem best calculated to achieve the objects set forth, and to phrase them in unambiguous legal language.

The object of this legislation is (1) to bring about payment of wages, in full, on regular pay days known to all employees, at intervals that are sufficiently close together to enable the employees to live on a cash rather than a credit basis; (2) to assure prompt payment of workers separated from the pay roll so that they will be free to look for other jobs; (3) to enable the State department of labor to render assistance in collecting valid claims for wages due and unpaid, without expense to the wage-earner claimants, and without undue delay.

SECTION 1. *Definitions.*—The draft law covers all private employers whether they are corporations, partnerships, or individuals, and includes receivers. If in any State it appears desirable to have the act apply to the State, to its political subdivisions, or to quasi-public corporations, special provision must be made.

<sup>2</sup> The tentative draft submitted with the committee report is omitted, the proposed law as recommended by the I. A. G. L. O. being shown on p. 141.

Coverage of both individual and corporate employers is actually more common among State laws than coverage of corporations only. Of 39 States requiring certain classes of employers to observe regular pay days, 15 apply to corporations only or to railroads only, while 24 apply to corporations, individual employers, and partnerships, in one or more occupations. The wage-payment laws of California, Connecticut, Indiana, Massachusetts, Michigan, Montana, Nevada, New Jersey, New York and Wisconsin apply to all employers in all industries.

The draft bill defines employer to include "agents and officers" of employers. This provision is important, in order to hold responsible the individuals in a corporation or firm who have the authority relating to time and place of wage payment. The wage laws of California and Massachusetts contain a similar provision.

Unlike other types of legislation which are difficult to enforce as regards employers of domestic and farm labor, on account of the inspection problem, there is no difficulty in making this type of law applicable to domestic and farm labor, for the law is not enforced by inspection, but rather on complaint. There is just as much reason to protect the agricultural or domestic worker against non-payment of wages as there is to protect any other worker. The State labor department officials who now try to make collections for such workers report frequent abuses and requests for assistance. Among the States in which the wage laws already extend to either farm or domestic workers, or both, are Arkansas, California, Massachusetts, New York, and New Jersey.

SEC. 2. *Semimonthly pay day.*—Unless pay days come at frequent intervals, their value to the employees is diminished because the employees will have drawn their money in advance, at a discount, and when pay days do occur there are no cash settlements to be made. In actual practice the spacing of pay days, and the length of holdover, varies somewhat among reputable concerns. Some employers pay weekly, others every 2 weeks, some bimonthly. Employers of large numbers of piece workers find it difficult or impossible to settle up to, and including, the day of payment. The suggested language allows some latitude for these practices.

The reason for specifying that the employer shall pay wages in lawful money or in readily convertible checks is to prevent payment of wages in nonnegotiable scrip. The words "in full" are added to the sentence to prevent an employer from making a partial payment at 16-day intervals, with settlements in full at very much longer intervals, thus, meanwhile, keeping the employee in debt.

SEC. 3. *Posting and notification.*—Such a provision as that suggested will assist the department of labor in its efforts to accustom employers to meeting their pay-roll obligations regularly, thus avoiding one of the most difficult problems in wage-claim collection—namely, the accumulation of large arrears of wages owed. Posting will notify the employees of their rights and instruct them how to obtain assistance by promptly reporting delinquent employers, rather than trusting to promises for an indefinite period.

The employer is allowed a choice of method in the draft law; that is, he may notify each employee either in writing or by posting pay days. It is believed that in most businesses employers will prefer to post the notification. However, such a requirement would be impracticable in the case of agricultural or domestic labor in private homes. Similarly, the posting of the act or an abstract thereof is not required in private homes or on farms.

SEC. 4. *Employees who are separated from the pay roll before pay day.*—When the employer takes the initiative in separating an employee from the pay roll, good practice is to pay the wages owed forthwith, thus freeing the employee to look for another job, without the necessity for returning to his former work place at a time which may be inconvenient to his new employer or to himself. The bill makes this practice mandatory, and if the employer does not pay a discharged

employee, a special penalty is in order. When the employee takes the initiative, it is reasonable to allow the employer a somewhat longer interval in which to procure the money to pay off the worker, but at the same time it is grossly unfair to leave the latter without any assurance from the law that he will be paid. Probably the majority of wage claims are submitted by employees who have resigned their jobs, often because they become discouraged with repeated and unfulfilled promises to pay. Unless the wage-payment law requires payment on demand, at the time of quitting, or within a reasonable time, the worker is greatly handicapped in collecting his claim, through either the department of labor or by civil suit. The draft bill allows a 3-day period.

Employers sometimes seek to prevent strikes by withholding from their employees wages in whole or in part if they go on strike. The provision declaring that the wages of striking employees must be paid on pay days, the same as if the employee had not struck, is aimed at such undesirable practices.

SEC. 5. *Unconditional payment of wages conceded to be due.*—The requirement that wages conceded to be due must be paid without delay has been found to facilitate greatly the work of the department by reducing the amounts to be collected. Moreover, if there is to be an upper limit on the size of claims that the commissioner of labor may accept for collection through civil suit, this clause operates to bring within the permissible range a number of claims that would be too large if the employer were permitted to withhold the entire amount owed until the exact amount and validity of the claim had been established. Furthermore, the worker usually needs what money he can get promptly.

SEC. 6. *Provisions of law may not be waived by agreement.*—To permit employers and employees to waive the provisions of the law with respect to pay by mutual agreement would enable the employer, on account of his superior bargaining power, to nullify the provisions of the act, by making employment conditional upon terms at variance with the act; for instance, stipulating that employees shall be paid monthly instead of semimonthly, as required by this draft, or paid in orders on company stores instead of in cash.

The practices which the law seeks to make general are already followed by the vast majority of employers. The relatively few employers who wish to withhold wages for longer periods than this law would permit, or who wish to pay their employees in scrip, are responsible for the abuses against which this bill is directed.

SEC. 7. *Responsibility for contractor's pay roll.*—The object of this section is to hold those who contract out their work—whether or not they are actual employers—responsible for seeing that the contractor meets his pay-roll obligation.

SEC. 8. *Enforcement.*—Like other labor laws which rest upon the police power of the State, the law dealing with times and methods of wage payment should be enforced by the department of labor. The present tendency is to centralize the enforcement of the wage-payment laws in the labor department, and to authorize the labor commissioner to use these laws to make collections for employees. A number of States have recently amended their laws to vest this power and authority in the labor commissioner. Those States in which the largest sums are collected annually for workers on wage claims are States in which the labor department has been given the broadest authority.

Except in States where the labor commissioner can conduct his own prosecutions, district attorneys and prosecuting attorneys should be directed to prosecute all cases, both civilly and criminally, referred to them by the labor commissioner. If it is thought desirable to supplement the work of the labor department, the prosecuting and district attorneys can be authorized to enforce the act independently. In States where such duplication of effort seems undesirable, clause 8 (c) can be omitted.

SEC. 9. *Records, subpoenas, etc.*—In order that this law be helpful in settling disputes over the amount of wage claims, there should be a provision requiring

employers to notify employees at the time of hiring of the rate of pay (sec. 3 (a)), and also a provision requiring employers to keep a record of the time worked and the wage paid on file for a certain period—at least a year (sec. 9 (a)). While such a requirement, applying to all employers and all employees, may provoke some protests, employers are rapidly becoming accustomed to it, for record keeping is mandatory under an increasing number of laws, including hour laws, minimum-wage laws, and the Federal tax connected with unemployment compensation.

The records should be available for inspection by the wage-claim adjuster either at the plant, or at the department of labor, depending upon the nature of the case. If the labor commissioner and his deputies do not already possess a general right of entry, power to inspect books, and power to subpoena witnesses and payroll records, in connection with the duty to enforce all labor laws, these powers should be specifically conferred for the purpose of enforcing this law, as is set forth in section 9. This will enable the commissioner to hold hearings on wage-claim cases, to which both parties can be brought by summons, in an effort to arrive at the facts preliminary to court action.

SEC. 10. *Personnel*.—No law can be effectively administered without personnel, yet the personnel requirements of this type of law are not great. Provision should be made for a wage-claim division within the department of labor to receive complaints regarding nonpayment of wages, to hold hearings and to administer the wage-collection provision.

SEC. 11. *Forfeitures and penalties*.—The consensus of opinion among labor law administrators today is in favor of holding an employer liable for meeting his payroll obligation in the same manner as he is held liable for workmen's compensation in States having compulsory coverage. Simple failure to pay in accordance with the terms of the law should constitute a violation, and the enforcing agency should not be required to prove willful or fraudulent character of failure to pay, in order to obtain a conviction.

The proposed draft submits several penalty sections. It is believed that some States may wish to include all of them, in order to meet the varied situations that arise, including first offenders, habitually careless or irresponsible employers, and cases in which fraudulent intent is obvious. However, in some States it may prove inexpedient to try for the enactment of all three sections. The question has been raised whether a criminal penalty involving a sentence of imprisonment may be construed by the courts as imprisonment for debt. The question has been studied by the legal advisers of the committee that drafted this bill, and it is their opinion that in nine States the question will not arise because these State constitutions contain no prohibition on imprisonment for debt.<sup>3</sup> In most of the remaining States the State courts have not passed upon the question as to whether imprisonment for violation of a wage-payment statute constitutes imprisonment for debt as defined by the State constitutions. A legal memorandum dealing with this question will be sent upon request, by the Division of Labor Standards, United States Department of Labor, Washington, D. C.

Whatever the penalty provided—*forfeiture, fine, or imprisonment*—it will be most effective if the law provides that employers and officers and agencies of corporations will be held personally liable for violations.

SEC. 12. *Assignment of wage claims*.—Criminal penalties and forfeitures as provided in earlier sections of the draft do not necessarily bring about settlement of all claims. The employee, of course, retains his right to bring an action in contract to collect wages to which he is entitled. The wage earner, however, usually has not the financial resources necessary to hire a lawyer and advance court costs. Thus, to make available to the average wage earner judicial machinery in the col-

<sup>3</sup> These 9 States are: Connecticut, Delaware, Louisiana, Maine, Massachusetts, New Hampshire, New York, Virginia, and West Virginia.

lection of wage claims, liens and accrued penalties, such plaintiffs may, under section 12, assign their claims to the labor commissioner for collection. The labor commissioner will enter suit on behalf of the complainant for the collection of the amounts due. If there are several complaints against one employer, the commissioner should be authorized to join the claims in a single action, thus saving a great deal of duplication of effort for both courts, employers, and plaintiffs. The aggrieved wage earner can then go about his own affairs and if necessary leave the State in search of work elsewhere, secure in the knowledge that his claim is in competent hands, and that whatever legal steps are necessary will be taken for him. States which have given this power to the labor commissioners include California, Michigan, Nevada, Oregon, Washington, and Wisconsin.

To prevent the misuse of this authority it is usual to place an upper limit on the size of claims that may be handled in this way. The draft bill suggests \$200 per claim as a reasonable limit. The operation of section 12 is further limited to persons who in the judgment of the commissioner are entitled to such a service, and whose claims he deems valid and enforceable in the courts. Thus the commissioner can rule out claims which are too old, or exaggerated, or concerning which there is insufficient evidence, and can also decline to assist claimants who have adequate means to take their own cases to court.

SEC. 13. *Costs of civil action by the labor commissioner.*—This section proposes to permit the labor commissioner to bring civil action as assignee on behalf of wage earners without any cost to the department of labor. In this way an insufficient appropriation will not operate completely to prevent court action by the labor commissioner. The separate subsections define in detail the manner in which costs are to be apportioned.

SEC. 14. *Separability.*—In the event that any section of the bill is held unconstitutional, this section is intended to limit the operation of such a decision to the offending section.

#### *Discussion*

Chairman TONE. I now call on Mr. Russell J. Eldridge, of the State Employment Service of New Jersey.

Mr. ELDRIDGE. My discussion will take the form, at least at the outset, of a description of the processes and the situation in New Jersey.

The State of New Jersey, a populous industrial and agricultural Commonwealth, as far back as 1899 recognized the necessity of protecting the wage earner, and so enacted legislation in his behalf designating and directing the department of labor through the commissioner to enforce its provisions. The early statute, with its subsequent amendments, is quasi criminal in application, and provides, in the main, for the payment of wages in full at least every 2 weeks in lawful money of the United States, with a penalty, to the use of the State, of \$50 for the first violation of its provisions and \$100 for each subsequent violation thereof, the alternative being a jail commitment not exceeding 200 days. The penalty is imposed by a district court, justice of the peace, or magistrate, after issue of process by summons or warrant at the suit of the department of labor as plaintiff, based upon the complaint of an authorized employee of the department of labor, and prosecuted by the attorney general. The statute further provides that the employee may have a civil remedy in any court

of competent jurisdiction. Agricultural workers and water men are excluded as employees benefiting under this act.

To carry out the provisions of the statute, the commissioner of labor of the State of New Jersey designated an assistant known as a wage-claim adjuster to entertain and investigate wage complaints, to adjust wage disputes, to prepare and sign the complaints that put in motion the legal machinery to prosecute an alleged violator of the wage-payment law.

The work of the adjuster was voluminous and the results not altogether satisfactory. In many instances the defendant employer, after issuance of summons or warrant, paid the wages claimed and costs assessed rather than submit to the fine which might be imposed or its alternative, but when the wages claimed were in excess of the penalty the defendant paid the fine and thus left the employee to his remedy of a civil action, the institution of which meant delay and expense.

Under the law, the commissioner or his adjuster had no authority to compel the attendance of witnesses or defendants at a hearing to determine the merits of a wage complaint, and as an administrative officer had to content himself with the practice of dunning alleged violators of the law, intimidating individual employers by threats of prosecution, and hoping for the best from corporations by his adeptness in the use of honeyed and convincing phraseology. Yet, notwithstanding the inadequacy of the legislation, many thousands of dollars went into the coffers of the wage claimants.

It became increasingly evident that the application of the early statutes was not producing the desired results. Greater and greater were the number of claims presented for collection. The wage earner was not particularly concerned with the penalties imposed for the benefit of the State. He wanted his wages and more ardently did he want them without delay or expense, and so despite the usual difficulties attending the presentation of labor legislation, there was enacted in April of 1934, a statute, the provisions of which have given the wage claimant a more adequate, quicker, and nonexpensive remedy.

The 1934 statute did not commence to function until November of 1935. To understand more clearly its operations and effects a summary of the routine followed is herewith submitted. In the first place a distinctive advantage is gained by the creation of a wage-collection division of the department of labor. This branch of the department is subdivided into two districts, each manned by a wage-claim adjuster designated by the commissioner as a referee, one in charge of the northern counties and the other the southern counties of the State. The function of the referee is quasi judicial as well as administrative, and his hearings are had in what is popularly referred to by the legal fraternity and the layman as the "wage claim court."

A claimant submits his case in the form of a petition containing such questions as will elicit information pertaining to the merits and legality of the claim. If the facts submitted warrant, a civil suit is entertained by the division through summons and complaint attested in the name of the commissioner of labor and sealed with the seal of the Department of Labor of the State of New Jersey. A State process server or constable is designated to make service for a return date indicated on the face of the summons. On the return date a hearing is had, at which the parties to the suit and their witnesses are sworn and testimony adduced, at the conclusion of which the referee makes an award, in some instances with costs, which can only be assessed against a defendant, and in others without costs, particularly in cases where the defendant has at all times been willing to pay the amount claimed and the plaintiff has never accepted. It must be understood here that the referee is empowered to investigate any claim for wages and in such investigation may summon the defendant, subpoena witnesses, administer oaths, take testimony, and make a decision or award where the sum in controversy, exclusive of costs, does not exceed \$200. It will be further noted that the defendant may file a set-off or counterclaim for any liquidated damages he may have against the plaintiff, and an employee may be any natural person who works for another for hire.

After the award is made and the notation indicated on the docket, which docket is a permanent file of the division, containing a complete record of each claim filed with the department, the defendant is notified that he has 5 days within which to pay the award. At the expiration of 5 days, if the award is not satisfied, a certified copy thereof is filed with the clerk of the court of common pleas of the county in which the defendant resides, a judgment is therein entered against the defendant, and the sheriff is instructed to levy execution thereon. This procedure, of course, entails added costs to the defendant, all of which must be paid before the judgment can be marked satisfied.

The statute provides that either party may appeal from the award of the referee to the court of common pleas, provided a notice of appeal and bond in double the amount of the judgment and costs are filed with the division within 20 days of the date of the award. The appeal in reality is a trial *de novo* and either party may bring on the hearing at any time upon 10 days' notice to the other party or his attorney.

The wage claimant is not precluded from seeking his remedy in a court of competent jurisdiction, and when a claim is filed with the wage-collection division either party may make application for a jury trial, in which event the wage-collection division shall file the entire record in the case in a district court or justice's court for trial by jury of the issues presented by the claimant or defendant. A

jury fee in this case is collected by the wage-collection division and turned over to either the district court or justice's court. It will be observed that no fees or costs are assessed against the plaintiff and that the wage-collection division, the county clerk, and the sheriff must bide their time for the collection of fees until the defendant has satisfied the judgment and all the costs.

Summarizing the operations of chapter 91, P. L. 1934, the commissioner of labor or his representatives have been given broader authority in handling wage-claim disputes. The plaintiff may have his cause adjudicated in a civil action more quickly and without expense. He further has a right to appeal from the award of the referee. The defendant also is protected in that he may submit a set-off or counterclaim for liquidated damages and also has the right of appeal from the award of the referee.

Because the 1934 statute has been in operation but a short time its beneficent effects cannot be readily ascertained, but from the statistics available there is sufficient evidence to show that the wage earner has benefited more by its enactment than he did under the earlier act, and certainly he is more pleased with the expeditious manner in which his case is handled.

The law of 1899 has never been repealed and is still effective whenever the sheriff is unable to levy execution on goods, chattels, or real property of a defendant, and while it is true that the methods of procedure of the wage-collection division under chapter 91, P. L. 1934, are more dignified and produce far better results, the act of 1899 still possesses the "teeth" to bring to justice the deadbeat and habitual violator.

I am not prepared to discuss all of the recommendations of the committee. Perhaps the fact that I have outlined the method of procedure in the civil field may be considered itself a discussion of the report in that phase of its recommendation which may lead to discussion by the group.

Mr. SWANISH (Illinois). I have no desire to discuss the report, but I should like to suggest what to me is an innovation so far as legislation of this sort is concerned. Legislation of this sort seeks to correct an abuse after it has been permitted. We are putting a lock on the door after the horse has been stolen. I would suggest that we might combine legislation of this type with compensation insurance—that the new enterpriser be required to execute his bond for the assurance of the payment of a week's wages, or wages for any other period; that he either place a deposit of a sum to pay a week's wages with some agency in the State government, or execute a bond for the same purpose.

Chairman TONE. In relation to what you have said, we had a great deal of difficulty in our State with road contractors. We passed legis-

lation whereby anyone who receives a State contract must be bonded, so that labor will be taken care of first. As a result we have not had any more fly-by-night road contractors in our State. I think it is a very good idea. I presume that there will be a great deal of opposition to it, but, personally, I think it is a step in the right direction to compel so many employers to assure workers of their wages.

Mr. McKINLEY (Arkansas). I believe that would be a splendid idea, but it would not reach the cases covered by this proposed act; for instance, domestic help and the small business man. As the chairman has just stated, we have had the same experience on road building, but it is now protected as you suggest. A law of that kind is fine, but it protects only the cases of the larger employers. A great many of our cases work in some home—we very seldom have to file a suit. To get the money is the main thing, but under that plan you could not do it for domestic servants, and in bankruptcy cases, etc., that we handle. The main thing is to have someone to interest himself in collecting the money without cost to the laborer. The amounts are small, and the court procedure in our State is not so slow. We hardly ever have an appeal case.

Mr. ELDRIDGE. Our compulsory wage-payment law really did not become effective in court until 1926, and I think almost ever since that time I have been in and out of the legislature trying to get new laws and amendments. We did consider the suggestion of the gentleman from Illinois to employ a bond as a guaranty for the payment of wages. We did not get far. The legislative leaders felt that that was an undue freezing of assets of all businesses just to get at the "gyp" contractors or itinerant employers. We did not get anywhere with that.

I have read the report of the committee and should like to make remarks on one or two of the recommendations. I see that the committee's recommendation has covered that situation with a plan, describing the individual to be held personally responsible as the one with authority relative to time and place of wage payment. Possibly that might not be considered quite exact enough in fixing individual responsibility of an officer or an employee of a corporation. It would be too easy to put the bookkeeper or timekeeper on the spot. I respectfully suggest that that be considered.

Another angle that strikes me is this: It is all very well to recommend ideal conditions and procedures, but I have had a little experience before the legislature and I know that if you come before it with a plan or proposal which can be fairly criticized or knocked down, you do not have the same chance for success as if you bring it a plan which you can support from practical business experience. That is why I am saying what I do about the corporation. I should like to say something of the same sort about the recommendation of

the committee to cover farm and domestic employment in the general provisions. If I am correct, you recommend making payment of due debts of farm and domestic workers compulsory. I found it easier to get legislation in a new direction, if it can be shown to be parallel with common usage or common practice. The compulsory feature of the model act makes wages a thing which is earned and must be paid, with almost no question, as soon as the work is performed, or by virtue of the performance of the work. That is generally true in factory and industrial employment, but in the farm field contractual obligations are more commonly used than in other employment. I suggest that the compulsory feature as to domestic and farm workers might be modified and covered in the other phase of the act providing machinery for adjustment of disputes.

Mr. WENIG (Iowa). The conditions in Iowa in connection with wage-claim collections were very bad up to about 3 years ago, but in 1933 our legislature passed an act making the highway commission, the county, or the municipality that was negotiating public works responsible for the payment of wages and claims under the act. We have had only one claim which sifted on through which was not paid—that was the wage claim of three men who worked on a subordinate contract. These three men worked hard and quite a while, and did not draw any money. The highway commission said it understood when it released the employer's bondsmen that he had paid all wage claims. There was nothing we could do about it but go before the claims committee, and the claims committee of the legislature paid it.

In Polk County, where Des Moines is located, we have a conciliation court. If a person presents a case to us which we think is legitimate, we give him a letter to the clerk of the conciliation court in Polk County. He goes there and presents his case the same as he did to us. If the clerk finds from the evidence that the person has a claim he collects \$1 from the person, if he has it. The clerk then brings all the parties into his court, all costs and damages in this case falling on the defendant. But in the other counties in our State we have no such procedure to follow. We are badly in need of a wage-collection law to govern our whole State, as Mr. McKinley's committee suggests, especially with reference to domestic, restaurant, store employees, etc. We have no law which requires the employer to notify his employees a certain length of time before their services are terminated. We submitted a bill to the legislature, but there were three lawyers on the senate committee which considered the bill. We did not get it out of that committee.

Mr. MURPHY. We all seem to have the same trouble. We have no law in Oklahoma, though we have made two attempts to get it. Both Washington and California have splendid laws. Four years ago, and again two years ago, we introduced a bill similar to the laws

of Washington and California, but at both times there was a preponderance of lawyers in the house.

Mr. ANDREWS (New York). Last year the New York State Bar Association introduced a very good bill which did not in any way take anything from the claimant. I see now that the expectation was to get the money from the employers. I should like to make a motion to the effect that the work of this committee has been so valuable that the president be requested to continue the committee for another year.

Mr. MCKINLEY. It is a standing committee.

Chairman TONE. Then there is no need for such a motion.

Mr. McSHANE. We find in our jurisdiction only about three sources from which we have difficulty over wage collections—the petty operators who turn an employee adrift owing him from \$20 to \$50, the contractors and particularly some subcontractors, who sometimes get away with a little larceny themselves, and the wildcat-mine operators who come into the State and try to capitalize the labor of our miners. These mine operators show the miners some blueprints, and convince them that there is no question but that there is a bonanza at a particular point on the blueprint, and that that is the objective they must work for. The mine operators promise that they will furnish the miners with food, sleeping quarters, etc., and that they will pay the men when they strike the ore. We have had a great deal of trouble with these wildcat-mining affairs, but it is the small claim that gives us the most trouble. Some of the legislators got up in arms about it about 15 years ago and came to me and asked what could be done about it. I told them I could draft a bill that would clear up our troubles, but that they would not pass it. I would draft a bill that required all corporations to deposit in a bank in the county in which the operations were to be carried on, or in a bank contiguous to that county, a sufficient amount of money to meet at least 30 days' pay roll. Of course, that bill never got out of committee. Regarding the small claims, we did make an experiment—I suppose that we copied it from some other State. We established a small-claims court to take care of employees who have claims up to \$50. The employee makes his complaint to our commission, we investigate it, and then send him to the small-claims court. It gets results and it does not cost the employee anything.

Mr. MCKINLEY. Ninety-nine percent of the lawyers do not want this kind of business. If a lawyer has to depend upon a percentage of a small wage claim for a livelihood, he had better get out of the law business. There is so much trouble in connection with the things—they have not the facilities, they do not get the action. In the collection of small claims the department of labor, of course, uses lawyers, but the general practitioner outside of the labor department does not

want to be bothered with these claims. In our State a claim of \$100 or over is beyond our jurisdiction. The great majority of lawyers will be behind a bill of the kind we are suggesting.

Mr. McSHANE. In defense of the lawyers, I will say that the bar association of my State each year designates a lawyer to whom the commission may refer worthy claims where there is some considerable amount involved, and he handles it for a very nominal sum.

Mr. McLOGAN (Wisconsin). Our bar association has a legal-claim department, not only to collect wages, but for all other legal claims, and anyone may have its services absolutely gratis.

Mr. LUBIN. I do not want to throw any aspersions upon the legal profession, but I do not believe it is a question of having lawyers collect these claims. The lawyer must get evidence and go into court and argue the case according to the rules of the court, and it may take 6 months for the hearing to come up. That is too slow a process for people who need their wages. The purpose of these small-claims courts is to avoid the routine and red-tape procedure and the necessity of a lawyer, and to see that the fellow gets his money right away, when he needs it. I think we ought to lay aside the groundwork of the legal profession helping the person in a small wage claim, and get back to the problem of seeing to it that the fellow can get his money when he needs it.

Mr. WENIG. I believe Mr. Lubin is absolutely right in that. Here is another point I have found in our State. If a claimant can be assured that his claim is going to be expeditiously adjusted, and that he can transfer it to his creditors, he can go on without his family suffering, but if it is going to take 6 or 8 or 9 months the merchant is not going to extend him credit.

# Home Work

---

## Regulation of Home Work

*Report of Committee on Industrial Home Work by MORGAN R. MOONEY, Chairman*

The problems raised by the practice of industrial home work are as old as the factory system itself, and remain today among the most important unsolved social and economic evils attendant upon modern industrial production.

The extent of industrial home work makes these problems of widespread importance. Such work is carried on in the smallest rural communities as well as in large industrial cities. It is not confined to particular areas, and has been found in every State in the Union and in all types of communities. The Women's Bureau of the United States Department of Labor lists products of 75 industries in which it is known that home work is carried on. The processes range from the least skilled work to delicate hand craftsmanship. Home work is distributed through the mails, by messenger, through an intricate system of contractors and subcontractors, is taken home direct from the factory by workers employed there, and in some cases by the sale of raw materials and the purchase of the finished article by the manufacturer.

Labor standards in industrial home work are deplorably low. The method of payment is usually by the piece, and rates are so low as to yield earnings insufficient for a bare subsistence. Hourly earnings of 2 to 5 cents are not uncommon, and individual cases of even lower earnings have been reported. Hours of work are considerably longer and exhibit a greater degree of irregularity than in comparable factory occupations, and child labor is common, partly due to the attempt to earn a sufficient amount to support the family and partly through the necessity of finishing a given amount of work within the time specified by the manufacturer. Sanitary conditions are often poor and lighting insufficient.

The effects of the practice of industrial home work reach far beyond the actual home workers themselves. The existence of home work tends to undermine labor standards in industry. Employers cannot continue to maintain labor standards in the face of home-work competition where the employer of home workers not only pays lower wages, but is free from expenses for rent, taxes, insurance, light, and heat.

Society itself bears a considerable burden as a result of industrial home work. It has been estimated that from 15 to 50 percent of home workers on specified products were on relief rolls in 1934. Consumers of articles made in the home cannot adequately be protected from the spread of disease which is a result of unsanitary conditions in the home workshop. Finally, the detrimental effects of industrial home work in the undermining of family life aggravate many serious social problems.

#### Present Status of Legislation

Toward the end of the nineteenth century the deplorable working conditions in the so-called sweatshop industries all over the world aroused a considerable wave of public feeling, which culminated in two types of protective legislation for home workers. In Australia, and later in Great Britain, minimum-wage laws applying to home workers as well as factory workers were established. As a result, the number of home workers was decreased and their wages increased so that they more closely approximated factory standards. The principle of regulating industrial home work through minimum-wage legislation has prevailed in the majority of countries outside the United States. At the present time, France, Norway, Czechoslovakia, Austria, Germany, Spain, and the Argentine Republic have wage-board machinery for setting wages in home-work industries to raise earnings to the factory level. In several other countries minimum-wage laws have been applied to home workers.

Home-work legislation in the United States has been of a different type. Investigations of sweated industries in New York, Pennsylvania, Massachusetts, New Jersey, Indiana, Maryland, and Ohio in the 1890's revealed the same deplorable conditions among home workers that had been found in Australia and England. The result of these investigations was the passage of the so-called antisweating laws in a number of States. The aim of these laws, however, was sanitation and protection of the consuming public, focusing on an improvement of physical surroundings rather than actual working conditions. Indeed, it was the consensus of opinion at that time that legislation was not the proper method of attack on the long hours and low wages found in home work. Another factor influencing the trend of legislation was the fact that a New York law passed in 1883 prohibiting the manufacture of cigars in city tenements was declared unconstitutional on the ground that it was an economic and not a health measure. Up to the present time, though approximately one-third of the States have enacted minimum-wage laws, they have not been used extensively to control industrial home work. California and Wisconsin specifically refer to home workers in wage orders and Connecticut set a minimum wage for home workers in the lace

industry, but there is little mention of a home-work problem in the reports of the other minimum-wage States.

As of July 1, 1936, 16 States had statutes or official regulations governing industrial home work.<sup>1</sup> Three laws (Connecticut, New York, and Rhode Island) were passed in 1935 and 1936 and institute a stringent regulatory system attempting to raise labor standards as well as to compel sanitation, and are aimed at the eventual elimination of home work. The laws and regulations in the other States, with the exception of California where home work regulations are a part of several minimum-wage orders, are the outgrowth of the antisweating laws mentioned above and, for the most part, are intended for the protection of the consumer.<sup>2</sup>

A condensed summary of these State regulations appears in the following table, and a digest of the laws is appended.

TABLE 7.—Requirements of State home-work laws

Home-work law contains or requires—	California	Connecticut	Illinois	Indiana	Maryland	Massachusetts	Michigan	Missouri	New Jersey	New York	Ohio	Oregon	Pennsylvania	Rhode Island	Tennessee	Wisconsin
Sanitation standards.....	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Inspection of premises.....		X	X	X	X	X	X	X	X	X	X		X	X	X	X
Limitation to family residents.....		X	X	X	X	X							X	X	X	X
Prohibition on some products.....									X	X		X				
Regulation of child labor.....		X	X						X	X			X	X	X	X
Regulation of hours.....		X	X										X	X	X	X
Regulation of wages.....	X	X	X										X	X	X	X
Employer permit.....	X	X		X			X		X	X			X	X		X
Member of family permit.....					X	X							X	X		X
Home worker certified.....	X	X			X	X	X		X	X			X	X	X	X
Employer records.....	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Fees and taxes.....	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Penalty for violation.....	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Applies to specified products.....	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
Home-work materials labeled.....					X	X	X	X	X	X	X		X	X	X	X

#### Weaknesses of Existing Legislation

The first and most obvious weakness of the existing legislation on industrial home work is its limited application both geographically and industrially. In 32 of the States, there is no regulation of industrial home work whatever, though it is known that home work is carried on in all 48 States. The absence of legislation in two-thirds of the States is particularly significant in the case of industrial home work because of its mobility. It is a relatively simple matter for an employer of home workers through the use of contractors and subcontractors or the direct use of the mails to withdraw home work from a State in which there are prohibitions or strict regulations and send it to a State where no legislation exists. Because of the fact that home work is carried on in many industries, legislation applying only to selected

<sup>1</sup> These States were California, Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, and Wisconsin.

<sup>2</sup> Massachusetts and New Jersey introduced home-work bills in 1936 which were not passed.

industries, as is the case in half of the States having home-work legislation, is obviously inadequate.

Child labor, long hours, and low wages are characteristic of industrial home work. Only eight of the States having home-work legislation attempt the regulation of one or more of these evils. Seven apply the child-labor law of the State to home workers; four, the maximum-hour laws for women; and four attempt the regulation of wages.<sup>3</sup>

The workmen's compensation laws do not apply to home workers in the majority of States with home-work laws. Obviously, the welfare of the home workers themselves is not adequately protected by existing legislation. Home workers are presumably covered by all of the unemployment-compensation acts to date. At least home work is not specifically exempted in any act. It is possible, however, that the courts may rule that home workers are independent contractors and therefore not covered by the law.

Protection of the consumer by the maintenance of sanitary conditions was the aim of the early antisweating laws, which still comprise the major part of existing home-work legislation. However, only three States—New York, New Jersey, and Oregon—prohibit home work on articles where the health hazard is great. In the other States, inspections are the means of securing sanitary conditions. Because of the large number of homes scattered over wide areas, the adequacy of routine inspections may be seriously questioned as a means of protecting the consumer of products manufactured in homes.

The very number of home workers, the scattered and shifting places of operation, and, in most States, the relatively small number of inspectors available make the regulation of home work, from the point of view of both health and working conditions, extremely difficult. Though this situation prevails in practically all of the States, only three have apparently adopted the principle of the eventual abolition of home work in their laws. Connecticut and Rhode Island limit the issuance of certificates to home workers to special cases, while New York provides for the elimination of home work in a given industry if conditions warrant such a step. Only by such methods can the dimensions of the home-work problem be reduced to such an extent that regulation is possible.

Finally, existing legislation fails to solve the problem of the distribution of home work across State lines. Connecticut restricts the issuance of employer permits to firms located within the State, and Pennsylvania requires a nonresident employer to designate a contractor within the State to represent him, but the balance of the laws do not cover the interstate distribution of home work. As long as

<sup>3</sup> Connecticut, Illinois, New York, Pennsylvania, Rhode Island, Tennessee, and Wisconsin apply the State child labor law; Connecticut, Pennsylvania, Rhode Island, and Wisconsin, hours for women; and California, Connecticut, Rhode Island, and Wisconsin, wages.

this means of evasion is open, the practice of distributing home work cannot be effectively controlled.

#### New Legislation

The need for new and expanded legislation in the field of home-work regulation is obvious. With no such legislation in two-thirds of the States and inadequate laws in the majority of the others, further legislation is both desirable and necessary.

In view of the fact that regulation of industrial home work and effective enforcement of desirable working conditions in homes is almost impossible, the outright prohibition of home work is probably the most satisfactory solution of the problems raised. However, such a step faces immediate and practical and legal difficulties and probably could not be taken in the majority of the States. If complete prohibition of home work is impossible, a stringent regulatory program should be enacted, directed toward a decrease in the number of home workers, the improvements of working conditions, and the maintenance of sanitary and healthful work places.

A decrease in the number of home workers may be achieved by putting into effect a licensing and certification system. The employer of home workers or his agent within the State should be required to obtain a license to distribute home work and each home worker should be required to obtain a certificate before engaging in home work. The issuance of certificates should be restricted to those who, by reason of age, physical incapacity, or required presence in the home, are unable to work in a factory. Another step leading to the gradual elimination of home work is the incorporation of provisions in the law making possible the prohibition of home work in any industry in which the welfare of the employees or the public requires it. A combination of these two plans is the most desirable, and, if efficiently administered, may reduce the number of home workers to such an extent that regulation is effective.

The raising of labor standards in home work to the level prevailing in the factory should be the aim of legislation. State labor laws (child labor, workmen's compensation, unemployment compensation, hours, and minimum wages) should be applied to home workers. The responsibility for compliance with the labor laws should be placed on the employer of home workers or his representative within the State, and the holding of an employer's license conditioned upon such compliance. The issuance of certificates should also be conditioned upon the payment to the home worker of the same rate of wages that is paid for similar work in the factory. As an aid to enforcement of the regulations, the employer should be required to keep records of the names and addresses of all home workers, the rate of wages paid to each and the amount earned each week, and the amount of work given out to each home worker.

The protection of the health of workers and consumers is an essential of home-work legislation. A thorough investigation of each application for a home-worker's certificate, including inspection of the premises to insure a sanitary and healthful work place, should be made. No certificates should be issued in homes in which infection or communicable disease is present. Home work should be prohibited on products where there is a serious health hazard either to the consuming public or to the workers.

In the case of industrial home work, the necessity for adequate appropriations and effective enforcement cannot be overemphasized. Unless careful, periodic inspections are made, the entire system of regulation described above is useless. It is probably advisable to require the employer of home workers to bear the expense of regulation through the payment of fees for licenses and the imposition of a tax on home-work products.

The interstate aspects of the problem of home-work regulation deserve considerable study. As partial control, the adoption of a provision in the State home-work law making residence a condition of receiving an employer's license or requiring a nonresident employer to designate a responsible representative within the State is desirable. This procedure does not solve the problem of the shipment of home-work materials into a State where there is no regulation and the subsequent competitive sale of the products of unregulated home work. It is recommended that the home-work committee appointed by the Secretary of Labor investigate the effectiveness of Federal legislation similar to the Hawes-Cooper Act regulating the interstate shipment of prison-made articles, with a view toward applying such a regulatory device to the products of industrial home work.

#### **Proposed State Law to Regulate and Tax Industrial Home Work <sup>4</sup>**

The people of the State of \_\_\_\_\_, represented in Senate and Assembly, do enact as follows:

**SECTION 1. *Legislative purpose.***—This State has long recognized that employment of men, women, and children under conditions detrimental to their health and general welfare, results in injury not only to the workers immediately affected, but also to the public interest as a whole. This recognition has produced a broad program of regulatory legislation to conserve the public welfare. The continuance of an unregulated industrial home-work system in this State runs counter to that program, since it is usually accompanied by excessively low wages, long and irregular hours, and insanitary or otherwise inadequate working quarters. Employment of young children in industrial home-work occupations is frequent, but effective supervision of this child-labor evil has not been attainable under

<sup>4</sup> Endorsed by International Association of Governmental Labor Officials, Sept. 26, 1936. (See p. 232.)

Drafted by Walter Gellhorn, professor of law, Columbia University, acting as legal adviser to the following committee appointed by the Secretary of Labor: Frieda S. Miller, director, division of women in industry and minimum wage, State Department of Labor of New York, chairman; Anne S. Davis, assistant chief supervisor, minimum wage division, State Department of Labor of Illinois; W. E. Jacobs, Commissioner of Labor of Tennessee; Beatrice McConnell, director, industrial division, Children's Bureau, U. S. Department of Labor; A. Louise Murphy, industrial economist, Division of Labor Standards, U. S. Department of Labor; W. A. Pat Murphy, Commissioner of Labor of Oklahoma; Mary Elizabeth Pidgeon, chief, research division, Women's Bureau, U. S. Department of Labor; John J. Toohy, Jr., Commissioner of Labor of New Jersey.

present statutes. The dangerous consequences of this system may fall upon the consumer of its products, as well as upon the men and women who are its work force. The preservation of the system, moreover, endangers the protection of the workers in factory industries, which, being forced to compete with industrial home work, are under pressure to relax the established safeguards of life, health, and the public welfare. After study of experience and reported investigations, the legislature is convinced that industrial home work must eventually be abolished and that, during a period of adjustment, it must be strictly controlled in the interest of the wage earners of this State and of the public at large. This act is the product of that conviction.

SEC. 2. *Short title.*—This act shall be known and may be cited as the “Industrial home-work law.”

SEC. 3. *Definitions.*—Whenever used in this act:

1. “To manufacture” includes to prepare, alter, repair, finish, or process in whole or in part, or handle in any way connected with the production, wrapping, packaging, or preparation for display of an article or materials.

2. “Person” means an individual, partnership, firm, association, domestic or foreign corporation, the legal representatives of a deceased individual, or the receiver, trustee, or successor of an individual, firm, partnership, association, or domestic or foreign corporation.

3. “Employer” means any person who, for his own account or benefit, directly or indirectly or through an employee, agent, independent contractor, or any other person, (a) delivers or causes to be delivered to another person any materials or articles to be manufactured in a home, and thereafter to be returned to him, not for the personal use of himself or of a member of his family, or thereafter to be disposed of otherwise in accordance with his directions; or (b) sells to another person any materials or articles for the purpose of having such materials or articles manufactured in a home and of then rebuying such materials or articles, after such manufacture, either by himself or by someone designated by him.

4. “Contractor” means any person, who, for the account or benefit of an employer, representative contractor or other person, distributes to a home worker or any other person not recruited or engaged by such employer, representative contractor or other person, materials or articles to be manufactured in a home and thereafter to be returned to him or otherwise disposed of in accordance with his directions.

5. “Representative contractor” means any person who receives from an employer or contractor not within the State, materials or articles to be distributed by him to any home worker or other person not recruited or engaged by such employer or contractor, to be manufactured in a home and thereafter to be returned to him or otherwise disposed of in accordance with his directions.

6. “Home” means any room, house, apartment, or other premises, whichever is most extensive, used in whole or in part as a place of dwelling; and includes out-buildings upon premises that are primarily used as a place of dwelling, where such outbuildings are under the control of the persons dwelling on such premises.

7. “Industrial home work” means any manufacture in a home of materials or articles for an employer, a representative contractor, or a contractor.

8. “Home worker” means any person engaged in manufacturing in a home materials or articles for an employer, a representative contractor, or a contractor.

9. “Commissioner” means the industrial commissioner.

10. “Director” means the director or any deputy director of the division in the department of labor which is charged by the commissioner with the immediate responsibility of enforcing this act.

SEC. 4. *Prohibited home work.*—It shall be unlawful to manufacture in a home, for an employer, contractor, or representative contractor, any of the following articles, and no permit issued under this act shall be deemed to authorize such manufacture:

1. Articles of food or drink.
2. Articles for use in connection with the serving of food or drink.
3. Articles of wearing apparel for use of infants or children 10 years of age or under.
4. Toys and dolls.
5. Tobacco.
6. Drugs and poisons.
7. Bandages and other sanitary goods.
8. Explosives, fireworks, and articles of like character.
9. Articles the processing of which requires exposure to substances determined by the commissioner to be hazardous to the health or safety of persons so exposed.

SEC. 5. *Power to prohibit.*—1. The commissioner shall have the power upon his own initiative, and it shall be his duty upon receipt of a petition of 50 or more

residents of this State, to cause the director to make an investigation of that portion or branch of any industry which employs home workers, in order to determine: (a) Whether the wages and conditions of employment are injurious to the health and welfare of home workers in such portion or branch; or (b) whether the wages and conditions of employment prevailing in such portion or branch have the effect of rendering unduly difficult the maintenance of existing labor standards or the observance and enforcement of labor standards established by law or regulation for the industry of which such portion or branch is a part, thus jeopardizing wages or working conditions of the factory workers in such industry.

2. If, on the basis of information in his possession, with or without an investigation as provided in this section, the commissioner shall find that industrial home work cannot be continued within any industry without injuring the health and welfare of the home workers within that industry, or without rendering unduly difficult the maintenance of existing labor standards or the observance and enforcement of labor standards established by law for the protection of the factory workers in that industry, the commissioner shall by order require all employers, representative contractors, or contractors, in such industry to discontinue the furnishing within this State of material for industrial home work, and no permit issued under this act shall be deemed thereafter to authorize the furnishing of materials for industrial home work prohibited by such order.

SEC. 6. *Procedure.*—1. Before making such order the commissioner shall hold a public hearing or hearings at which an opportunity to be heard shall be afforded to any employer, or representative of employers, and any home worker, or representative of home workers, and any other person or persons having an interest in the subject matter of hearing. A public notice of such hearing shall be given in such manner as may be fixed by the commissioner. Such notice shall be made at least 30 days before the hearing is held. Such hearing or hearings shall be in such place or places as the commissioner deems most convenient to the employers and home workers to be affected by such order.

2. The commissioner shall determine the effective date of such order, which date shall be not less than 90 days after the date of its promulgation. The order shall set forth the type or types of manufacturing which are prohibited after its effective date.

SEC. 7. *Permit required.*—1. Every employer and every representative contractor within this State must procure from the commissioner an employer's permit. Application for such permit shall be made on a form prescribed by the commissioner. Such permit shall be in writing, dated when issued, and signed by the commissioner or the director. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted. Such permit shall be valid for a period of 1 year from the date of its issuance, unless sooner revoked.

2. No such permit shall be issued to any person, or to the successor in interest of any person, whose employer's permit has been revoked by the commissioner within 2 years prior to the last application for such a permit.

3. An employer or a representative contractor who delivers or causes to be delivered to another person any materials for manufacture by industrial home work, without having in his possession a valid employer's permit from the commissioner, shall be guilty of a misdemeanor punishable by a fine of \$1,000.

SEC. 8. *Injunction against continued violations.*—Whenever any employer or representative contractor has twice been found guilty of conducting his business without an employer's permit, the commissioner may apply to the----- court of any county in which such employer or representative contractor has a place of business for an injunction, and such court shall upon such application issue an injunction, to restrain such employer or representative contractor from further violating the provisions of this act.

SEC. 9. *Fees.*—1. A fee of \$200 shall be paid to the commissioner for the original issuance of an employer's permit.

2. For each annual renewal of such permit, the employer or representative contractor shall pay to the commissioner a fee of (a) \$50, where at no time during the preceding calendar year did the employer or representative contractor directly or indirectly have business relations simultaneously with more than 100 home workers; (b) \$100, where at any time during the preceding calendar year the employer or representative contractor directly or indirectly had business relations simultaneously with more than 100 but less than 300 home workers; (c) \$200, where at any time during the preceding calendar year the employer or representative contractor directly or indirectly had business relations simultaneously with 300 or more home workers.

SEC. 10. *Contractor's permit.*—1. Every contractor must procure from the commissioner a written contractor's permit. Application for such permit shall be made on a form prescribed by the commissioner. Such permit shall be valid for 1 year from the date of its issuance, and shall be issued by the commissioner to an applicant upon payment by such applicant of a fee of \$25.

2. But no such permit shall issue to any person who or whose predecessor in interest held an employer's permit which, within 2 years prior to the application for a contractor's permit, was revoked by the commissioner.

SEC. 11.<sup>5</sup> *Home-worker's certificate.*—1. Every person desiring to engage in industrial home work within this State must procure from the commissioner a home-worker's certificate which shall be issued without cost and which shall be valid for a period of 1 year from the date of its issuance, unless sooner revoked or suspended. Application for such certificate shall be made in such form as the commissioner may by regulation prescribe. Such certificate shall be valid only for work performed by the applicant himself in his own home and in accordance with the provisions of this act.

2. No home-worker's certificate shall be issued (a) to any person under the age of -- years (insert minimum age for factory employment in State law); or (b) to any person suffering from an infectious, contagious, or communicable disease or living in a home that is not clean, sanitary, and free from infectious, contagious, or communicable disease.

3. The commissioner may revoke or suspend any home-worker's certificate if he finds that the holder is performing industrial home work contrary to the conditions under which the certificate was issued or to any provision of this act or has permitted any person not holding a valid home-worker's certificate to assist him in performing his industrial home work.

SEC. 12. *Records to be kept.*—No person having an employer's or a contractor's permit shall deliver or cause to be delivered or received any articles for or as a result of industrial home work unless he shall keep in such form and forward to the commissioner at such intervals as he may by regulation prescribe and on such blanks as he may provide, a complete and accurate record of all persons engaged in industrial home work on materials furnished or distributed by him, of all places where such persons work, of all materials furnished and distributed to such persons described as the commissioner may require, of all goods which such persons have manufactured, of the net cash wages received by each home worker, and of all contractors to whom he has furnished materials to be manufactured for him in any home.

SEC. 13. *Conditions of manufacture.*—Industrial home work on articles manufactured for any person to whom an employer's permit has been issued shall be performed—1.<sup>6</sup> Only by a person possessing a valid home-worker's certificate; 2. Only by persons over the age of -- (insert minimum age for factory employment in State law); 3. Only by persons resident in the home in which the work is done; 4. Only during such hours as may be fixed by law or regulation as permissible hours of labor in factories by persons of the same age and sex as the home worker; and 5. Only in a home that is clean and sanitary and free from any infectious, contagious, or communicable disease.

Upon the issuance of an employer's permit to an employer or representative contractor, such employer or representative contractor shall be deemed to have accepted responsibility for the observance of the conditions of manufacture specified by this section; and each of such conditions shall be deemed to be a condition of the employer's permit to the same extent as though it were expressly set forth therein.

SEC. 14. *Labels required.*—No employer or representative contractor or contractor shall deliver or cause to be delivered any materials or articles to be manufactured by any home worker unless there has been conspicuously affixed to each article a label or other mark of identification bearing the employer's or representative contractor's name and address, printed or written legibly in English. But if the goods are of such a nature that they cannot be individually so labeled or identified, then the employer or representative contractor shall conspicuously label in like manner the package or other container in which such goods are delivered or are to be kept while in the possession of the home worker.

SEC. 15. *Unlawfully manufactured articles.*—Any article which is being manufactured in a home in violation of any provision of this act may be removed by the commissioner and may be retained by him until claimed by the employer.

<sup>5</sup> This section was not included in the language of the draft as it was presented to the International Association of Governmental Labor Officials in September 1936, but is in line with the recommendation of the I. A. G. L. O. home-work committee that any bill for the regulation of industrial home work include provision for home-workers' certificates.

<sup>6</sup> See footnote 5.

The commissioner shall by registered mail give notice of such removal to the person whose name and address are affixed to the article as provided by section 14. Unless the article so removed is claimed within 30 days thereafter, it may be destroyed or otherwise disposed of.

SEC. 16. *Delivery to contractors.*—No employer or representative contractor shall deliver or cause to be delivered any materials or articles to a contractor who is not in possession of a valid contractor's permit.

SEC. 17. *Violations.*—1. If the commissioner has reason to believe that a person having an employer's permit is not observing the provisions of this act or of a regulation or order authorized by it to be issued by the commissioner or the conditions of his employer's permit, the commissioner may, on 10 days' notice, summon such person to appear before the commissioner to show cause why the commissioner should not find that he has failed to observe such provisions or conditions.

2. If, after such hearing, the commissioner finds as a fact that such person has failed to observe or comply with a provision of this act, his permit, or a regulation or order issued by the commissioner under authority of this act, the commissioner may (a) revoke the permit of such person, his order of revocation to be effective on a date fixed by the commissioner not more than 30 days after the date of its issuance; (b) cause to be published in a newspaper or newspapers circulating within this State, or in such other manner as the commissioner may deem appropriate, the name of such person as having failed in the respects stated to maintain the standards established under authority of this act. Such publication may contain an identification, by trade name or otherwise, of the products manufactured or sold by such person. Neither the commissioner nor any authorized representative of the commissioner, nor any newspaper publisher, proprietor, editor, nor employee thereof shall be liable to an action for damages for publishing the name of any person as provided for in this act, unless guilty of some willful misrepresentation.

SEC. 18.<sup>7</sup> *Home-work tax.*—1. Each employer and each representative contractor shall be required to pay quarterly (on January 15, April 15, July 15, and October 15 of each year) an excise tax of \$2.50 for each home worker to whom materials have been sent or delivered by such employer or representative contractor during the preceding quarter.

2. The tax commission is hereby charged with the enforcement of this section.

3. Each employer and each representative contractor shall file quarterly with the tax commission, on a form to be prescribed by it, a return showing the number of home workers to whom material has been sent or delivered by him during the preceding quarter, together with such other information as the commission may require. At the time of filing this return, the employer or representative contractor shall pay to the commission the tax imposed above.

4. If a return as required by this section is not filed within 30 days after it is due, or if, when filed, a return is incorrect or insufficient and the maker fails to file a corrected or sufficient return within 30 days after the same is required by notice from the tax commission, such commission shall determine the amount of tax due from such information as it may be able to obtain. The tax commission shall give notice of such determination to the person liable for the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall within 30 days after the giving of notice of such determination apply to the tax commission for a hearing or unless the tax commission of its own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the tax commission shall give notice of its decision to the person liable for the tax. The decision of the tax commission may be reviewed by certiorari if application is made therefor within 30 days after the giving of notice thereof. Whenever under this act an order of certiorari is permitted it shall not be granted unless the amount of any tax sought to be reviewed, with penalties thereon, if any, shall be first deposited with the tax commission and an undertaking filed with the tax commission, in such amount and with such sureties as a judge of the ----- court shall approve, to the effect that if such order be dismissed or the tax confirmed the applicant for the writ will pay all costs and charges which may accrue in the prosecution of the certiorari proceeding, or, at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties as a condition precedent to the granting of such order.

<sup>7</sup> See pp. 168 and 169 of the accompanying memorandum.

SEC. 19. *Nonpayment of tax.*—1. Whenever any person shall fail to pay any tax or penalty imposed by this act, the attorney general shall, upon the request of the tax commission, bring an action to enforce payment of the same. The proceeds of a judgment obtained in such action shall be paid to the tax commission.

2. As an additional or alternate remedy, the tax commission may issue a warrant under its official seal, directed to the sheriff of any county, commanding him to levy upon and sell the real and personal property of the person from whom the tax is due, which may be found within his county, for the payment of the amount thereof, with any penalties, and the cost of executing the warrant, and to return such warrant to the tax commission and to pay to it the money collected by virtue thereof within 60 days after the receipt of such warrant. The sheriff shall within 5 days after the receipt of the warrant file with the clerk of his county a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax and penalties for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to an interest in real property and chattels real of the person against whom the warrant is issued in the same manner as a judgment duly docketed in the office of such clerk. The sheriff shall then proceed upon the warrant in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record, and for his services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the tax commission a warrant of like terms, force and effect may be issued and directed to any officer or employee of the department of taxation and finance, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but he shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the tax commission shall have the same remedies to enforce the claim for taxes as if the people of the State had recovered judgment for the amount of the tax.

3. No statute limiting the time for the enforcement of a civil remedy shall be deemed applicable to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any tax or penalty provided by this act.

SEC. 20. *Penalties for failure to file correct return or to pay tax.*—Any person failing to file a return or corrected return or to pay any tax within the time required by this act shall be subject to a penalty of 5 per centum of the amount of tax due, plus 1 per centum of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the tax commission, if satisfied that the delay was excusable, may remit all or any part of such penalty. Unpaid penalties may be enforced in the same manner as the tax imposed by this act.

SEC. 21. *Certificate of tax commission as prima facie evidence.*—The certificate of the tax commission to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this act shall be prima facie evidence thereof.

SEC. 22. *Agreements to contributions by employees void.*—No agreement by a home worker to pay any portion of a payment required of any other person by any provision of this act, shall be valid and no person shall make a deduction for such purpose from the wages or salary of any home worker.

SEC. 23. *Filing and inspection of records and returns.*—Records, reports, applications, and returns required to be made by this act shall be kept on file by the commissioner and the tax commission, respectively, and shall be open to examination and inspection by either, and, subject to their regulation, by any person authorized by them. They may be used as evidence in any proceeding under this act, but shall not otherwise become matters of public record.

SEC. 24. *Oaths and affidavits.*—The commissioner, the director, and any other officer or employee of the department of labor, if duly authorized by the commissioner, may administer oaths and take affidavits in matters relating to the provisions of this act.

SEC. 25. *Hearings and subpoenas.*—The commissioner and the director shall have power, in matters relating to the provisions of this act—

1. To issue subpoenas for and compel the attendance of witnesses and the production of books, contracts, papers, documents, and other evidence of whatever description;

2. To hear testimony under oath and take or cause to be taken depositions of witnesses residing within or without this State in the manner prescribed by law for like depositions in civil actions in the ----- court. Subpoenas and commissions to take testimony shall be issued under the seal of the department.

SEC. 26. *Fees of witnesses.*—Each witness who appears in obedience to a subpoena shall be entitled to the same fees as witnesses in a civil action in the ----- court.

SEC. 27. *Penalties.*—In addition to any penalties otherwise prescribed in this act—

1. Any person who willfully makes a false statement or representation in order to lower the amount of fees or taxes due from him under this act; or

2. Any person who makes a deduction from the wages or salary of any home worker to pay any portion of a payment which such person is required by this act to make; or

3. Any person who refuses to allow the commissioner or his authorized representative to enter his place of business for the purpose of inspecting his pay roll or other records or documents relative to the enforcement of this act, or who refuses to permit the commissioner to copy such records or documents—shall be guilty of a misdemeanor.

SEC. 28. *Rules and regulations.*—Rules and regulations necessary to carry out the provisions of this act shall be made by the commissioner. He shall have the power and it shall be his duty to enforce all the provisions of this act except as otherwise specifically provided.

SEC. 29. *Construction.*—If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 30. *Payment into State treasury.*—All fees, taxes, and other moneys derived from the operation of this act shall be paid into the State treasury to the credit of the general fund.

SEC. 31. *Appropriation.*—The sum of -----, or so much thereof as may be necessary, is hereby appropriated to pay the expenses of the department of labor, including personal service and maintenance, in carrying out the provisions of this act.

SEC. 32. *Repeal of existing laws.*—\* \* \*

SEC. 33. *Time of taking effect.*—This act shall take effect 90 days after its adoption; except section 31 which shall take effect immediately, and except that the commissioner shall have power, immediately, to promulgate rules and regulations, appoint such officers and employees, and fix their compensation, as may be necessary to carry out the provisions of this act, and do such other things as may be necessary to set up the machinery required to enforce the provisions of this act.

*Memorandum to accompany draft of proposed State law to regulate and tax industrial home work*

*Need for industrial home-work legislation.*—The distribution of industrial work to be done in homes has been recognized for many years as an unfair competitive practice. It has been characterized by long and irregular hours, night work, low pay, and child labor. The employer of industrial home workers, by shifting the burden to those who work for him in their own homes, avoids responsibility for overhead costs of production—for rent, lighting, heating, and power—and in a number of industries for even the cost of machines and other equipment. He makes it difficult for his competitor who produces in a factory to maintain fair standards of hours, wages, and working conditions.

The actual distribution of industrial home work has become very complex. Materials distributed by one manufacturer to be returned to him may pass through the hands of several persons, contractors and subcontractors, before they are delivered finally to the home workers who are to perform the work. Work is often sent from State to State by truck, express, or through the mails, either direct to the home worker or to be distributed through a local representative. It reaches families in remote rural communities as well as in crowded city slums.

Efforts to control the practice and to reduce its abuses to a minimum have been made over a long period of years, but continued experience has strengthened the conviction long held by administrators of State home-work laws that ultimately industrial home work must be abolished, and that until abolition is accomplished the distribution of industrial home work and the conditions under which industrial home work is performed must be subjected to rigid control.

During the past 2 years three States—New York, Connecticut, and Rhode Island—have passed laws which look toward the ultimate prohibition of industrial home work in those States. Where it is permitted to continue, State regulation applies. The passage of these laws constitutes a landmark in the progress of industrial home-work legislation.

The accompanying bill is intended for use in States contemplating revision of existing home-work laws or the introduction of new legislation. It has been prepared under the direction of a committee of State labor-law administrators and others having a knowledge of the problems of industrial home work and of the difficulties in its regulation. The appointment of this committee by the Secretary of Labor grew out of recommendations made by State labor commissioners and others interested in labor legislation attending the Second National Conference on Labor Legislation at Asheville, N. C., in October 1935. The bill has been endorsed by the International Association of Governmental Labor Officials at its annual meeting at Topeka, Kans., September 24–26, 1936, and by the Third National Conference on Labor Legislation, meeting in Washington, D. C., November 9–11, 1936.

*Organization and purposes of the bill.*—In its carefully drawn definitions of such terms as “employer”, “industrial home work”, “home worker”, the home-work bill clearly limits the application of its provisions to home work as a method of industrial production; that is, to home work which is given out by an employer to be processed and ultimately returned to him after having gone through the home worker’s hands or thereafter disposed of otherwise according to his directions. The definitions have been written to avoid application of the bill to those individuals who make articles at home to be sold either directly or through nonprofit or cooperative agencies.

The bill attempts a solution to the difficulties of control by holding the employer, who initiates the home-work process, responsible for the conditions under which the work is performed. It requires every employer who sends work into homes for processing to secure from the State department of labor a permit which may be revoked whenever the conditions under which the work is performed are found to be in violation of certain industrial standards. To aid in administration when home work is distributed through contractors, a contractor’s permit is required; and in addition provision is made for a home-worker’s certificate.

At the same time, the bill provides for the complete prohibition of home work on certain types of commodities, such as children’s clothing and dolls, which may constitute a health menace to the ultimate consumer of the articles when they have been manufactured in unhealthful surroundings.

A further restriction on the home-work system is found in the grant of power to the State department of labor to prohibit home work in industries or branches of industries. This may be done after public hearing where the results of the home work are injurious to the health and welfare of the home workers themselves or to the welfare of factory workers in those industries.

One of the advantages that employers of home workers enjoy in their competition with employers of factory workers is that the former do not pay taxes to the State in an amount equivalent to that paid by the factory owner. This considerable item of overhead expense has, in the past, remained in the pocket of the home-work employers, leaving other employers in the State not only at a competitive disadvantage, but also in a position where they were forced to bear a disproportionately heavy tax load. A tax on industrial home work, such as that suggested in sections 18–21, tends to equalize the unfair financial advantages enjoyed by the employer of industrial home workers and, at the same time, to provide for the administrative costs of inspection, etc., which, if no such charge is made against the home-work employer, must be borne from general public funds. Nevertheless, those States in which industrial home work is still a small problem

may find that these additional costs of enforcement may be too slight to warrant the introduction of the tax provisions. For such States it may be pointed out that these provisions are entirely separable from the remaining provisions and that the draft may be used with the tax sections (secs. 18-21) omitted.

Where the head of the home-work process, that is, the employer, is located outside the State, constitutional obstacles stand in the way of applying to him the restrictions and taxes above mentioned. The State industrial home-work bill, therefore, meets this not uncommon situation by providing that the "representative contractor", who is the middleman to whom an out-of-State employer ships materials to be distributed to home workers within his State shall, in all respects, be treated as though he were himself the employer.

One item not appearing directly in the draft of this proposed bill deserves considerable emphasis. In order for regulation to succeed in the circumstances surrounding industrial home work, a vigorous and well-staffed administration is essential. That type of administration is not possible unless the legislature appropriates a satisfactory sum for organization of an inspection staff and enforcement machinery. Due to recent economic conditions, there has been a tendency to reduce, below the safety point, appropriations for the enforcement of labor laws. In connection with this bill, thoroughgoing enforcement will mean a reduction in the abuses of industrial home work and a full collection of fees and taxes will provide a source of additional revenue.

*References to State offices, etc.*—The definitions section (sec. 3) contains references to State officials who are denominated by titles which are not the same in all States. The whole bill should be gone through to conform the nomenclature to local designations. For example, the word "commissioner" is used in this bill to designate the head of the State department of labor, whereas in some States the head of that department is not called "commissioner" and indeed in some States the department of labor is otherwise named. The term "commissioner" appears in sections 3 (9), 3 (10), 4, 5 (1), 5 (2), 6 (1), 6 (2), 7 (1), 7 (2), 7 (3), 8, 9 (1), 9 (2), 10 (1), 10 (2), 11 (1), 11 (3), 12, 15, 17 (1), 17 (2), 23, 24, 25, 27 (3), 28, 33. The word "director" appears in sections 3 (10), 5 (1), 7 (1), 24, 25. The term "department of labor" appears in sections 3 (10), 24, 25 (2), 31. The term "----- court" appears in sections 8, 18 (4), 25 (2), 26. The term "tax commission" appears in sections 18 (2), 18 (3), 18 (4), 19 (1), 19 (2), 20, 21, 23. The term "attorney general" appears in section 19 (1). The terms "county clerk" and "sheriff" appear in section 19 (2). The term "State treasury" appears in section 30. The term "general fund" appears in section 30. In all these cases the appropriate local equivalent should be substituted.

*Modifications to accord with State practice.*—Sections 18-21 have to do with the imposition of a home-work tax upon persons having an employer's permit. These sections may be simplified in States where it is possible to eliminate some of the procedural detail. The draftsman should, of course, in any event provide here a procedure that is harmonious with the ordinary method for imposition, collection, and review of similar tax assessments in his State. It is believed that in some States a more general reference to an existing procedure will suffice. In any State that wishes to omit the tax provisions (secs. 18-21), care should be taken to eliminate from the remaining sections of the bill all references to these provisions. Such additional references are found in sections 23, 27 (1), and 30.

*Payment into State treasury.*—The directions contained in section 30 concerning payment of moneys into the State treasury may require modification in the light of local governmental organization.

*Appropriations.*—The wording of section 31 should be made to conform to the usual appropriations section in other State legislation. In some States the section must contain directions as to the manner of payment from the treasury.

*Repeal of existing laws.*—In States now having some type of regulation of industrial home work care should be taken, in filling in section 32, to make specific reference to the precise acts or parts of acts which are intended to be repealed. In States where there is no industrial home-work legislation, the repealing section, of course, may be omitted.

### *Discussion*

Mr. MOONEY. The committee strongly urges the inclusion of the following essential provisions in the drafting of home-work legislation:

1. The issuance of permits or licenses to employers of home workers.
2. The issuance of certificates for home workers.
3. Definite minimum standards governing the issuance of certificates to home workers. As guides to administering agencies, these standards are:

(a) Certificates shall be issued only to employers whose custom it has been in the past to employ home workers.

(b) The issuance of certificates should properly safeguard the health and well-being of the home workers and the consuming public.

(c) The issuance of certificates should safeguard wages and working conditions prevailing in the factory of the employer.

4. That the administering agency have the right of entrance for inspection of places where home work is performed and the right to inspect factory premises of the home-work employer, as well as the right to examine his books and other documents with reference to distribution and collection of home work, and wages paid to home workers.

5. That the administrator of the act be granted rule-making powers governing working conditions.

6. That all labor laws in the State be applicable to home workers.

Finally, the committee recommends that any State labor department or industrial commission which intends to present to its legislature this year, or in the future, a home-work law, discuss in advance with charitable agencies, and other border-line agencies whose interests and customary relations with their clients might be affected by the passage of such legislation, any problems raised by the proposed legislation. Such agencies as The Lighthouse, or Assistance to the Blind and Handicraft Industries, and other charitable organizations, while not in the category of employers distributing home work, nevertheless are on the border line of the problem and think they might be affected by the home-work act. If the agency proceeds to present legislation to the legislature without consulting those agencies in advance, much opposition often is aroused. That opposition can be killed early by consultation.

Chairman FLETCHER. We will call on Miss Frieda S. Miller of the Department of Labor of New York to lead the discussion.

Miss MILLER. May I say first that as a member of the committee I was very strongly in sympathy with the chairman's position as to

the importance—the necessity—of the change of approach in the handling of the home-work problem which our newer home-work laws represent, so that we no longer limit ourselves to the old and valid objection that home work is a health hazard, but that we recognize that it is basically an economic problem whose existence continues to trouble us primarily because home-work production is cheaper for the employer indulging therein, and therefore obviously it is necessary for us to iron out those economic inequalities if we are to diminish and if possible to get rid of home work. Unquestionably, that is more difficult than it is merely to attempt to control the sanitary conditions in places where home work is done. One of the things that makes it difficult is that certain types of home work are so free to move about. I know perfectly well, from seeing them in subways, that lampshades are not going very far, as it takes only a dozen to fill a packing box as big as a trunk, but when manufacturers of knit goods have only sales rooms and packing rooms, and employ as many as 3,000 home workers—many of them contractors, who receive bales of wool that come back as baby sweaters and bootees and carriage covers, and all those things that look so attractive in shop windows—then I think you will agree with me that the problem of the State administrator, who is charged on the statute books with the responsibility of seeing that the health and well-being of the home worker and the standards of the factory employee in the industry are maintained under a home-work order, is serious. It is a problem that no State administrator can handle alone so long as that type of industry employs home work.

For the period extending from October 23, 1935, to August 26, 1936, there were listed 194 manufacturers in New York State who were sending home work to 1,661 home workers in 16 States and 1 Territory: Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, Ohio, Pennsylvania, Puerto Rico, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia.

As shown in the attached tables, 93 percent of the 1,661 home workers in other States to whom New York manufacturers were distributing work were located in 3 States: 49 percent in New Jersey, 28 percent in Maine, and 17 percent in Pennsylvania. Approximately 29 percent of the 1,661 home workers lived in States with no home-work laws.

Sixty-one percent of the home workers living in other States who received work from New York manufacturers were working on knitted wear (mostly infants' knitted wear). Ninety percent of these 1,017 home workers lived in 3 States—Maine, New Jersey, and Pennsylvania—with scattered home workers reported in all other States, except Kentucky. In all other industrial groups it was reported that home work was sent almost entirely to New Jersey and Pennsylvania. The second largest group of 192 home workers worked on embroidery and

art needlework—185 in New Jersey, 6 in Connecticut, and 1 in Puerto Rico. The third largest group worked on infants' wear—129 home workers—111 in Pennsylvania and 18 in New Jersey. The fourth largest group worked on women's and children's clothing, including neckwear, underwear, and hosiery—113 home workers—108 in New Jersey, 3 in Pennsylvania, 1 in Maryland, and 1 in Kentucky. Forty-eight home workers in New Jersey received work on artificial flowers. Forty-one in New Jersey received work on powder puffs. Thirty-five in New Jersey received work on men's neckwear.

On dolls, dolls' clothing, and other stuffed toys, home work is prohibited by statute in New York State. Twenty manufacturers were sending home work to 37 home workers living in New Jersey.

On men's and boys' factory- and custom-made clothing, home work is prohibited in New York State by administrative order, home-work order no. 1, which took effect on April 25, 1936, for the factory-made-clothing industry and July 1, 1936, for the custom-made branch of the industry. Five merchant and custom tailors were reported as sending home work to eight home workers in New Jersey.

TABLE 8.—*Geographical distribution of home workers receiving work from manufacturers in New York State, October 23, 1935–August 26, 1936*

State in which home workers reside	Home workers receiving work from 194 manufacturers in New York State		State in which home workers reside	Home workers receiving work from 194 manufacturers in New York State	
	Number	Percent		Number	Percent
All States.....	1,661	100.00	New Jersey.....	807	48.59
Connecticut.....	12	0.72	Ohio.....	3	.19
Delaware.....	3	.19	Pennsylvania.....	282	16.97
Kentucky.....	1	.06	Rhode Island.....	2	.12
Maine.....	458	27.57	Tennessee.....	2	.12
Maryland.....	4	.24	Vermont.....	10	.60
Massachusetts.....	63	3.79	Virginia.....	4	.24
Michigan.....	2	.12	West Virginia.....	1	.06
New Hampshire.....	5	.30	Puerto Rico.....	2	.12

TABLE 9.—Industrial distribution of home work sent outside New York State, October 23, 1935–August 26, 1936

Industry	Manufacturers in New York State distributing home work to other States		Home workers in other States receiving work from New York State manufacturers	
	Number	Percent	Number	Percent
All industries.....	194	100.00	1,661	100.00
Knitted wear.....	32	16.49	1,017	61.23
Men's and boys' clothing.....	15	7.73	43	2.59
Custom-made garments <sup>1</sup> .....	5		8	
Neckwear.....	10		35	
Women's and girls' clothing.....	32	16.49	113	6.80
Outerwear, including neckwear.....	16		57	
Underwear.....	15		55	
Hosiery.....	1		1	
Accessories.....	20	10.31	97	5.84
Artificial flowers.....	14		48	
Handbags.....	2		8	
Powder puffs.....	4		41	
Infants' and children's wear <sup>2</sup> .....	11	5.67	129	7.77
Gloves and leather goods.....	4	2.06	7	.42
Embroidery and art needlework.....	52	26.81	192	11.59
Miscellaneous.....	28	14.44	63	3.79
Linens and upholstery.....	2		3	
Cheap jewelry.....	3		12	
Hairpins.....	1		1	
Rosebuds.....	2		10	
Toys (all dolls and dolls' clothing) <sup>3</sup> .....	20		37	

<sup>1</sup> Home-work order no. 1—Apr. 25, 1936. Prohibited some work after July 1, 1936.

<sup>2</sup> Except knitted wear.

<sup>3</sup> Prohibited by statute of New York State.

TABLE 10.—Distribution of home workers outside New York State receiving work from New York State manufacturers, by State of residence and by industry

Industry	Home workers residing in specified States										Other States and Puerto Rico <sup>1</sup>
	All States	New Jersey	Maine	Pennsylvania	Massachusetts	Connecticut	Vermont	New Hampshire	Maryland	Virginia	
All industries.....	1,661	807	458	282	63	12	10	5	4	4	16
Knitted wear.....	1,017	286	458	168	63	6	10	5	3	4	14
Men's and boys' clothing.....	43	43									
Custom-made garments <sup>2</sup> .....	8	8									
Neckwear.....	35	35									
Women's and girls' clothing.....	113	108		3					1		1
Outerwear, including neckwear.....	57	52		3					1		1
Underwear.....	55	55									
Hosiery.....	1	1									
Accessories.....	97	97									
Artificial flowers.....	48	48									
Handbags.....	8	8									
Powder puffs.....	41	41									
Infants' and children's wear.....	129	18		111							
Gloves and leather goods.....	7	7									
Embroidery and art needlework.....	192	185				6					1
Miscellaneous.....	63	63									
Linens and upholstery.....	3	3									
Cheap jewelry.....	12	12									
Hairpins.....	1	1									
Rosebuds.....	10	10									
Toys (all dolls and dolls' clothing).....	37	37									

<sup>1</sup> Less than 4 home workers residing in each State: Delaware 3, Kentucky 1, Michigan 2, Ohio 3, Rhode Island 2, Tennessee 2, West Virginia 1, Puerto Rico 2.

<sup>2</sup> 6 States to which New York manufacturers send work have no home-work laws: Delaware, Kentucky, Maine, Vermont, Virginia, West Virginia.

The chairman of our committee has suggested that in considering the report of your home-work committee you favor the continuance of work in a bill for the direct control of interstate traffic in home work. I suggest that there is another approach that we might work on with the hope of at least somewhat affecting that situation. One day recently when I was in a little rural post office that is the general store, station, etc., ready to board a train, I saw in the post-office window a notice asking the postmaster please to put up the sheet in a conspicuous spot. I read the name of one of our well-known home-work manufacturers of knit goods, conspicuously printed on the sheet. He said, "Wanted, skilled knitters to do some work for good prices." He was using the facilities of the United States post office to do free advertising for himself, and it seemed to me that that was another thing that might interest the United States Department of Labor. It was interested and took the matter up with the Post Office Department, which suggested that anyone seeing such posting should call it to the attention of that Department, and if there was fraud involved it would be glad to deal with the matter. It seems to me we can go further than that. All of us who have had to deal with home work know that there is so much that is fraudulent that if we wait until the facts have been established we will simply be aiding and abetting the whole thing. Farm women in rural sections do not know how to check on the persons making such advertisements. It would be well, if we could, to get the Post Office Department to act at least as cautiously as the newspapers have been willing to in checking on home-work advertisements in New York. All the metropolitan papers have an agreement with the labor department whereby any material that is submitted to them as a home-work advertisement to be inserted in their columns is checked with us before it is accepted for insertion. It is checked as to whether the person is genuinely an employer, whether he has his proper permit to give out home work, and how he stands. In that way we are able to keep out of the newspapers many advertisements that would mean fraudulent exploitation that we could never trace afterward. The mere reporting to us by the newspapers of proposed advertisements means that we can inspect and follow up a good many situations that are definitely legal and prevent them taking on home workers. I do not see why it is not possible for this organization to ask that kind of cooperation of the Post Office Department in checking with the issuing authorities in any State from which such material comes, so that we can be informed at least of the sources and prevent publicity by the employer who is seeking to undercut wages by this procedure.

Finally, there is one other aspect of the problem that goes beyond State limits. We have, as I told you, issued, as the first order prohibiting home work under our new law, an order against home work in men's and boys' clothing. In conjunction with the Brooklyn

Navy Yard there is a supply company which makes sailors' clothing and which gives this home work, prohibited to any private employer in New York State, to 18 home workers. I have not had an opportunity to check, but I should like to know whether, under the Walsh-Healey Act, that sort of a situation cannot be eliminated, thus bringing up to State standards situations in which the Federal Government itself is the employer. I think it would simplify the problems in any industry for which the State governments are setting up standards that are intended to eliminate home work.

MR. FLETCHER. Commissioner Toohey of the New Jersey Department of Labor was to have been here tonight, but unfortunately he could not attend, and he has designated Mr. Lorenz of his department to represent him.

MR. LORENZ. I have a paper handed me by Mr. Toohey before I left New Jersey. He has requested me to read it to you and then I will comment on some of the things stated by Miss Miller.

[Mr. Lorenz read Mr. Toohey's paper, as follows:]

MR. TOOHEY: There is very little new thought that can possibly be presented on this subject, for the conclusion reached that industrial home work in all its phases seriously menaces the social and physical well-being of large groups of our population is generally accepted by governmental officials and social workers who are familiar with its ramifications. While this problem has been given very serious consideration in the State of New Jersey for the past 16 years, and a great deal of informative data has been collected that clinches our opinion on the disastrous effects of this evil, I cannot say truthfully that legislative action in our State has been broad and enlightening enough to grant the commissioner of labor the needed authority to abolish it.

In 1930 the State legislature passed an act known as the "home-work law." The preamble declared that it was "An act to regulate and in certain cases to prohibit the manufacturing or altering or repairing or finishing of goods and the distribution thereof for such purposes in tenements, dwellings and buildings situated immediately in the rear of tenements or dwellings, and all similar places, and thus to protect the employment, safety, and working hours of persons, employees and operatives employed therein; to provide for the enforcement thereof and punishment for violations thereof."

This law gave the commissioner of labor the authority to license persons who wished to engage in home work. In certain cases, where the work is on a factory basis and all features of the factory laws are applicable to it, under the broad powers given to the commissioner it has been possible to prohibit practically the establishment of factory employment in dwellings, buildings, and places that are used by human beings for habitation purposes. While this act permitted the manufacture of dolls' clothing and infants' wearing apparel in two-story

dwellings, for some reason not very well explained it prohibited the articles from being manufactured in buildings where three or more families live independently of each other and do their cooking upon the premises. The act also required that the local board of health should approve the license where children's or infants' apparel was manufactured.

I have thought for a long time that the primary or fundamental reasons for discouraging employment of this character were not so very well understood by the great mass of people, and that the time is at hand when we should recognize and declare that the real purpose in prohibiting this sort of employment is not the fear that disease and contagion will be spread if factory set-ups are permitted to be established in homes, but rather that this kind of employment has subversive economic features that strike at the very heart of decently run industry. Where home owners have desired to bring machines and equipment into their homes and employ labor under factory conditions, the department has found little or no difficulty in discouraging the attempt. We have insisted that building exits shall conform to factory regulations, that illumination shall be provided in accordance with the standards enforced in manufacturing establishments, and that sanitary accommodations shall not violate the code enforced by the State department of labor. Furthermore, the department would require that any person going into this kind of industry should provide workmen's compensation insurance coverage for employees. These establishments would not be licensed by the department of labor, but would be considered strictly from a factory viewpoint and all laws regulating thereto strictly enforced. For that reason we have had no difficulty with this kind of employment, although at times there have been violations of the law.

I have in mind an instance that occurred a few weeks ago, when a district factory inspector discovered a home worker located in a coal cellar in a basement. Six machines manufacturing clothing were in operation. The ventilation was so poor and the air so stagnant that the young people who were operating the machines found it very difficult to keep awake. While this occurrence furnished good newspaper copy because of its dramatic and appealing circumstances, it is in no wise representative of the worst features of home manufacturing in the State of New Jersey. This kind of violation is easily corrected. It cannot continue over a long period of time, for someone is sure to report it, and the isolated cases are easily stamped out. The punishment for violations is swift, incisive, and discourages future attempts.

Recently I read a United States Women's Bureau Bulletin (No. 135) on The Commercialization of the Home through Industrial Home Work. To preamble of this article declared that "The home has been the family shelter through the centuries. The prevent the distortion of its social function through use by profit-making industries

is the responsibility of society." This is the special feature of industrial home work that appeals to me as a citizen and a well-wisher for the future of our country. My primary interest is in preserving for women and children the home and its influence for good for future generations, and I am confident that this purpose cannot possibly be served by the passage of any so-called regulatory legislation. I know that a legislative program was recommended by the International Association of Governmental Labor Officials in 1926, which included certain regulatory features concerning licensing, cleanliness, abolition of child labor, illumination, etc., and declared that adequate staffs should be provided State departments of labor for periodic home-work inspections. I have also considered the conclusions of the committee on industrial home work appointed in 1934, that declared, "That abolition of home work is the only way to control its growing evils." As between regulation and abolition, I am strongly for abolition. There are many reasons for this conclusion.

The evils that have resulted from the practice of employers or contractors sending work out of factories into the homes of people have been brought so prominently before the eyes of the general public that it should not require much argument to convince fair minds that this kind of sweatshop labor is a real social menace. Recently I read an article by Rose G. Feld entitled, "Sweat Shops, Model 1935", which described general home-work conditions in such clear language that I became convinced that nothing short of its complete elimination will correct the evil attendant upon it. In New Jersey some years ago a women's bureau was established, the principal work of which was to investigate home-work conditions and to try to regulate this insidious competitive trade practice. Beyond the fact that thousands of licenses were issued by the State and many thousands of homes were examined by our investigators, the regulatory practices attempted made absolutely no impression upon the home-work evil. It may be argued that regulatory methods of this kind will insure a cleaner product and less likelihood of the dissemination of disease. The sanitary features of this campaign are not the important ones. Some years ago the department of labor consulted eminent health authorities on the question of sanitation and its relation to home work, and almost without exception we were unable to find any authority that considered home work dangerous from this point of view. The real menace that comes from home work is economic and not hygienic. The real evil that comes from home work is the long hours; the hours that make the "Song of the Shirt" ring in the ears of the poor. To real disaster is the starvation wage and living conditions resulting from them that pauperize and fairly sap at the very roots of their strength.

It has been said that some European countries have been successful in regulating home work. I have grave doubts about the value of

this kind of procedure. I think it would be just as sensible to attempt to regulate yellow fever or some other contagious disease as it would be to regulate an economic practice that is so at variance with our ideas of citizenship and a decent standard of living. Our fight should be for the passage of laws that will make it unprofitable to parcel out work in homes. Take the profit out of this kind of white slavery and you destroy the incentive for exploitation. Do not let us becloud the issue with hygienic terms and make it appear that if home-work goods are manufactured under healthful conditions the public is protected thereby. Our experience has been that the people who are doing this work are quite as clean and hygienic as any other group and need no Pardiggles or others of that ilk to pry into their affairs, under the delusion they must be regimented, examined, and inspected to make them clean. The bureau of women and children of the department of labor prepared the following memorandum on home-work activities in New Jersey. I think it will be of interest.

7,479 licenses were issued for fiscal year 1930-31.

6,904 licenses were issued for fiscal year 1931-32.

3,772 licenses were issued to December 1932.

3,248 licenses were issued for that part of the fiscal year ending June 1934.

1,400 licenses were issued during the fiscal year 1934-35 on work not prohibited by any N. R. A. code.

During that year 342 N. R. A. permits for home work were issued.

During the fiscal year July 1, 1935, to June 30, 1936, 231 distributors, and 4,045 home workers were licensed.

It is a matter of growing concern to all of us who are engaged in the administration of labor laws that this type of industry is increasing and presents such unfair competition as to demoralize factory production. It appears from experience that State laws are no longer an effective curb and that recourse must be made to Federal action if complete abolition is to be insured. A steady stream of these products flows from the metropolitan area into the rural and mountain sections and even far away into our colonial possessions. Under such circumstances I think it is a waste of time to give much consideration to State activities; rather, we should confine ourselves to finding a way in which the Federal Government can intervene.

Mr. LORENZ. New Jersey has a problem due to its geographic location—between New York on the north and Pennsylvania on the south. These two large metropolitan areas send out an immense amount of home work to New Jersey. Beyond the formality of a cursory investigation and inspection of premises for ordinary health, in pursuance of an application for home-work license, New Jersey does not do anything that would otherwise curb or render home-work activity unprofitable either to manufacturers or contractors, as compared with those who maintain premises and plants.

New Jersey sponsored a bill in the legislature recently requiring a tax on pay rolls of manufacturers and contractors on home work. The interested persons immediately got to work on the senators and suggested a straight tax to be levied on the manufacturer or distributor according to the number of home workers engaged. It was to be, I believe, a dollar or two per license. The matter was brought to the attention of the sponsors by Senator Walburg, who was so active in the State labor compact and who was most friendly to the idea, and the Consumers' League took the suggestion under advisement. It was understood that it was to take either the counter proposal or nothing at all. The Consumers' League answered that there were already too many laws pertaining to labor that were either half enforced or not enforced, and that it would not be a sponsor of any new legislation that would not cure the evil. So it turned down the counter proposal and the bill was defeated. The situation continues as before, with the exception that, as Miss Miller stated, there is an interchange of information through Washington on home work, particularly with reference to distributors and manufacturers.

The department of labor is most anxious to secure amendments to the existing law, and would recommend an amendment that would abolish home work entirely if such a thing were feasible. I remember the discussion that ensued in the New Jersey Senate on this bill. (The lower house passed it without any opposition.) One senator wanted to know whether the dressmakers of the senators' wives would be required to take out licenses to sew dresses. On the answer which he received he based his argument against the bill. Because of the tenseness of the situation other senators fell for his argument. The bill was defeated. It was then discovered that the senator who made the argument had before him the first printing of the original bill, and had not consulted the committee substitute, which took care of the difficulty. It was too late to call for reconsideration and the situation is as it is. The Consumers' League will this year sponsor this legislation once more, and I believe the department of labor will lobby for it, because the proposed change will not only absorb the differential between home work and ordinary industry but will also bring in revenue to the State which will enable the State to make the enforcement of that bill self-supporting.

Chairman FLETCHER. The question is now open for general discussion.

Mr. CRAWFORD (Ontario). In Ontario we have no special act governing home work, but at the last session of the legislature the factory act was amended, under which the chief inspector is required to issue a permit to every employer giving out home work and to every home worker. The permit will not be issued to an employer until the inspector is satisfied that the employer is complying with the law in all

respects. The wage rates paid must have the approval of the minimum-wage board. There are penalties attached and records are required. Every employer is required to keep a separate sheet, drawn up in the department, for each home worker, showing amounts of work, dates, amounts to be paid, amounts actually paid, when goods were returned, etc., and the signature of the home worker to such statement. That takes care of work handed to the individual and could not possibly cover work given out by mail. It is only a beginning. The purpose was not so much to eliminate home work as to get a certain measure of control, so that we will be in a position in a year or two to take steps either effectively to abolish that part of it which is bad or to introduce legislation which will effectively regulate it within the Province. To date we have issued permits to approximately 100 employers, covering hundreds of home workers. We have also refused to issue permits to a number of firms on the ground that the rates being paid were less than the rates being paid in factories. That is a definite policy.

Our real difficulty is with work which has never been done in factories, or with sections of work, part of which is done in factories and part in the home. We have a manufacturing firm which exports dolls to all parts of the world and which employs from 300 to 500 home workers making the dolls' dresses. This firm has been built up recently and has considerable capital invested. It employs a large number of workers in the factory. If we were suddenly to prohibit the dolls' dresses being manufactured in homes, it would put that industry out of business, and so we have granted permits for the manufacturing of dolls' dresses at rates which are considerably lower than the rates we demand for workers in factories. That is in line with our policy. We intend to take a year or two with the problem before we really decide what we are to do with it.

Until last year the only control we had was that the home worker must secure a permit from the chief factory inspector, which was issued after a careful investigation as to whether the premises were sanitary. That permit remained effective indefinitely. What I would like to know is how to deal with a case such as I have cited, or how to deal with work which has never been done in a factory—knitting, for instance. What we did in that connection was this—we called a conference of the employers giving out that type of work. First we assured ourselves that the work was not being done in any factory. Then we examined the prices paid—we visited homes and found out from the women what they were earning. The estimates varied from 5 cents to 30 cents an hour. We selected some home workers, brought them into the office, and had demonstrations. On the demonstrations given in the office we proceeded to fix prices. We found, I am sorry to say, that we had to approve 10 cents an hour in some cases, because our experience is very limited.

Our policy is the ultimate elimination of home work insofar as it is possible to do so.

Mr. WALLING (Rhode Island). We had somewhat the same problem in connection with our lace industry, where there was a so-called code. Lace thread pulling had always been done in the homes, and certain communities were entirely dependent on that type of work in the home for their livelihood. We recognized that it would create severe economic dislocation in those communities to abolish it, so we issued licenses to employers and certificates to employees in that industry, where they have applied, and in some cases the employer has arranged to take the work into the factory rather than to bother with what he terms the "rigmarole" of the application for the license and for the certificates for his employees. Of course, that has not happened in many cases, but there has been that partial result at least flowing from the attempted regulation.

I should like to ask Miss Miller about the State situation. You referred to the number of New York employers who send home work through the mail and otherwise across State lines. We have had a similar situation develop in Rhode Island. Employers in our State have asked permission to send home work to the homes of workers over the line in Connecticut and over the line in Massachusetts, and in both cases we have ruled that we will not issue licenses to the employer and certificates to the employees where it is against the public policy of that State, as in the case of Connecticut, to issue such licenses and permits. We further took the position that unless we can have access to the home to inspect conditions, which we are required to do under the law, we will deny the home workers' applications and deny the employers' applications insofar as a home worker across State lines is concerned. I was wondering if you could work out a scheme of that sort in connection with New York.

Miss MILLER. We were advised that our law must be limited to New York State situations, and that what was done outside of the State was something that we could not either prohibit or approve. We do report to Connecticut and to New Jersey all cases where a home-work employer in submitting his register—his list of home workers—reports sending any work into those States, in order that they may pursue the home worker there and see that the situation is in accord with their regulations. My reason for feeling that Federal action is so urgent is just that we have been told that we will be thrown down in the courts if we attempt to say to an employer what he is to do outside of the State of New York. If you can persuade our legal authorities to defend us in any other position, I do not think we would be reluctant to try it.

Mr. WALLING. I do not want to be interpreted as opposing your suggestion for Federal control, but this was just a stopgap device

which we have tried and which may or may not be successful. It so happens that the cases involved concerned employers who apparently are willing to accede to it. They may be exceptional. In both cases the employer was given permission to send home work to workers in other States. I wondered if you had tried anything of that sort where you had an application for both.

Miss MILLER. We do not ever base the rate that employers pay on home workers outside of the State. We discussed that question when our present act was redrafted, and our ambitions were very thoroughly curtailed by the legal department, on the ground that the jurisdiction of the department was in relation to things done in New York State and that we could not go beyond that. Of course, I know that in compensation we do not seem to hold to that entirely.

Mr. LORENZ. I understand, then, that you are not at all interested in the employer who merely sends work out to New Jersey and does no work in New York.

Miss MILLER. We have no authority. Do not understand that we are not interested. We are not in a position to act with regard to it.

Mr. TONE (Connecticut). I might say that our statute prohibits a concern from sending home work into Connecticut unless the employer has a factory there, but in Miss Miller's case, she immediately tips our department off and we delegate an inspector to go right after him.

Mr. LORENZ. She tips us off too.

Mr. LUBIN (Washington, D. C.). In view of the fact that the proposed new bill contains certain changed provisions, particularly in regard to taxation, I wonder whether Mr. Mooney could explain the essential differences between the old bill and the new one.

Mr. MOONEY. I think Miss Miller should do that.

Miss MILLER. I believe Miss Murphy could best do it.

Miss MURPHY. The essential difference in the new bill is that it approaches the problem of control in such a way as to throw the responsibility on the original employer. It does two things: First, it prohibits outright a very definite number of industries. In addition, it gives the commissioner of labor the authority, after a public hearing and investigation, to prohibit home work in additional industries in which conditions are found to be competitive with factory standards. The employer, furthermore, is made responsible for the conditions under which home work is actually accomplished where it is performed. In addition, the tax provision is introduced.

Mr. WALLING. Would it not be worth while for you to explain about the tax provision, because that is the main distinction between so many of the bills and the new one.

MISS MILLER. May I read section 18 of the bill:

SECTION 18. *Home work tax*.—1. Each employer and each representative contractor shall be required to pay quarterly (on January 15, April 15, July 15, and October 15 of each year) an excise tax of \$2.50 for each home worker to whom materials have been sent or delivered by such employer or representative contractor during the preceding quarter.

It is a tax on the employer for each home worker that he uses. It is another way of making home work a costlier method of production, rather than a cheaper method of production, with the idea that thereby you are discouraging it.

MR. TONE. As a matter of political expediency, what success do you meet with in your general assemblies with these long bills? You hand a bill like that to the general assembly, and it will tell you to come back with a short bill.

MISS MURPHY. May I say that the essential provisions of the bill, in which the labor standards are set forth, are relatively short. The tax provision does occupy a considerable space, but I think that some States may already have the proper machinery for the collection of taxes. If machinery is not already established for the collection of taxes of this kind, this language is recommended for consideration. I do not believe that you will find the provisions in which the labor standards and the control and regulation of conditions under which home workers perform are of too great length.

MR. MAGNUSSON (Washington, D. C.). It seems to me that Mr. Crawford points to a very important principle, in policy and practice, with regard to home work. He points out that in Ontario they handled home work through the minimum wage, and it seems to me that is the way we should handle it. On the question of the tax, it occurred to me that if your tax is high enough it will stop home work. If your tax is not high enough and the employer does find it profitable to pay the tax, have you ever raised the question as to who would pay the tax? Does it come out of the wage earner or the employer? If the market is full of wage earners seeking jobs, the tax is paid by the wage earner. If the market is stiff, if prices are high, and wage earners are scarce, they can keep wages up and get good wages. Then the consumer pays the tax.

So the tax, after all, becomes merely a cost of production, and you must find out who pays the cost of production. If the goods are put up on the market and the consumer gets the cheap shirt, he is simply subsidized. So your tax is just an aggravation of the matter, and will probably have a tendency eventually to depress wages rather than to stop home work. You cannot reach it by that. You can reach it by positive prohibition, or you can make it a practical economic operating thing by the method that Canada has.

Mr. LUBIN. We have to face this in a very practical way. Home work is increasing. We cannot control it through minimum wage now. The question is, What shall we do in the meantime? The second question is, Do we want factories in homes? The question still remains as to whether we want people to work in homes on home work.

Mr. MAGNUSSON. Then the thing is to prohibit it entirely.

Miss SWETT. Could not a minimum wage be made a condition of the license, even though you do not have a minimum-wage law?

# Civil Service

---

## State Departments of Labor and the Civil Service

*Report of Committee on Civil Service, by E. B. PATTON, Chairman*

In accordance with a resolution adopted last fall at our meeting in Asheville endorsing the principles of civil service in State labor departments, a committee on civil service was organized during the past year to investigate the efforts which are being made by various organizations looking toward the inauguration of civil service in the different labor departments of the States.

The extension of the principles of the merit system in State labor departments depends in large part upon the general extension of the merit system in State government and is considerably influenced by the development of civil-service operations in the National Government. It is therefore important to note the strong declarations of both the Democratic and the Republican Parties with reference to civil service in their 1936 platforms.

The present status of State civil service in the United States, as a whole, is most disappointing. State civil-service systems are now operative in only 10 States. These States, listed in order of the adoption of their systems, are New York, Massachusetts, Illinois, Wisconsin, Colorado, New Jersey, Ohio, California, Maryland, and Kentucky. The California, Colorado, Ohio, and New York systems are provided for by the respective State constitutions, while the other six systems are provided for by statute. Two States—Connecticut and Kansas—have at some time provided for the merit system, but the Kansas law has been inoperative since 1919 for lack of appropriations, and the Connecticut law was repealed in 1921.

Attempts have been made from time to time to undermine the civil-service systems in those few States which have the merit system. These attempts were quite numerous during the past few years of unemployment, when legislators in some States, hard-pressed by jobless constituents, were eager to throw over the established personnel system. The contests were particularly keen in California and Wisconsin in 1933. In 1935 and during this past year, attempts to weaken civil service were made in several other States, notably in Ohio. In these States the strength of many groups and organizations interested in the extension of civil service has prevented whole-

sale return to the spoils system. In California, as the result of a referendum in 1934, the existing State civil-service provisions, formerly only statutory, were included in the State constitution. These organizations are constantly trying to extend civil service, and as a result of their activities movements are now under way in a number of States to substitute modern systems of personnel management in which the principles of civil service are incorporated in place of the spoils system.

The active interest of numerous civic organizations is one of the most hopeful signs of substantial progress in the direction of the extension of the merit system. The National League of Women Voters is engaged in waging an active and effective campaign in favor of the merit principle in the National, State, and local governments, and the National Civil Service Reform League, which has long been active in this field, is renewing and extending its activities. The National Civil Service Reform League now has field secretaries in various States to assist in reorganizing and giving new life to already existing State and local merit-system associations which had become quiescent. It is preparing data for dissemination to the public and supplying speakers to civic forums and other nonpolitical meetings. In those States where no civil-service law has been adopted the National League assists in the drafting of suitable legislation.

In this connection it is gratifying to call attention to several specific instances pointing toward extension of civil-service principles in the States.

In Kentucky the Governor signed a law effective July 1, 1936, creating in the department of finance a division of personnel efficiency. State employees are now selected after competitive examinations held by the division, a comprehensive classification and salary standardization plan is to be adopted, and employment standards are to be set up.

For about a year an official commission has been at work in Michigan, appointed by the Governor, for the purpose of drafting a comprehensive State law. This draft has been substantially completed and will be presented to the next session of the Michigan Legislature.

A strong movement is pushing forward toward a State civil-service law in Indiana, principally under the impulse of the National League of Women Voters. The new public-welfare and unemployment-compensation-insurance acts provide for the selection of personnel on the basis of examinations. Another movement is under way in Minnesota, in which a number of groups are cooperating with good prospects of success.

In Washington the State Civil Service League, after several successive legislatures have failed to pass a State civil-service bill, is taking steps to obtain by initiative petition a law based on the

National Civil Service Reform League's draft, to be placed on the ballot next November.

In Virginia the legislature recently appropriated \$17,000 for a personnel study of the State, preliminary to the possible adoption of a State civil-service law.

In Oklahoma the Governor is urging the passage of a State civil-service law. At the beginning of his administration he complained that his days and nights were broken into by job-hunters, and that he had to use the freight elevator in the capitol to escape the hordes of patronage seekers waiting in the corridors.

In New Hampshire appointments to clerical and field-representative positions under the State unemployment-compensation division of the bureau of labor were filled from eligible lists resulting from a competitive examination system which was set up last January.

In Connecticut the Governor has appointed a survey commission which is studying departmental reorganization. This commission is giving consideration to the advisability of a civil-service law.

A group in North Dakota, aided by the National Civil Service Reform League, which furnished drafts of model civil-service laws, is preparing to have a State civil-service law submitted at the next session of the legislature.

The influence of the United States Department of Labor and of the United States Employment Service is steadily in the direction of higher standards for cooperating State labor agencies. The United States Employment Service has a considerable number of agreements with cooperating States applying the merit principle to State employment agencies. This marks a new and significant development in the field of State labor agencies. The influence of the Social Security Board upon cooperating State agencies is limited to a considerable degree by terms of the Social Security Act with reference to the personnel of State agencies, but within the limits of the act it is to be expected that the influence of the Social Security Board will be in the direction of the application of the merit principle.

Among the organizations which have been particularly active in safeguarding and promoting civil service in the States during the past year should be included the National Civil Service Reform League, the Civil Service Assembly, the National League of Women Voters, the National Consumers' League, the National Federation of Women's Clubs, the Commission of Inquiry on Public Service Personnel, and numerous organizations of civil-service employees such as the National Federation of Government Employees and the Association of State Civil Service Employees of the State of New York. The Consumers' League of Ohio, aided by the Consumers' League of Cincinnati and Toledo, was especially active in combating and publicizing the

attempts of certain groups in Ohio to undermine the civil-service system in that State.

Besides the extension of the merit system to those States which have not as yet adopted civil-service regulations, those interested in civil-service principles should look toward the strengthening and improving of civil-service laws, regulations, and administration in those States which already have the merit system. In some States which have the merit system no provision is made for the sound classification of titles, positions, and salaries, resulting in inequalities among the civil-service personnel. In other States the civil-service regulations allow for numerous loopholes which tend to weaken the merit principle. There is the problem of maintaining morale and efficiency among civil-service workers and of the prompt and proper rewarding of able and efficient workers. All this is connected with the setting up and application of merit rating and correct compensation-classification systems.

In Canada, six of the nine Provinces have civil-service commissioners through whom appointments are made. These Provinces are as follows: Alberta, British Columbia, Manitoba, Ontario, Quebec, and Saskatchewan. Three Provinces—namely, New Brunswick, Nova Scotia, and Prince Edward Island—have no civil-service commissions. For an admirably careful report on Dominion civil service, with constructive suggestions for improvement, reference is made to an article in the *Canadian Journal of Economics and Political Science*, published in Toronto, August 1936, by R. MacGregor Dawson, professor of political science in the University of Saskatchewan. The criticism of Canadian civil service and the suggestions for betterment in this article are worthy of careful consideration by all members of this association.

The civil-service committee of the association submits the following recommendations for your consideration.

1. That the International Association of Governmental Labor Officials cooperate with the Civil Service Assembly, the National Civil Service Reform League, the National League of Women Voters, the National Consumers' League and with such professional organizations as the American Prison Association, the American Association of Social Workers, the American Engineering Council, and the American Forestry Association, and with the various associations of civil-service employees in their efforts to safeguard, improve, and extend the merit system in State and Federal agencies. Cooperation with similar organizations in Canada should be sought.

2. That this association work for the establishment of sound merit rating and compensation-classification systems for public employees.

3. That the labor bureaus in the various States cooperate with colleges and universities in establishing training courses for public service.

*Discussion*

Mr. PATTON (New York). This report thoroughly conforms to the resolution regarding civil service which was adopted at the Asheville convention last year, but it does not go to the heart of the problem.

Chairman FLETCHER. The question is now open for discussion. On our program we have Commissioner Frank E. Wenig, of the Department of Labor of Iowa.

Mr. WENIG. In Iowa we have no civil-service law. Our mode of control, which operates under the secretary of state, is on a merit system set up with the cooperation of officials in Washington. Prior to 1932 we had a 40-year reign of the Republican Party in Iowa. In the past 4 years, since the Democrats have been in power, we have had considerable agitation by the Republicans for a civil-service law, but this one has worked out very satisfactorily so far as the people of our department and the wage earners of Iowa are concerned.

The officials of certain departments of State government have only an indirect interest in the people of such States. The treasurer is concerned with monetary problems as monetary problems, and the recording of them. The same is true of the comptroller and the State auditor. The secretary of state is concerned with official acts of the State as an entity. The attorney general is interested in prosecution of law violators and in the interpretation of laws upon which courts have reached no decision. The commissions or bureaus having supervision over railroads, agriculture, State institutions, liquor control, highways, banking, fire control, medical and dental examining, and similar work likewise have only indirect contact with the people of the State as a whole.

On the other hand, certain other commissions, departments, and bureaus such as the board of education, the department or commission of public health, and the labor department all have a contact, and a direct one, with the people. The work is peculiarly general, and it concerns a dealing with the nonpolitical body—the people of the State as a whole.

In these departments of education, labor, and health, the work of the departments is a continuing work, the experience of which is cumulative from year to year.

With reference to labor departments alone, their functions with respect to collection of wage claims, gathering of accident statistics, food-cost data, and enforcement of boiler, safety, inspection, and workshop laws, together with the operation of the public employment service, are so complicated that a change of officials once each 2 or 4 years is conducive to lost motion and a waste of time and efficiency. When a State makes all the positions within a department subject to the wheel of political fortune, the break in continuity in operation, both as to enforcement of laws and collection of information, is so

frequent that the welfare of the workers of the State is apt to suffer, and the gathering of vital information about accident and safety control tends to become so inadequate that no information is available upon which to predicate legislation for the continued betterment of labor, safety, and health conditions within a State. The matters of public health, public education, and betterment of working conditions are so vital to the advancement of the health, safety, and well-being of the public that they should be handled by an organization trained for the job, selected by the civil service, and sufficiently intelligent to keep pace with the progress of the department.

In addition to the regular labor-department functions I have just described, most of the departments or labor commissions have been vested with authority to supervise or accept responsibility for State employment agencies affiliated with the United States Employment Service under the Wagner-Peyser Act.

It is peculiarly necessary in the operation of these State employment offices that they do not become the machinery to foster, encourage, or accomplish political aims and designs. They are established to find jobs for all the unemployed—the men, the women, the juniors of employable age, and the veterans and farm hands. Were these agencies to become involved in the placing of particular workers or wards of politicians, they would soon become discriminatory, bureaucratic, and unfair, and would resolve into the tools of politicians. These employment offices can exist only so long as they serve all of the people fairly, impartially, and without regard to race, affiliation, color, or influence of the applicant.

I believe I can speak for all the States when I say that the staff members of an employment service cannot be released and a new group of workers installed without a great loss of efficiency. In the first place, these State employment agencies must have the cooperation of employers before they will be used by employers. In the second place, the recording of interviews with unemployed applicants is a technical undertaking. The employees in employment offices must build up good public relations with employers over a long period of time. They must understand what the work requirements of the employer are. They must know what kind of machinery he has in his mill, mine, shop, or factory and what kind of men he needs to do his work. They must understand the perils in these occupations, so that careful selections can be made of workers who can bear up under the conditions of employment. These interviewers and workers in the employment office must know the men they have interviewed; where these applicants have worked; and the kind of experience they have had; and must be able to pick out the proper applicant for each job. These interviewers must know about the reporting of statistics, the codification of occupations, and the rules and regulations of the public employment service with reference to the treatment to be accorded

the applicant and the technicalities of sending workers to Government jobs or work projects.

If these employees of labor departments are to become the victims of changing administrations, and if these employment offices are to become the agency for finding jobs for party workers, then I am sure that the public employment offices cannot serve their purpose and should be eliminated.

If you have had the same difficulty as I have had in Iowa, you will know that the creation and building of a working organization in the labor department and in the employment service is a slow, difficult, and painful proposition. We do not have a State civil-service commission in Iowa, and I have no experience with State civil-service procedure. I have had, however, an experience with the merit system as required in the employment service by regulations of the United States Employment Service. In the fall of 1934, after the Iowa State Employment Service had been operating for 5 or 6 months, the United States Employment Service sent its representative to Iowa to conduct examinations. I had picked out a group of men and women who had served for these 5 or 6 months. I thought they were fairly good people. Some of them I knew to be excellent. I had some doubt as to whether the persons selected by the examination process would be better than those I had selected. It has worked out, however, that these people are, with some exceptions, good people. They have taken readily to training. They have shown themselves to be adapted to meet changing requirements and have done a pretty fair job. These merit people assumed duties in our offices January 1, 1935. They have been trained and have been enthusiastic about their work. They still are, however, not so proficient as I would like to have them. They still leave gaps in the employment histories of applicants; that is, some of them do. They have made good progress with many employers and are getting a large number of employer orders, but they still are not getting as many as they could. They still have a long period of development ahead of them before maximum results will have been achieved.

The point I am making in discussing these employees is that they exemplify my statement that changing administration and changing personnel cause lost momentum and lost efficiency. They have been on the job for more than a year and a half. They still do not satisfy either me or my administrative staff. They are still being trained and lectured and talked to. They are still receiving an education about their work. They are doing a much better job now than they did do, but after more than 18 months the job they are doing can still be improved. If these people in 18 months' time are still learning, are still working at the mastery of their job, then to replace them with new employees is to cost the State the expense of training the new

workers to the status of efficiency of the old, and to waste 18 months in training and vitalizing a new organization.

It is anticipated, and the Federal Social Security Act requires, that payment of unemployment compensation shall be made solely through public employment offices in a State or such other agencies as the Board may approve. I do not believe that any thinking person will deny that State employment services should function within and be a part of State bureaus or commissions of labor. Thus I can say that civil-service requirements in State labor departments will become more vital as time goes on. It is expected and required that unemployment-compensation benefits shall be disbursed through the employment service. Such a requirement will impose on the personnel of public employment offices an increased responsibility for knowing their job. The successful operation of unemployment compensation is going to depend upon paying out as little in the way of compensation for unemployment as possible. That is to say, efficient administration will mean finding a job for an unemployed man entitled to receive benefits before his waiting period expires, so that the unemployed man can make more money than he would draw from unemployment, thus eliminating the necessity for paying benefits.

As I look at this problem of finding jobs, I can see that our unemployment-compensation administration is not going to be good if we can hunt only a packing job for a man who has done packing and a sock-knitting job for a sock knitter or a glove-sewing job for a glove sewer, and so on. The day is coming when our interviewers in employment offices must be able, not only to select workers from the past experience of such workers in a fixed pursuit, but also to determine the aptitude, dexterity, and mental viewpoint of the worker; so that if there is no opening available to him in one occupation, the aptitude, dexterity, and mental condition of the worker, as determined by the interviewer, will show him to be fitted for a similar job but not the one he has been doing. These men we have had in the employment service for 18 months cannot do that now as well as they should. Good employment people for the special requirements of the Social Security Act cannot be found; they must be trained, and they cannot be made into good people in a day or a month or a year or 2 years. The unemployment-compensation section of the Social Security Act has been adopted into the laws of several States already. I do not think I am being forward in saying that these workers in the employment service are going to be required to know an all-inclusive number of things about factories and manufactures and processes and machines, and by the same token know as much about workers who make those factories and manufactures and machines operate. These people are going to be required to ferret out of each applicant every fact which relates to employment ability. They are going to be required to know when there is no possible job opening available to an unemployed

person. They are going to be required to say when a man is unemployed so as to be entitled to compensation benefits.

I cannot believe that there can be any satisfactory working of the employment service, or of the State laws in respect to unemployment compensation, unless the workers who make the administration of such offices and laws a success are allowed to stay on the job to professionalize and work to the high degree of efficiency it will require. The only answer to the development of employment-office personnel to such a standard will be that such personnel is civil-service and selected specifically for ability to do a hard, exacting, complicated job.

In some States, undoubtedly, there will be added to the responsibility of the labor department supervision over or connection with the tribunal, court, or claim-reviewing agency that is to pass upon the validity of the workers' claims to unemployment compensation. In some States the legislature also requires a court operating in conjunction with the labor department to hear disputes with respect to claims, hours of labor, etc.

The personnel, which is to be fair, impartial, and just to worker or employer in these cases, cannot function efficiently unless it has the benefit of its own experience. The handling of these cases resolves itself into a cumulative fund of knowledge that cannot be acquired by a newcomer each year or 2 years or 4 years.

The investigator who must check up on law violations needs the wisdom of cumulative experience.

Again I am wondering why we labor commissioners, at the time of taking office, invariably find such a great maze of work undone—so many laws only partially enforced. Yet I do not believe there is cause for wonderment if our personnel is appointive with each new administration. Does the investigator or the inspector do a proper job when he knows between November and July that he is to lose that job in July? Does the executive head of the department relax his vigilance and abate his interest in his task? It would seem so when the offenders against the health and safety laws are guilty at recurring intervals of the same offense for which they were brought to task during different years in the past.

I hope I have made clear the position that recognition should and must be given to experience and specific job training on the job if our departments are to operate efficiently in the interests of the security, health, and welfare betterment of the working men, women, and youngsters who are our responsibilities in these respects.

Chairman FLETCHER. We are now to hear from Commissioner Murphy, of the Oklahoma Department of Labor.

Mr. MURPHY. Mine is the other side of the story, as I see it, and what I say is based on my own experience in Oklahoma. I am now serving my third 4-year term as commissioner. There are people in

the department now who have been working there since I first went into the department. The only merit system we have is in the employment-service division. What I am going to say is based entirely on my personal experience, having been connected with the department of labor since May 1, 1917, starting as a factory inspector, then chief factory inspector, assistant commissioner of labor for 9½ years, and since 1926 commissioner of labor.

Our observation is that an adequately financed, properly and fairly administered State department of labor is of equal importance with that of governor. The commissioner of labor should be from the ranks of organized labor, because they have advocated and been instrumental in the enactment of all progressive labor legislation; he should be elected by the people of his or her State, owing his allegiance to all the people rather than being hampered by a reactionary appointing authority; and he should have full authority to appoint the personnel of all branches of his or her department and be big enough to administer the duties of his or her office in a fair and impartial manner, for the reason that we have the extreme radical in the labor movement and the extreme reactionary in the employer class, both important but neither of them right. Somewhere between these two elements is right. Therefore, the commissioner of labor, in carrying out the duties of his or her office in a fair and impartial manner, necessarily becomes the balance-wheel between employer and employee and must assume a very great personal responsibility in order best to serve all the people and to maintain peace in the industrial life of his State.

The Department of Labor in Oklahoma is one of the several departments of the State that was established by the constitutional convention. The commissioner of labor is elected by the people of the State for a term of 4 years. His department is made up of the administrative office and four divisions—statistics, arbitration and conciliation, free employment, and factory inspection. These represent all the State boards dealing directly with labor and industrial problems, except the State industrial commission which administers the workmen's-compensation law, and the chief mine inspector, who has jurisdiction over and administers the general mining laws of the State, which have been made separate departments of the State government.

The direction of the department of labor is vested in the commissioner of labor, he being the administrative and executive head of the department, and being entrusted with the enforcement of all laws, rules, and regulations which come within the jurisdiction of his department. He is authorized to organize the work in the different divisions, appoint and remove the staff personnel, direct all investigations and inspections, and make rules and regulations for the execution of the work. In general he determines the policy of the department.

*Bureau of labor statistics.*—Our present-day business and industrial world demands more and more statistical information in order that it may arrange plans for the morrow. Labor and industrial statistics are very important in our present-day economics, in the matter of collecting and publishing not only of detailed reports on the commercial, industrial, educational, and sanitary conditions of the people, including the mining, transportation, commercial, mechanical, and manufacturing industries of the State, but also of employment and pay-roll data. This information not only reflects the economic conditions of the wage earner, but affords a broad index of the market purchasing power, and therefore has a most important relation to community prosperity and is a means of showing basic trends of standards affecting business activities and economic life.

*State board of arbitration and conciliation.*—The State board of arbitration and conciliation is composed of two farmers and one employer appointed by the governor upon his own motion. Upon recommendation of the commissioner of labor the governor appoints one employer and two employees, all six of them with the advice and consent of the senate. The commissioner of labor is chairman of the board and the assistant commissioner of labor is secretary of the board by virtue of their respective offices.

*Bureau of free employment.*—The free employment service is the human-relations department of the State government in the department of labor. It deals with people, not as groups, but as personalities, and in the two most economic classifications, employer and employee.

*Bureau of factory inspection—accident prevention.*—First and foremost, prevention of accidents means increased production. Injury to those who are accomplished in their particular line of endeavor means the training of others, and this alone means a decrease in production, not to say anything about the suffering and privation it often means to those dependent upon the workers for support or the probability of their becoming public charges on society. •

Enforcement of labor laws rests largely upon the principle of regular inspection of industrial establishments. Many dangerous or unlawful conditions are called to the attention of the department by public-spirited citizens, but only through regular inspection work is the protection afforded by statute for employees in the industrial establishments of the State made possible.

Compliance with laws and regulations is secured for the safeguarding of dangerous machinery, such as measures to control power-transmission equipment by emergency stopping devices, the safeguarding of gears, sprockets, chains, belts and pulleys, set screws, keys, clutches having projecting parts, shafting, couplings, collars, and fly wheels.

Protection of the eyesight and of the hands and fingers exposed at the point of operation figure prominently in this work. Injuries of this type are of the permanent partial character and arise largely

from such exposure. In dealing with this problem the safeguarding of saws, jointers, planers, matchers, molders and shapers in the wood-working industry—are all a part of the functions of a State department of labor.

*Civil service in department of labor.*—That part of the subject assigned me and having to do with civil service in departments of labor is too broad to be included in my address in the brief period allotted, as there is much more to be said on the subject of departments of labor alone. Therefore my remarks on civil service at this time will be brief.

First, it is a personal matter with me, if you will pardon personal reference, but no one knows the limitations of an individual better than the individual himself, and while we take unto ourselves a great deal of consolation and satisfaction for the success of the Department of Labor in Oklahoma under its present administration, this is more or less confirmed by references made to our department in a report on a Survey of Organization and Administration of Oklahoma, submitted to our governor in 1935 by the well-known Institute of Government Research of the Brookings Institution of Washington, D. C., which reads in part (on page 186), as follows:

General comment: In general, the Department of Labor of Oklahoma appears to be excellently administered. Its personnel, because of the continuity of service that has prevailed, seem to know their work and to devote themselves to it quietly and without confusion. The annual report of the commissioner deserves special commendation. The safety manuals are also well done.

When times are better, consideration should be given to the salaries in the department of labor. They are at present low; but the commissioner has apparently been able to secure and keep a staff of reasonably competent employees.

However, in the face of our experience and the splendid reference made in the Brookings report, had Oklahoma been operating under civil-service regulations, the present commissioner would never have had the opportunity of serving the good people of our State, because he could not have met civil-service requirements, and, not only that, at least 75 percent of our splendid, loyal, and efficient field and office personnel, being selected from the laboring class and being deprived of necessary educational background, would also have been eliminated. There are many other reasons which we hope to have the opportunity of presenting at the proper time.

MR. LUBIN. I should like to ask you, Mr. Murphy, whether, if perchance you had decided 4 years ago you did not want to be labor commissioner any more, you believe that the staff you had at that time would have been maintained as efficiently as it has been?

MR. MURPHY. I should not want to take on new people under any circumstances. I will place the work of my people right up with the most highly trained engineers. I expect my assistant to succeed me,

and they will all still be there. I cannot see better operation than that. I have confidence in them. We feel the agitation for civil service is a step to eliminate us, to get us entirely out of the whole show.

President CRAWFORD. Civil-service laws have been in effect for some time in Ontario. Our experience has shown that civil-service regulations in no way kept out men from the organized-labor movement. No examination that I know of ever barred men from organized labor.

Mr. MURPHY. We could not make it because of our lack of educational background.

\* Mr. MAGNUSON (Washington, D. C.). Are you not giving the best and soundest argument for civil service? I would conclude from your remarks that you were the staunchest backer of civil service.

Mr. MURPHY. If they do not meet the minimum requirements they have to vacate. If they meet the minimum requirements they can keep their jobs.

Mr. MAGNUSON. Those on the job presumably qualify. You can start from scratch there, having a qualifying examination, not a competitive examination.

Mr. MURPHY. You admit that we are eliminated if we do not meet the minimum requirements.

Mr. WILCOX (Washington, D. C.). Why does not organized labor get behind the movement for making the formal educational requirements apply to the new employees of the department?

Mr. MURPHY. I had only a fourth-grade education. I could not qualify under civil service, but I still think we can get the job done.

Mr. LUBIN. If you are on the job, that experience qualifies you automatically for the job. If you had a civil-service law in your State passed tomorrow, every one of your people could keep their jobs. Your minimum requirements are not necessarily educational.

Mr. JACOBS (Tennessee). You had to make a minimum rating to be taken into the employment service.

Mr. LUBIN. That was because you had a new group which had just come into the service.

Mr. DAVIE (New Hampshire). I think the point Mr. Murphy raised is a very good one. I wonder if there is anyone here who has kept any record of those who were in the State employment service prior to the examinations that were required by the United States Employment Service. Practical, fine young employment men were absolutely barred right from the start. I am in favor of civil service, but I feel the point you want to make is that the standards are so high that it eliminates quite a number of people who are quite capable of taking care of their jobs.

Mr. PATTON. If I had known the turn this discussion was going to take, I would have brought with me some figures. I am sure, though, that a great many of the inspectors in New York are just the kind of people Mr. Murphy is talking about. The kind of civil-service system Mr. Murphy is afraid of is the kind of thing we want to guard against. I believe if civil service were inaugurated in the State of Oklahoma tomorrow that there is not a man in the United States who could beat Pat Murphy for commissioner.

Mr. McLOGAN (Wisconsin). I do not think there is any question but that we all agree to the principle of civil service, but since we have gone on record in favor of civil service, it behooves us to recognize immediately the advantages of civil service; that is, that when one has given years to a career in the State service, he should not be thrown out like a dirty shirt. He is entitled to protection. However, do not let us be mistaken in the idea that the present civil-service laws—not only as to their minimum requirements, but also as to the method of examination—are free from politics. They are not. First, let us go on record in favor of civil service, but then let us not sit back and let someone else run the show. For instance, what have we in the Wisconsin industrial commission to say with reference to the question of requirements and the examiners. Very, very little. It is the method of examination I dislike; for instance, true and false questions in the written examination. I agree 100 percent with Mr. Murphy when he says that certain minimum requirements should not be so high.

Our industrial commission had some experience with the Employment Service of the Federal Government. When we signed a contract with it we had men in our employ who had been doing excellent work for years. We had a terrible time convincing the Employment Service that those men ought to stay on the job, but we fought and they are still on the job and doing the excellent work they did before. I am not going to condemn the principles of civil service, however. I think it is a good thing. The weight is with the advantages under civil service.

Mr. BAIRD (Kansas). In 1920 I was called in to Washington to take the Federal civil-service examination in the Veterans' Bureau for rehabilitating the disabled soldiers. There were 52 of us who took the examination. Forty-nine of the 52 had college degrees, and three of us poor working union boys did not have more than a high-school education. After the examination we each received our grades. About 2 months later the big boss came through St. Louis where I was and said, "These fellows who took the examination the same time you did are jealous of you." I asked why and he said, "Two of you fellows who never had college education received the highest score in

that examination." They gave us more credits for having experience on the job.

In reference to our law in Kansas for appointing a labor commissioner, I might state that early in 1913 we had elected a Governor—Democratic, by the way. At that time we had what was called the "State Society of Labor and Industry", which met every January. This governor decided that he wanted a change in the labor commissioner. The procedure followed before that time had been that the State Society of Labor elected a secretary. The unions were entitled to a delegate at this convention. The secretary elected was usually paid by the State of Kansas as the labor commissioner. He then appointed the factory inspectors. This Governor wanted to make this an elective office by the people. We objected to making this an elective office, for the simple reason that there might be put in some lawyer or some farmer who knew nothing about machinery, equipment, and factory inspection, and nothing about laboring conditions. The society appointed myself and another gentleman to wait upon the Governor on a certain date and object to this bill before it went to the legislature. We were in session with him for about 3 hours, and we got him to change that bill so as to take the matter out of the hands of the voters by making it an appointive office. We thought that then we could hold the Governor responsible for that appointee. Under the law of Kansas a man has to be affiliated with some labor organization for at least 4 years before he is eligible to be a labor commissioner. The main thing I want to stress is the weight that should be given to the service the man has been doing before.

Mr. McLOGAN. The bureau in which you took the examination gave what I consider a proper examination. We have no quarrel with that method. But there are other agencies that do not handle it that way.

# Factory Inspection

---

## Training of Factory Inspectors in Europe

By DAVID VAAGE, *Chief of the Safety Service, International Labor Office, Geneva, Switzerland*

Before discussing the training of factory inspectors in Europe generally, it may be well to make a brief survey of the various systems on which the factory-inspection services were originally organized in the three most important industrial countries of the old continent—Great Britain, Germany (Prussia), and France.<sup>1</sup>

In Great Britain the factory-inspection service was set up by an act of August 29, 1833. At that time there were no legal provisions in force on the prevention of accidents. There were four factory inspectors for the whole country, and they were mainly concerned with the protection of women and children in the cotton industry.

The first legal provisions on accident prevention were contained in an act of June 6, 1844. These provisions required machinery and mill gearing to be fenced in certain cases; they were, however, quite general, without any more detailed technical regulations. The inspectors were empowered to issue orders directly to employers on the spot for the better protection of a machine or workplace.

Against such orders the employer had the right of appeal to arbitration by technical experts; and noncompliance with any such order, even if it had been confirmed by the arbitration award, did not render the employer liable to penalty. However, if an accident occurred that could be incontestably attributed to noncompliance with such orders, the employer would be heavily fined.

In this way considerable technical experience was accumulated and utilized, little by little, to draw up general regulations. These regulations were then amended as experience required. As their scope was extended and more uniformity obtained, the inspectors' right to issue orders was limited correspondingly.

These methods obviously required the inspection officers (and particularly the subinspectors, whose work became increasingly important as the activities of the inspection service were extended) to

---

<sup>1</sup> For fuller information on the origin and the development of the factory-inspection services in the various countries, see *Factory Inspection, Historical Development and Present Organization in Certain Countries*. Geneva, International Labor Office, 1923.

possess a considerable amount of technical knowledge; and consequently in the fifties, an examination for subinspectors was instituted similar to that for the civil service.

At present, the British factory inspectorate comprises: (1) A central department of technical experts under a chief inspector which elaborates methods for better protection; and (2) divisional and district inspectors responsible for the enforcement of the safety provisions.

All the divisional and the majority of the district inspectors are trained engineers. The qualifications required for the various posts will be dealt with later.

In Germany (Prussia) the first legislation on industrial safety, enacted in 1869, was also of a quite general nature; without any detailed provisions it required employers to equip their undertakings in such a way as to provide the best possible safety and hygienic conditions.

To supervise the enforcement of the new legislation, technically trained factory inspectors were appointed. The inspectors were empowered to issue orders to employers as to the measures to be taken in order to prevent accidents in their establishments; but they had first to obtain the approval of a higher authority, and in the case of a dispute between an employer and an inspector it was for the courts to decide whether the inspector's orders should be complied with.

This system was found unsatisfactory as it hindered rapid progress in the prevention of industrial accidents; and under an act of 1891 amending the German Industrial Code the factory inspectors were empowered to issue individual orders with the force of law in matters of industrial safety. The employers were given the right of appeal to the higher administrative authorities. Safety measures which had been found suitable in practice in certain branches of industry or in certain types of establishment were made general by order of the Federal Council where this was feasible.

Thus in Germany the administrative methods of factory inspection developed in a way quite different from that adopted in Great Britain. In Great Britain the inspectors' right of issuing individual orders was gradually limited; in Germany it was extended, with the idea that this would accelerate progress in technical protection. In both countries, however, technically trained experts were appointed to enforce the legal provisions on industrial safety.

In France accident-prevention legislation was introduced at a later date than in Great Britain and Germany. The French authorities, therefore, were able to benefit from the experience gained in these two countries.

The result was that in France even the earliest safety legislation was made rather detailed and contained many really technical regulations. It was consequently easy to enforce and required less technical training and experience on the part of the factory-inspection staff.

If, in spite of this, the first inspectors appointed in France were technically educated and trained experts, this was perhaps due to the force of example of other countries. I may, perhaps, add here that the conditions of appointment were subsequently so simplified that an intelligent worker could qualify. At present, however, the inspectors are appointed by means of a competitive examination covering all the subjects with which they ought to be acquainted in order to be properly qualified for their work; an indication of these subjects will be given later.

In most European countries industrial safety is the chief concern of the factory inspectorate, and the factory-inspection services are distinct from the accident-insurance administrations. In some countries, however, e. g., Germany and Switzerland, the accident-insurance institutions have their own inspection services, concerned with the supervision of safety measures and empowered by law to issue orders to employers. This is particularly the case in Switzerland, where the right to issue orders in safety matters is given exclusively to the Swiss Accident Insurance Institute and not to the Federal factory inspectors.

Centralization of inspection is the rule in most countries; however, for special purposes, e. g., the inspection of steam boilers, electrical plants, lifts, and acetylene generators, separate inspection services are frequently set up. These are branches in which the activity of the inspectors frequently includes tests, etc., requiring special apparatus and for which—as in the case of boilers and other pressure vessels—it is usually essential to inform the employer in advance in order to have the necessary preparations carried out in time.

With the development of industry, the introduction of new processes and working methods, and the subsequent need for better measures for the protection of workers against accidents and other occupational risks, the tendency in all European countries has been for the factory-inspection staff to become more and more specialized in matters of industrial health and safety.

It is by no means an exaggeration to say that the factory inspectorates today are looked upon everywhere in Europe as bodies of experts in these matters. In this capacity the inspectors are continually called upon: (a) To advise the employers and managements of industrial undertakings as to the best ways of complying with the legal provisions respecting health and safety of their employees; (b) to study the conditions in industrial establishments in order to see whether the existing legislation is inadequate or requires modification to meet new developments, and advise the governments or other competent authorities as to the best means of improvement; (c) to investigate particular problems affecting the safety and health of industrial workers, and to collect information on causes of accidents and occupational diseases, etc.

It may be of interest to note, in this connection, that in many European countries the labor-protection acts provide that employers intending to erect new factory buildings, or to rebuild or alter existing premises, may submit their plans to the competent factory inspector for examination. The inspector must then determine whether such plans are in conformity with the protective legislation and advise the employer, free of charge, as to any additions or modifications required for this purpose.

The above considerations will certainly suffice to show that in Europe the factory inspector's post is a specialized one, requiring considerable technical training and experience. A brief survey of the conditions of appointment to posts in the inspection service in various countries is given below. I may, perhaps, point out here that, for appointment to a post as technical inspector, in most cases a degree or diploma from a university or technical high school is required; and, in view of the difference in classification of educational institutions that exists between European countries and the United States of America, it should be borne in mind that in Europe the "technical high schools" rank as the highest institutions of their kind, corresponding to, for example, the Massachusetts Institute of Technology in the United States of America.

Another very important feature of the post of factory inspector, common to practically all European countries, is that from the lowest to the highest grades it is a permanent civil-service post having definitely defined conditions with regard to salaries, annual leave, and pension rights. In other words, after passing the probationary stage, and provided that they commit no serious fault in carrying out their duties, the factory-inspection officials enjoy a permanent status, with possibility of promotion to the various higher grades, and with remuneration, pension rights, etc., granted under the general regulations concerning civil servants.

If now we consider the actual methods of appointment and training of factory-inspection staff in some of the European countries, this can best be done on the basis of the statements submitted by the various governments in reply to a questionnaire sent out by the International Labor Office on the occasion of the Regional Conference of Representatives of Labor Inspection Services held at The Hague, in October 1935.<sup>2</sup>

According to these statements, the manner in which inspectors are selected, appointed, and trained, and the qualifications required of candidates are as follows:

*Belgium.*—Inspectors are selected by means of examinations. The examining board is composed of university professors and civil servants. Candidates must

<sup>2</sup> The countries represented at this conference were: Belgium, Finland, France, Great Britain, Italy, Luxembourg, Netherlands, Norway, Spain, Sweden, and Switzerland. Multigraphed copies of the reports submitted to this conference can be obtained from the International Labor Office, Geneva, Switzerland.

possess an engineering diploma, testifying to a 5-years' course at a Belgian university.

Candidates who have passed the examination are appointed in order of merit according to the number of posts available; they are appointed on probation for 6 months, and after this period their appointment is definitely confirmed, if they have given satisfaction.

*Finland.*—Appointments are made on the basis of candidates' applications. The chief inspector is appointed by the government without application. The chief inspector, the assistant inspectors, and the special inspectors in the department of labor must all be graduate engineers. The district inspectors and assistant district inspectors must be graduate engineers and have at least 5-years' experience in industry; for the district inspectors, 1 year's experience in the factory-inspection service is also required.

Woman factory inspectors must possess a technical-college or university degree in economics or hygiene and have experience in welfare work.

*France.*—Department (district) inspectors are appointed by competitive examination, the conditions and program of which are fixed by the central commission of labor.

Candidates are examined in the various subjects an inspector may need in the performance of his duties; as, for instance: labor legislation, particularly the laws to be enforced by the inspectors; the elements of industrial hygiene; engineering and electricity; accident prevention (written and oral examinations). There are also practical examinations in industrial hygiene, engineering, electricity, and accident prevention, which are carried out at the Conservatoire of Arts and Crafts with the actual machinery concerned.

An optional practical test in industrial work (oral) has been instituted for the benefit of candidates who can show at least 10 year's practical experience as employers, engineers responsible for the execution of practical work, foremen, and workers or apprentices in establishments using machinery.

Women applying for posts of inspectors generally take the same examinations except those in engineering, electricity, and accident prevention and the optional practical test in industrial work.

Having successfully passed the examination the candidates are appointed as department inspectors on probation. After 1 year's probation, if satisfactory, they are appointed as permanent inspectors in the lowest (fifth) grade; they may then be promoted successively to the various higher grades.

Divisional inspectors are selected from among the department inspectors not below the first grade.

The annual promotions are decided on by the minister of labor on the recommendation of a special grading commission, which includes two divisional and two department inspectors chosen from among those who are not eligible for inclusion in the promotion list.

*Germany.*—A special course of training for factory inspectors was instituted in Prussia in 1897. Certificated engineers or chemists who had completed their university education were appointed as probationers (*Gewerbereferendare*) and received 18 months' practical training with a factory inspector. After this they had to spend another 18 months in the study of law and political science and to pass an examination, after which they were appointed as assistant inspectors (*Gewerbeassessoren*) in the factory inspectorate. As far as we know, this system is still in force. Other German States have adopted similar systems.

*Great Britain.*—The inspectorate is recruited by means of competitions held under regulations made by the civil-service commissioners with the approval of H. M. treasury.

As regards qualifications, candidates must satisfy the commissioners that they have such experience and have received such systematic education, general or

technical (or both together), as in their opinion fits them for the post; in general, candidates should possess a university degree or other equivalent qualification in engineering, industry, or science; but the commissioners may dispense with such qualification in the case of a candidate with suitable works or other special practical experience.

The training of new inspectors is undertaken by the inspectorate itself and for the first few weeks they accompany experienced inspectors on their visits to factories and are encouraged to make reports on what they have seen. Use is also made of the Home Office Industrial Museum for demonstrations and lectures to new inspectors. All inspectors are on probation for the first 2 years, and at the end of this period have to undergo a qualifying examination in factory law and sanitary science.

*Italy.*—Inspectors are selected by means of public examination; they must pass a medical examination and possess the required educational qualifications; viz., a university degree (or secondary-school certificate in the case of an assistant inspector) and special knowledge of scientific, legal, and technical questions in relation to economic, commercial, and industrial matters.

*Netherlands.*—Inspectors are selected as far as possible from among engineers trained at the Technical University of Delft. They are appointed in the first place as assistant inspectors, and after about 2 years, if they have shown due ability, they are promoted to the rank of inspector. During the first 2 years the assistant inspectors receive training in inspection work.

The chief inspectors are selected from among the inspectors. This promotion is by merit, but as a general rule seniority is taken into account.

*Norway.*—The law prescribes that inspectors must have technical qualifications before being appointed. Special technical qualifications have in some cases been required in order that the service may represent the different branches of scientific knowledge.

*Sweden.*—Candidates for posts of factory inspector must have attended a technical college or acquired a corresponding training, and during not less than 8 years in all must have been engaged in an activity that may be regarded as a suitable preparation for the work of a factory inspector and have served as an assistant to a factory inspector.

A woman inspector must have passed an examination in suitable subjects at a university or college and have engaged in such studies and activities as may be considered likely to give a good theoretical and practical knowledge of industrial and general hygiene, conditions of employment, social legislation, etc.

*Switzerland.*—All labor-inspection officials are appointed by means of public examination. Candidates are mostly selected from technical or industrial occupations and pass direct into the inspection service. A probationary period is usually required for the higher posts. Training is obtained in the service itself.

The qualifications which the candidates must possess are determined in each particular case. A good general education is always required, with an understanding of technical and labor questions and, in addition, experience of employment in an industry or, exceptionally, in an appropriate administrative department. Preference is given to candidates with advanced knowledge of technical questions or natural science, but capable persons without these qualifications may also be appointed. A further condition is a knowledge of two of the national languages.

Owing to the various duties incumbent on the inspection service, it is so arranged that the following branches of study are represented in each of the four district inspectorates: Graduated ordinary (civil) and mechanical engineers, chemists and electrical engineers, and persons holding a degree in natural science.

As will have been seen from the foregoing, the factory inspectors in Europe are of high professional standing. This is further demonstrated by the fact that in many countries the inspectors are frequently called upon to give lectures at technical high schools and colleges, at safety congresses, before scientific and technical associations, etc. In many cases, also, factory inspectors are to be found among the most capable collaborators of technical journals dealing with questions of industrial safety and hygiene or with labor conditions generally.

For several years past it has been current practice in many European countries to arrange for special national conferences of factory-inspection officials to discuss technical matters of general interest and to exchange ideas as to the best practices in inspection work. These conferences have proved very valuable as a further means of training the inspectors, and in some cases, e.g., in the Scandinavian countries and Finland, they have even been organized on an international basis.

In conclusion, it may be mentioned that the International Labor Organization has also taken an active part in the development of the organization and activities of factory inspection. Thus, in 1923 the International Labor Conferences unanimously adopted a "Recommendation concerning the general principles for the organization of systems of inspection to secure the enforcement of the laws and regulations for the protection of the workers."

This recommendation (which has been accepted by most of the European countries) lays down, *inter alia*, the following principles:

(1) That the inspectorate should be centralized and placed under the direct and exclusive control of a properly qualified State authority (secs. 8-10).

(2) That competent experts should be employed to deal with special medical, engineering, electrical, and other problems arising out of inspection (sec. 11).

(3) That inspectors should be properly trained and qualified; that they should enjoy permanent status; that they should receive adequate remuneration; and that their freedom from external influence should be secured (secs. 13-16).

(4) (a) That one of the essential duties of the inspectors should be to investigate accidents, and more especially those of a serious or recurring character, with a view to ascertaining by what measures they can be prevented;

(b) That inspectors should inform and advise employers respecting the best standards of health and safety;

(c) That inspectors should encourage the collaboration of employers, managing staff, and workers for the promotion of personal caution, safety methods, and the perfecting of safety equipment;

(d) That inspectors should endeavor to promote the improvement and perfecting of measures of health and safety, by the systematic study of technical methods for the internal equipment of undertakings, by special investigation into problems of health and safety, and by any other means (sec. 7).

Further, in October 1935 a Regional Conference of Representatives of Labor Inspection Services was held at The Hague, under the auspices of the International Labor Office, to discuss the "Organization of

factory inspection in industrial undertakings, including the question of collaboration with the employers and workers.”

As was indicated above (see footnote 2), this conference was attended by representatives from western Europe. Representatives of the factory inspectorates in the central and eastern European countries will be convened in a second regional conference of the same character and with the same agenda, to be held in Vienna in May 1937.

# Minutes of Business Meetings and Reports of Officers and Committees

Session of September 24, 1936

President CRAWFORD. I am sure you will all be much gratified to learn that our financial situation is much better at present than it has ever been before. I shall now call on the secretary-treasurer to give us his report for the past year.

## Report of the Secretary-Treasurer

Since the Asheville convention the Delaware Labor Commission, the Georgia Department of Industrial Relations, the Missouri Department of Labor and Industrial Inspection, the Ohio Department of Industrial Relations, the Oklahoma Department of Labor, the Rhode Island Department of Labor, the South Carolina Department of Labor, and the British Columbia Department of Labor have joined the Association. At the Asheville convention the United States Social Security Board, the National Labor Relations Board, and the United States Division of Labor Standards were elected to membership. The membership list now stands as follows:

### ACTIVE MEMBERS

United States Bureau of Labor Statistics.  
United States Bureau of Mines.  
United States Children's Bureau.  
United States Employment Service.  
United States Women's Bureau.  
United States Division of Labor Standards.  
United States Social Security Board.  
National Labor Relations Board.  
Arkansas Bureau of Labor and Statistics.  
Connecticut Department of Labor and Factory Inspection.  
Georgia Department of Industrial Relations.  
Illinois Department of Labor.  
Indiana Industrial Board.  
Iowa Bureau of Labor.  
Kansas Commission of Labor and Industry.  
Kentucky Department of Agriculture, Labor, and Statistics.  
Massachusetts Department of Labor and Industries.  
Michigan Department of Labor and Industry.  
Missouri Department of Labor and Industrial Inspection.  
New Jersey Department of Labor.  
New York Department of Labor.  
North Carolina Department of Labor.  
Ohio Department of Industrial Relations.  
Oklahoma Department of Labor.  
Pennsylvania Department of Labor and Industry.  
Puerto Rico Department of Labor.  
Rhode Island Department of Labor.  
South Carolina Department of Labor.  
Tennessee Department of Labor.  
Virginia Department of Labor and Industry.  
West Virginia Department of Labor.

Wisconsin Industrial Commission.  
 Department of Labor of Canada.  
 British Columbia Department of Labor.  
 Ontario Department of Labor.  
 Quebec Department of Labor.

## ASSOCIATE MEMBERS

Delaware Labor Commission.  
 New Hampshire Bureau of Labor.  
 North Dakota Minimum Wage Department.  
 C. W. Dickey, Wilmington, Del.

## HONORARY MEMBER

Leifur Magnusson, American representative, International Labor Organization.

The proceedings of the Asheville convention have been printed as Bulletin No. 619 of the Bureau of Labor Statistics of the United States Department of Labor.

In accordance with recommendations made at the Asheville convention, committees were appointed to study various specified subjects in which the membership of the association is vitally interested. The committees listed below have functioned throughout the year and have prepared some excellent reports for presentation to and discussion by the convention.

*Committee on unemployment compensation.*—Paul A. Raushenbush, Wisconsin Industrial Commission, chairman; Glenn A. Bowers, New York Department of Labor; Merrill G. Murray, United States Social Security Board; George E. Bigge, Rhode Island Department of Labor.

*Committee on minimum wage.*—Frieda S. Miller, New York Department of Labor, chairman; Louise Stitt, United States Women's Bureau; Mrs. Rex Eaton, British Columbia Board of Industrial Relations; Mrs. Elizabeth R. Elkins, New Hampshire Bureau of Labor; Mrs. E. Dupuis, North Dakota Minimum Wage Department.

*Committee on old-age pensions.*—Harry R. McLogan, Wisconsin Industrial Commission, chairman; Glenn A. Bowers, New York Department of Labor; Robert Lansdale, Committee on Public Administration; H. J. Berroddin, Ohio Department of Public Welfare; W. A. Pat Murphy, Oklahoma Department of Labor.

*Committee on wage-claim collection laws.*—E. I. McKinley, Arkansas Bureau of Labor and Statistics, chairman; O. B. Chapman, Ohio Department of Industrial Relations; Morgan R. Mooney, Connecticut Department of Labor and Factory Inspection; W. A. Pat Murphy, Oklahoma Department of Labor; Harry R. McLogan, Wisconsin Industrial Commission.

*Committee on home work.*—Morgan R. Mooney, Connecticut Department of Labor and Factory Inspection, chairman; Frieda S. Miller, New York Department of Labor; Martin P. Durkin, Illinois Department of Labor; W. E. Jacobs, Tennessee Department of Labor; L. Metcalfe Walling, Rhode Island Department of Labor.

*Committee on civil service.*—E. B. Patton, New York Department of Labor, chairman; Maud Swett, Wisconsin Industrial Commission; W. E. Jacobs, Tennessee Department of Labor; Gerald H. Brown, Canada Department of Labor; Gerard Tremblay, Quebec Department of Labor; Leonard D. White, U. S. Civil Service Commission.

*Committee on women in industry.*—Mary Anderson, United States Women's Bureau, chairman; Frieda S. Miller, New York Department of Labor; Margaret McIntosh, Canada Department of Labor; Florence A. Burton, Minnesota Department of Labor and Industry; Mrs. Louise Q. Blodgett, Rhode Island Department of Labor; Mrs. Daisy L. Gulick, Kansas Commission of Labor and Industry.

*Committee on child labor.*—L. Metcalfe Walling, Rhode Island Department of Labor, chairman; Morgan R. Mooney, Connecticut Department of Labor and Factory Inspection; O. B. Chapman, Ohio Department of Industrial Relations; W. E. Jacobs, Tennessee Department of Labor; Beatrice McConnell, United States Children's Bureau.

*Committee on publicity.*—Martin P. Durkin, Illinois Department of Labor, chairman.

During the year the association has continued its representation on various committees of the American Standards Association. Following is a list of safety

codes developed or in process of development under the procedure of the American Standards Association in which the I. A. G. L. O. is interested as a sponsor or through representation on sectional committees:

PROJECT FOR WHICH I. A. G. L. O. IS JOINT SPONSOR

*Z3-1924.—Safety code for laundry machinery and operations.*

No revision is under contemplation at present.

PROJECTS FOR WHICH THE I. A. G. L. O. HAS REPRESENTATION ON SECTIONAL COMMITTEES

*A9-1935.—Building-exits code.*

The last edition of this code was approved by the American Standards Association under date of March 12, 1935. The sectional committee has completed a new edition which it is expected will be submitted to the American Standards Association in the very near future. The new edition includes minor revisions as well as a new section on exits in hotels and apartment houses, which was reported to you as being under development at the time of your last meeting.

*A10-1934.—American standard for safety in the construction industry.*

Drafts of reports from three subcommittees have been prepared on the following subjects: Excavating, foundation work, blasting, and compressed-air work; scaffolding, ladders, temporary guard rails and toe boards, floor openings, side-walk sheds, temporary stairs, runways and ramps, life lines, and safety belts; steel erection and temporary floors. Plans for holding a meeting of the sectional committee during the annual safety congress are being developed. This progress in the last few months indicates that it can be expected the sectional committee will now proceed with the development of the construction code.

*A11-1930.—Code of lighting: Factories, mills, and other workplaces.*

Advice has been received from the Illuminating Engineering Society, sponsor for this project, that its technical committee has prepared information which will soon be sent to the sectional committee for consideration in connection with a revision of this standard.

*A12-1932.—Safety code for floor and wall openings, railings, and toe boards.*

At the present time, no plans have been made to revise this code.

*A12-1931.—Safety code for elevators, dumbwaiters, and escalators.*

A revision of this code is now out to letter ballot of the sectional committee and should therefore be submitted to the American Standards Association for approval this fall. The Elevator Inspectors' Handbook has been brought into line with the new provisions of the elevator code and will probably be submitted to the American Standards Association for approval with the code.

*A22.—Safety code for walkway surfaces.*

The sectional committee for this code has been entirely inactive during the past year. However, studies are now being made at the National Bureau of Standards to determine whether or not new recommendations can be made to the sectional committee which will permit the development of a new draft of this code.

*B8-1932.—Safety code for protection of industrial workers in foundries.*

No revision of this code is contemplated at this time.

*B9-1933.—Safety code for mechanical refrigeration.*

A revision of this code is now under way. Subcommittees have been appointed to prepare new classifications for refrigerants, the development of a model ordinance for recommendation to municipalities desiring to incorporate regulations for mechanical refrigeration in their building requirements, and to prepare a completely revised draft of the code for the consideration of the sectional committee. Difficulty in reaching agreement on the proper classification of refrigerants has been the chief cause of delay in completing this revision.

*B19.—Safety code for compressed-air machinery.*

A number of sectional committee meetings have been held during the past winter, several drafts of the proposed standard have been prepared, and work of the sectional committee has now reached the final stages.

*B20.—Safety code for conveyors and conveying machinery.*

Only two of the subcommittees appointed to prepare drafts of sections of this code have been able to submit drafts for consideration of the sectional committee. The past chairman, Mr. C. H. Newman, was unable to stimulate interest in the work of the other subcommittees because of his own ill health. Until a few months ago, no work had been accomplished by the committee since the death of the chairman in 1934. However, during the summer, the sponsors have held several conferences and laid plans for reorganizing the sectional committee, reorganized six subcommittees, and reviewed the two sections of the code now on file with a view to promoting actively the completion of the standard.

*B24-1927.—Safety code for forging and hot-metal stamping.*

No revision of this code is under contemplation at this time.

*B28-1927.—Safety code for rubber machinery.*

No new standards are under consideration, and no revisions of existing standards have been undertaken.

*B30.—Safety code for cranes, derricks, and hoists.*

All sections of this code have been completed for several years. A mimeographed copy of the draft of the proposed code, based on these reports, was distributed to the sectional committee in 1932 for criticism and comment. Arrangements have now been made for a revision of the draft in accordance with the criticisms received from the committee after which the draft will be submitted to the sectional committee for approval.

*C2-1927.—National electrical safety code.*

No revisions of this code are under consideration at the present time.

*K13-1930.—Code for identification of gas-mask canisters.*

No revisions of this code are under consideration at this time.

*L1-1929.—Textile safety code.*

No revisions of this code are under consideration at the present time.

*Z2 (formerly X2-1922).—Safety code for the protection of the heads, eyes, and respiratory organs of industrial workers.*

This code continues under revision, the principal emphasis being placed on provisions for respirators. The chairman of the sectional committee appointed a special subcommittee on this section to consider objections to previous drafts and to study the information which has been collected. This special subcommittee which has submitted its report and the chairman of the sectional committee is preparing a final draft of the new section on respirators for the consideration of the full sectional committee.

*Z4.—Safety codes for industrial sanitation.*

Three standards have been approved under this project as reported last year. No additional standards are under consideration and no revisions of existing standards have been undertaken.

*Z5.—Ventilation code.*

The subcommittee on fundamentals under this project had made one report to the sectional committee, part of which was approved and part returned for further consideration. The subcommittee is now preparing a revision of its report for presentation to the sectional committee.

*Z9.—Safety code for exhaust systems.*

The work on this project has definitely progressed during the past year. A number of subcommittees, covering various industrial processes, have been authorized by the sectional committee and are now being organized to develop standards in their respective fields. The subcommittee on fundamentals has prepared a report which has been tentatively approved by the sectional committee. A final draft of this report is now being prepared and will be printed for general distribution by the subcommittee under the power granted to it by the sectional committee. This document will be printed as a report only and not as a standard. The National Advisory Committee on Toxic Dusts and Gases, which was appointed on the recommendation of the sectional committee of the exhaust-code project, has held one meeting and has started the preparation of a bulletin covering the use of threshold limits of toxic dusts and gases in regulations and by industrial groups. It is also studying the question of the possibility of studying nomenclature in the field of occupational diseases, and as soon as additional information has been

received from the various subcommittees of the exhaust-code project, the advisory committee will proceed to establish threshold limits for certain toxic dusts and gases for the use of the subcommittees.

*Z12.—Safety codes for the prevention of dust explosions.*

While no new standards have been submitted under this project during the past year, the sectional committee is continuing its activities and has made recommendations and reports to the National Fire Protection Association, one of the sponsors, for additions and revisions to the codes.

*Z13.—Safety code for amusement parks.*

During the past year continual efforts have been made to revive the work on this project. The National Association of Amusement Parks, Beaches, and Pools, which has been carrying the administrative responsibility for the work, has reorganized its safety committee and appointed a new chairman. This committee will endeavor to complete drafts of sections of this code which had been started by the previous committee for presentation to the full sectional committee.

*Z16.—Standardization of methods for recording and compiling industrial-accident statistics.*

It is gratifying to report that very substantial progress has been made during the past year in reconciling the differences of opinion which have prevented the completion of the proposed standard for compiling industrial-injury rates for a number of years. What is expected to be the final draft of this standard is now out to letter ballot of the sectional committee.

*Z20.—Safety code for grandstands.*

Inasmuch as it was not possible completely to harmonize the differences of opinion in connection with the draft of the proposed safety code for portable steel and wood grandstands, reported as being before the sectional committee for final vote, it was found necessary to call a meeting of the sectional committee to give further consideration to these points. A new draft, prepared by a special committee composed of representatives of the groups which had voted in the negative on the previous draft and the officers of the sectional committee and subcommittee which prepared the draft, has been transmitted to the full sectional committee for review prior to holding a meeting in the early fall.

*Financial Statement Covering Period Since Asheville Convention*

RECEIPTS

1935		
Sept. 28.	Balance in bank .....	\$743. 15
28.	Massachusetts Department of Labor and Industries, 1936 dues.....	25. 00
28.	Arkansas Bureau of Labor and Statistics, 1936 dues.....	25. 00
Oct. 10.	Iowa Bureau of Labor, 1936 dues.....	25. 00
10.	Kentucky Department of Agriculture, Labor, and Statistics, 1936 dues.....	25. 00
10.	North Dakota Minimum Wage Department, 1936 dues.....	10. 00
10.	Illinois Department of Labor, 1936 dues.....	25. 00
Nov. 7.	Pennsylvania Department of Labor and Industry, 1936 dues.....	25. 00
7.	Maryland Commissioner of Labor and Statistics, 1936 dues.....	10. 00
7.	New York Department of Labor, 1936 dues.....	25. 00
7.	Virginia Department of Labor and Industry, 1936 dues.....	25. 00
13.	Puerto Rico Department of Labor, 1936 dues.....	25. 00
1936		
June 13.	Connecticut Department of Labor and Factory Inspection, 1937 dues.....	25. 00
13.	North Carolina Department of Labor, 1937 dues.....	25. 00
13.	Province of Ontario Department of Labor, 1937 dues.....	25. 00
13.	Delaware Labor Commission, 1937 dues.....	10. 00
13.	Arkansas Bureau of Labor and Statistics, 1937 dues.....	25. 00
16.	West Virginia Department of Labor, 1937 dues.....	25. 00
17.	Tennessee Department of Labor, 1937 dues.....	25. 00
17.	New Hampshire Bureau of Labor, 1937 dues.....	10. 00
22.	Kansas Commission of Labor and Industry, 1937 dues.....	25. 00
July 1.	Virginia Department of Labor and Industry, 1937 dues.....	25. 00
1.	Kentucky Department of Agriculture, Labor, and Statistics, 1937 dues.....	25. 00

*Financial Statement Covering Period Since Asheville Convention—Continued*

RECEIPTS—continued

1936		
July	13. New York Department of Labor, 1937 dues.....	\$25. 00
	28. Wisconsin Industrial Commission, 1937 dues.....	25. 00
	28. Puerto Rico Department of Labor, 1937 dues.....	25. 00
Aug.	12. Missouri Department of Labor and Industrial Inspection, 1937 dues.....	25. 00
	28. Rhode Island Department of Labor, 1937 dues.....	25. 00
Sept.	8. Ohio Department of Industrial Relations, 1937 dues.....	10. 00
	8. North Dakota Minimum Wage Department, 1937 dues.....	10. 00
	15. Iowa Bureau of Labor, 1937 dues.....	25. 00
	21. Oklahoma Department of Labor, 1937 dues.....	25. 00
	Total receipts.....	1, 428. 15

DISBURSEMENTS

1935		
Oct.	9. Caslon Press, Inc., printing 300 programs, Asheville convention.....	\$23. 75
	10. Illinois Department of Labor, check for 1936 dues returned for signature.....	25. 00
	16. A. W. Crawford, postage and telegraph in president's office.....	10. 00
	15. May F. Jones, reporting one session at Asheville con- vention.....	20. 00
	15. Mrs. D. G. Horton, services at Asheville convention— honorarium.....	10. 00
	15. Annie Shaw, services at Asheville convention—honor- arium.....	10. 00
	18. The Lewis Co., badges for Asheville convention....	8. 92
	21. John B. Clark (agent for Maryland Casualty Co.), bonding secretary-treasurer for \$1,000.....	5. 00
Nov.	1. Caslon Press, Inc., printing 2,000 letterheads.....	16. 50
Dec.	2. Henrietta Love, services at Asheville convention— honorarium.....	10. 00
1936		
Jan.	7. Henrietta Love, reporting one session at Asheville convention.....	23. 80
	21. Arthur E. Eve, services at Asheville convention— honorarium.....	10. 00
	21. Arthur E. Eve, reporting Asheville convention.....	76. 20
Apr.	7. Caslon Press, Inc., printing red line on 1,650 letter- heads.....	5. 10
May	25. Postage, secretary's office.....	5. 00
Aug.	22. Cash (postage, secretary's office).....	5. 00
Sept.	17. The Lewis Co., badges for Topeka meeting.....	11. 25
	Total disbursements.....	275. 52
	Net balance.....	1, 152. 63

UNPAID OBLIGATIONS

360 programs for Topeka meeting.....	\$24. 75
September 22, 1936.	ISADOR LUBIN, <i>Secretary-Treasurer.</i>

## Report of the Executive Board

By A. W. CRAWFORD, *President, I. A. G. L. O.*

At a meeting of the executive board held at the Hotel Jayhawk on Wednesday, September 23, the following report was unanimously agreed upon for recommendation to the convention:

(1) In view of the fact that among the purposes of this association, as defined in its constitution, is:

To encourage the cooperation of all branches of Federal, State, and Provincial Governments who are charged with the administration of laws and regulations for the protection of women and children and the safety and welfare of all workers in industry; to maintain and promote the best possible standards of law enforcement and administrative method; to act as a medium for the interchange of information for and by the members of the Association.

The executive board unanimously recommends that your president confer with the Secretary of Labor with a view to eliminating the duplication of functions of the standing committees of this association and those of the Division of Labor Standards. Your executive board also recommends that the cooperation of the Department of Labor be further sought to the end that in setting up committees by the Department of Labor which duplicate the work of existing committees of this association, the standing committee of this association be made use of by that Department and supplemented if necessary. It further recommends that in the event of the establishment of a committee by the Department of Labor to deal with standards not already covered by existing standing committees of the association, such committees be established by the Department of Labor through the medium of this association.

Your executive board further recommends that the association give careful consideration to the question of retaining the existing policy of holding its meetings in the same city with and immediately following the adjournment of the annual convention of the International Association of Accident Boards and Commissions. Although this question was given careful consideration at Asheville in 1935, it is your board's confirmed opinion that the question should be reconsidered at this time.

*Discussion*

Mr. WALLING (Rhode Island). Would it not be helpful to the members if you would outline some of the points relative to the possibilities of enlisting the cooperation of the Canadian Provinces and the Federal Department of Labor? I think that most of the members do not understand the background of the recommendation as to next year's meeting.

President CRAWFORD. I have been coming to the association meetings for some time. Other Provinces have not been participating. It is my opinion that some reorganization is essential within the Association if we are to function properly. One of the chief purposes of this Association is to stimulate cooperative action between Federal and State departments. The Department of Labor in Washington has set up a division for that purpose. Last year there were some overlapping committees. One committee in particular was established by this Association, and a committee for identical work was estab-

lished in Washington. There were two separate reports. It seems to me that, without any blame attached, the mere set-up of this Association—the fact that it is called International—should justify its being the official mouthpiece of the State labor departments on all cooperative matters, so that the Department in Washington may make full use of the association and the association may make full use of the Division of Labor Standards in Washington. I believe that a similar organization should be developed in Canada. It may mean two separate divisions. I have authority to invite the association to come to Toronto next year, in the hope that, immediately following our deliberations there as an association, we may have a couple of days during which the Provinces may fully consider and definitely decide what part we may play in this association. That is the meat of my report, and I should like to hear a frank expression of opinion in connection with it, so that the incoming executive board may take direct action.

[Mr. Davie moved that the report of the executive board be accepted as read. Motion seconded and carried.]

Mr. LUBIN. At the meeting last year very careful consideration was given to the question of where to meet. Although no definite action was taken, it appeared to be the consensus of opinion that it would be best to meet after the I. A. I. A. B. C. in the same city—because many of the people want to attend both meetings but cannot afford to go to two different cities. The question was raised again this year. Two aspects were considered: (1) The Canadian Provinces felt that there were specific problems that they had to cope with which could not very well be handled through an international association such as ours; and (2) it is their opinion that they could learn a lot from American experience by being affiliated with such an association and that the American States would benefit tremendously from the experience of the Canadian Provinces. I propose that we maintain the present set-up of the association—namely, having membership open to Canadian Provinces—but, that there be established in Canada a branch, as it were, which would be made up of Canadian Provinces, so that they could meet by themselves, say, every other year, to discuss problems of particular concern to Canada, and every other year the international meeting would be made up of the Provinces and States of both countries. Another alternative would be for the Canadian Provinces to meet for a day or two by themselves, and the American States to do likewise, and then hold a joint meeting. In view of the fact that there is a question as to whether or not Canadian Provinces will continue to affiliate themselves with our association, I think it is vitally important that we make some decision on this matter.

President CRAWFORD. You have heard the secretary's proposal. Are there any other proposals?

Mr. McLOGAN (Wisconsin). I think the secretary's suggestion that the Canadian Provinces and the American States meet separately and then hold joint sessions is a very good one. I for one would be very much disappointed in seeing a complete separation of the Canadian representatives and the American States' representatives. In that connection, I am heartily in accord with the recommendation of the executive board for meeting at a different time and place from the I. A. I. A. B. C. I am sold on that. Under the present arrangement I do not believe there is time enough, and it does not seem to me there are a great many people who attend both conventions. I believe more really substantial work will come out of each organization meeting by itself.

Mr. DAVIE (New Hampshire). I do not want anything ever to happen that will separate us from our Canadian brothers. Some of the background of this association was built up by the delegates from the Canadian Provinces, and I sincerely hope that, whatever the final action is, we keep in mind that we are not going to allow them to separate from this association. I am highly in accord with the idea of having our association meet separately from the I. A. I. A. B. C.

Mr. PATTON (New York). I think I am chiefly responsible for the movement to have the two bodies meet together. My sole object in doing it was to increase the attendance by reducing the expense and to stimulate interest. It has not resulted in any greater attendance and perhaps no greater interest. I am not opposed to reverting to what, after all, was the original and long-continued practice. I like the secretary's suggestion of having a Canadian section and a United States section, although I am afraid of the idea of separate meetings in alternate years. I do like the idea of a Canadian session and a United States session, to be followed by a joint meeting. In view of the feeling expressed at Asheville last year and also here this year, I would not be opposed to reverting to the original practice of meeting separately.

President CRAWFORD. Is there anyone in the meeting who favors continuing the present arrangement?

Mr. ANDREWS (New York). I can see why Dr. Patton advocated the conventions meeting at the same place, but I do not believe that this year, for example, there are many people who attended the other convention and who are staying over for this meeting. It rather troubles my conscience to have to stay away from my office so long, and I must say that sitting in meetings morning and afternoon for 6 days gets tiresome. I think we might well consider holding our meetings separately.

[Mr. Walling moved that the association go on record as favoring holding its annual conventions at a time separate from the meetings of the I. A. I. A. B. C. Motion seconded and carried.]

[Mr. McLogan moved that the organization remain intact as an international organization, with a Canadian division and a United States division, the Canadian division to meet at the same time and place as the United States division, and these two meetings to be followed by a meeting of the International Association, allowing each division sufficient time to consider its own particular problems before the joint meeting. Motion seconded.]

MR. WALLING. Mr. President, will that meet the objection which you expressed last night, as to the reluctance on the part of the Provinces to come to these meetings, which they feel are devoted almost exclusively to American problems?

PRESIDENT CRAWFORD. I think it would. In the matter of expense, I have never found any difficulty whatever in attending meetings in the States, but I have found a decided objection in some of the Provinces, particularly at this time, when every expenditure must be carefully scrutinized. They say they can get the information, reports, etc., later; but they also say they want a similar organization where we can discuss our particular problems, and they do wish to share in those State departments' problems which are common to them. I have with me correspondence, which will be available to anyone, indicating clearly the desire of the Canadian Provinces. We must have closer cooperation between the Dominion and Provincial departments and the United States Department of Labor and the State departments. But it is quite apparent that if the Department of Labor in Washington undertakes to give service to the States, it cannot give the same service to the Canadian Provinces. I do not pretend to know at the present time just how such an organization should be worked out in detail. For that reason I suggest that the association come to Toronto next year. It would give an opportunity to discuss the problem fully. I fear that we cannot settle it today. I certainly cannot commit the Provinces to any particular arrangement.

MR. McLOGAN. Of course, this organization is in no position to say to the Canadian Provinces that they have to join the Canadian division. I am wondering from your remarks just now whether or not my motion, if it prevailed, would be premature, or, if this motion prevails, if it would leave it open to the Provinces and representatives of the Provinces in Canada to join the Canadian division. If it is your thought that perhaps definite action ought to be delayed until a year later, I am not averse to that. Perhaps we should simply recommend this, though my motion went farther than that.

PRESIDENT CRAWFORD. Speaking for Ontario, I can say that the present arrangement is quite satisfactory so far as we are concerned. We get a great deal from our associations here, but I appreciate that we cannot bring in the Federal Department, particularly in relation to

the problem of Provincial relationships, without some separation within the organization. Personally, I deem it advisable not to settle this matter here.

Mr. LUBIN. I submit an amendment to Mr. McLogan's motion, so that it will state that this Canadian division be created, and that the Canadian Provinces be invited to join that division—then the problem is entirely up to them.

Mr. WALLING. Would it not be more tactful for us to vote to accept the invitation to meet in Toronto, and then to invite particularly the Canadian Provinces and the Ministry of Labor to meet with us at that time to consider the future organization of the association and how best it can be made effective so far as the Canadian Provinces are concerned? That will give an indication to Canada that we are interested in having them join with us, thus giving them a share in the formulation of our future organization.

Mr. McLOGAN. That thought strikes me as being very good. Suppose we do meet in Toronto and hold a meeting of the representatives of the Dominion and the different Provinces for a day and a meeting of the representatives of the States for a day, and then go into joint session and see what action on a permanent arrangement can be taken by the joint session. It seems to me that if we just meet in Toronto as we are meeting here we will not accomplish as much as we would if the Canadian representatives had a chance to discuss the matter by themselves and then go into joint session.

President CRAWFORD. That is the distinct understanding, that if this association deems it advisable to go to Toronto, and if you are in favor of permitting the Canadian situation to influence a reorganization of the association, then the Provinces intend and have expressed the desire to meet separately for a day or two in Toronto either immediately preceding or immediately following the meetings of this association, along with some of you, to consider just how the reorganization can best be brought about for mutual satisfaction. I should like very much to see the association meet in Toronto next year and adopt such a plan for its meeting.

Mr. McLOGAN. It seems to me a better way would be for this Association to say that next year, as an experiment, the representatives of Canada will meet for a day or two and the representatives of the United States will meet for a day or two and discuss their particular problems, and then go into joint session. That will not be such a wide departure from what we have done before. We could say that this is to be an experiment to guide us in our action at Toronto, if we meet there. I should like to make such a motion.

President CRAWFORD. I suggest that next year's meeting take that form, regardless of where it is held.

Mr. ANDREWS. May I say that the New York delegates are hoping that we can induce the association to meet somewhere in New York State—perhaps New York City—next year, but I should be very glad, in the interest of international amity, etc., to second the motion that we have the meeting in Toronto with the plan outlined.

President CRAWFORD. The motion now is that the next year's meeting take the form of a one or two day meeting of the Canadian representatives and a similar meeting of the United States representatives, followed by joint sessions.

[Motion carried.]

[Mr. Lubin suggested that the place of the meeting could be decided at the final business meeting.]

[President Crawford appointed the following convention committees:]

*Auditing committee.*—Major A. L. Fletcher, chairman; John W. Nates.

*Resolutions committee.*—Elmer B. Andrews, chairman; E. I. McKinley, Harry McLogan.

*Nominations committee.*—W. E. Jacobs, chairman; John Davie, W. A. Pat Murphy.

President CRAWFORD. There were some other items, in connection with the association appointing representatives on the research committees of other organizations. I must confess that until this year I did not know that the association was officially represented on such committees. I think that we should get some definite information from these representatives as to what they have done this year, so that we may feel that we are really cooperating. Merely naming someone to sit on a committee is not, in my opinion, cooperation between two associations. I do not know whether you care to offer suggestions in that connection, but I think it is worthy of consideration. I also suggest—having in mind the possible reorganization—that this association take an active part in the spreading of information; that we act as a center for distribution of valuable information throughout the whole year. It seems to me that we might make definite use of the Department of Labor in Washington, and that we might make use of the Department of Labor in Ottawa for items of particular interest to Canadians. I suggest that each State and Province in the association name someone to cooperate with the Federal departments in this connection. We receive bulletins, of course, from the Federal Government and State departments, but is there not room for this association actively to participate in this service, so that the membership will know that the association is actually doing something? Or are we satisfied with the present arrangement, whereby our committees work during the year and report to us in our annual conventions? I am just suggesting this for your consideration.

Mr. LUBIN. I might say, in regard to our representation on committees of the American Standards Association, that there is in my

report a summary of the present status of each committee's work. I should like to say, further, that this association has made a very strenuous attempt to secure representation on the electrical standards committee of the National Fire Protection association. That committee deals with standards of electrical equipment. We made application for representation on the theory that State labor commissioners, in view of the fact that they are responsible for the protection of labor within their States, were interested in the types-of-material standards that were formulated because of the fact that the type of materials used by workers affects their health, their safety, and their ability to do their job well. The National Fire Protection Association, on the basis of that analysis, refused us representation on two grounds: (1) That the accident boards as a group were already represented and they were the ones interested; and (2) that the municipal inspectors were represented and they were the people who were watching out for the welfare of labor. Should we continue pressing them for representation on that committee? I should like to have your opinions.

Mr. PATTON. For years it was a standard feature of the annual meetings of this association to have individual reports of members of this association who had served on these committees. These reports were not called for last year nor this year. I represent the Association on the committee on statistics of the American Standards Association, and for years have been on the committee on cranes, hoists, and derricks as a representative of this association. In response to Mr. Lubin's suggestion, I think we ought to press for representation on this committee on electrical standards.

Mr. Walling moved that it was the sentiment of the meeting that the association should be represented on that committee, and that the secretary be instructed to convey that sentiment to the American Standards Association, with the earnest request that the association be represented.

[Motion seconded and carried.]

President CRAWFORD. In connection with the reports, I need only say that in considering the program for this year we were pressed for time. For that reason I am pleased to know that we will meet separately next year. We do not have adequate time now properly to consider the reports of the nine standing committees. The work of this association is very broad in scope, and it is of vital importance to departments. I believe that at future meetings we should make provision for such reports to be presented and possibly discussed, in addition to being incorporated in the proceedings, because we cannot do too much to impress upon our own minds the importance of the work of this association. I think anything and everything which can be done to spread the work of this association throughout

the membership between the annual conventions will be of great help. I would welcome any further suggestions you have to offer or any instructions you may have to give to the incoming executive in that connection.

Mr. McLOGAN. I am much impressed with the recommendation in your report that there be someone in each State to act as sort of a clearinghouse between the secretary of the Association and the governmental labor officials who are members and even those in States which are not members of this Association. If we had someone in each State, for instance, who could go before the committees of the legislature and explain what kind of an organization this is—that it is made up of the representatives from the various States (speaking now of the American State legislatures)—and present the views of the Association, saying that the Association has taken formal action on specific matters, recommending to the legislatures of the different States that this sort of legislation be passed, I believe we could get results. The same individual could act also as the one to receive the bulletins or any other information and distribute it to the proper officials within his State. I believe that to accomplish the most good from the efforts of the officers and members in getting up reports, studying the different questions, traveling hundreds of miles to meet, and then having discussions, we ought to take formal action and make certain recommendations to the legislatures of the different States and the members of the Dominion Government and the Provincial governments in Canada. The average member of a State legislature usually does not have the time, nor does he take the time, to study in detail all of these matters, but he will rely upon the recommendations made by representatives of the State governments in convention assembled, giving credit to them for thoroughly studying the different reports, and will be guided by such recommendations. In Wisconsin most of our different activities under the industrial commission are guided by advisory committees, usually made up of three members representing organized labor and three members representing employers. The point I want to make is, that the advisory committees meet for days, sometimes for weeks, and never go to the legislature until they agree unanimously. Then the report is brought into the committee of the legislature. After that procedure, we have yet to fail in having the recommendations accepted by the legislature. In this meeting there are several matters up for consideration. I have reference particularly to the wage-collection bill. There are also the matter of old-age pensions and reports on other subjects. If this body will take formal action, recommending to the different States the passage of specific legislation, we can actually accomplish something.

[Mr. Lubin moved that the secretary be instructed to contact the chief of each State labor department with a view to having such department appoint a reporter to keep in constant touch with the secretary of the association relative to matters of labor law and labor administration. Motion seconded.]

Mrs. BEYER (Washington, D. C.). That makes for duplication of the Division of Labor Standards again. We deplore very much that there was a slip whereby one committee was duplicated. Wherever possible, we should avoid duplication of effort between the two divisions, so that we will not both be approaching the States for exactly the same information. I wish that some way could be worked out for clearance of material so that we could all work together. We now have a survey of labor-law administration that is the instrument of the various State labor departments. We try to get that out promptly so that it can be used. If any of our investigators who are out in the States get news of new techniques, we immediately try to get it in that bulletin and out to the commissioners. We have asked them to send such material to us regularly. We should try to avoid duplication of effort and at the same time try to strengthen this organization. I hope that some way can be worked out so that the association can be strengthened rather than have duplication.

President CRAWFORD. In Canada we have a similar arrangement—the department at Ottawa collects and sends out information. It is my intention, if the Canadian section is organized, to do all in my power to persuade the Dominion department to work through the Canadian section of this organization for collecting and disseminating that information. It should be more than cooperation—one should be an integral part of the other. When we have an organization such as this, which has been in existence for 23 years, it behooves us to take advantage of any service that can be rendered to the States by the Federal Department as well as by the Dominion department. I can appreciate the difficulty of your division as to rendering certain services to the Dominion and Provincial departments. I do hope that something can be worked out whereby it will not be necessary for the Division of Labor Standards and the association to be duplicating efforts. We can persuade the States to cooperate much more easily than the Federal bureau could. Just how to work it out I am not prepared to say. I deplore overlapping and duplication; they are not needed and are harmful. If this association is not sufficiently active to see that something of the kind is developed to the greatest possible extent, then it deserves to go out of existence. I do not think we should expect the Federal department to do this work for us.

Mr. WALLING. I am sure we are all agreed on the desirability of avoiding duplication. Would it not be well for us to appoint a committee or to designate our secretary to confer from time to time with the Division of Labor Standards or other bureaus in order to avoid such

duplication and to work out a cooperative arrangement whereby the facilities of the association and its standing committees may be used by the Division of Labor Standards and any other bureaus or divisions as the instrumentality for this joint cooperative effort toward the common end?

President CRAWFORD. I feel that such a motion is unnecessary, in view of the unanimous recommendation of the executive board to take steps to avoid such duplication, which will be brought to the attention of the Secretary of Labor.

Mr. McLOGAN. I am wondering what duplications are involved in, or what objection there is to, appointing a reporter in each State who will be the intermediary between the secretary of this organization and the labor officials of the State. I agree with Mr. Lubin's suggestion in every particular except one. If you leave it to the head of the labor departments of the different States to appoint someone to do the work, you will not get the results that you would if this organization appointed some one in each State who this association had reason to believe would do the work.

President CRAWFORD. So far as the duplication there is concerned, I think that it could be avoided if we were to appoint as our representative the person through whom the Division of Labor Standards gathers information in the States. There would be duplication if we undertook to appoint an individual in the State other than the person utilized by the Division of Labor Standards. I think that this association should appoint such an individual, and then, of course, it would be a simple matter for the Division of Labor Standards to utilize that person, but if the latter already has one, why should we not use that person?

Mr. McLOGAN. Does the agent of the Division of Labor Standards go before the State legislatures and recommend these things and urge passage of legislation which we recommend?

President CRAWFORD. No, he does not. That would be his duty in connection with our association, but I think he should be the person used by the Division of Labor Standards.

#### Session of September 26, 1936

President CRAWFORD. Proceeding with the regular order of business, the report of the publicity committee will be heard.

[The report of the publicity committee was presented by Mr. Swanish, speaking for Mr. Durkin, chairman of the committee, who had had to leave the preceding evening.]

#### Report of Publicity Committee

The committee has very little to report. Its task, we understand, was to report development of labor legislation throughout the United States. That task is now

being accomplished to a very large extent by the Division of Labor Standards, and there is no good reason for the committee of the Association to duplicate the activity which is now being performed in that Division of the Federal Government.

### *Discussion*

President CRAWFORD. That is in line with the suggestion of the president in his opening address, that greater use be made of the facilities provided by the Division of Labor Standards.

[Mr. Magnusson moved the acceptance of the report.]

Mr. LUBIN. That raises the same question discussed yesterday, in other words, do we want to go on record as saying that the association wants to take no part in publicity—that as far we are concerned as an association, we do not wish publicly to advocate legislation or to take any part through publicity on legislation.

Mr. McLOGAN. I am wondering, if this motion is adopted, if it might not be misconstrued by a great many as an action on our part to keep everything to ourselves and not to let the world look in on our actions. I appreciate the duplication referred to by Mr. Swanish, but I can readily see where there might be publicity of this organization that would never come to the attention or notice of the Division of Labor Standards. I should like to amend the motion to read that the publicity committee of this organization, as in the past, will collaborate with and work in conjunction with the Division of Labor Standards, so that we will not create the impression that we are always in secret session.

Mr. MAGNUSSON. My observation would be that we have a certain field of action. It seems to me that we ought to use every instrumentality to promote our interest in that field. In the second place, multiplicity and argumentativeness are the very essence of publicity. We should not say we are not going to promote something because somebody else is going to promote it.

President CRAWFORD. I think we do not have the correct understanding of the purposes of a publicity committee. I believe we should get our publicity through definitely appointed persons in each State, who will be our official representatives. There is the matter, to be presented later, of appropriating money for travel of the president or other officials, to States to promote desirable legislation. Are you, Mr. McLogan, willing to withdraw your motion?

[Mr. McLogan withdrew his motion, and moved instead simply that the report be accepted. Motion carried.]

President CRAWFORD. We will now have the report of the auditing committee, presented by Major Fletcher, chairman.

[Major Fletcher reported that the committee had audited the accounts of the secretary-treasurer and found them well kept and in satisfactory condition; that

as of September 21, 1936, the association had a net balance of cash on hand of \$743.15 and collections were \$685, making a total of \$1,428.15; that disbursements for the year were \$275.52; that the only unpaid bill outstanding was \$24.75 for programs for this meeting; and that the balance of \$1,152.63 is on deposit with the Lincoln National Bank of Washington, D. C. A motion to accept the report was made and carried.]

President CRAWFORD. Yesterday at the close of the sessions your executive board met and took up a few items of business, which I think the secretary should present to this meeting at the present time, before we hear from the resolutions committee.

#### Recommendations of the Executive Board

[Presented by Mr. Lubin]

The first action the board wishes to recommend takes the form of a motion providing "that \$500 be set aside to cover the travel expenses of the president of the association, or any other official of the association designated by the executive board, to attend meetings of State legislatures to present the official attitude of the association toward proposed labor legislation, if such attendance should be specifically requested by any State labor commissioner. It is the feeling of the executive board that the expression of the official attitude of the association on matters of labor legislation should play an effective part in securing the passage of more adequate labor laws."

The second suggestion is that there should be a meeting of the executive board some time prior to the next meeting of the association, preferably in Washington, and that \$300 be set aside to cover the expenses of such a meeting. It was the opinion of the executive board that the welfare and effectiveness of the association will be considerably enhanced if the executive board as a group considers matters of policy and means of furthering State legislation during the period between annual conventions. Such a meeting should play an important part in making the association a more effective and vital body.

[Motions made by Mr. Davie that the first and second recommendations be adopted were carried.]

President CRAWFORD. I will now call on Mr. Patton for the report of the resolutions committee.

[The report of the resolutions committee was read by Mr. Patton and adopted. The resolutions follow:]

#### Resolutions Adopted by the Convention

1. *Resolved*, That the thanks and appreciation of the convention are extended to Mr. G. Clay Baker, chairman of the Kansas Commission of Labor and Industry, and to Mr. G. E. Blakeley, commissioner of labor, to their associates and their staffs for their cooperation and assistance in preparation for this convention, and for the courtesies and hospitality extended to us.

2. *Resolved*, That the reports of the following committees which have been presented to this convention be accepted: Committee on unemployment compensation; committee on old-age pensions; committee on minimum-wage laws; committee on women in industry; committee on child labor; committee on wage-collection laws; committee on home work; committee on civil service.

3. *Resolved*, That the attention of the executive board be directed to the apparent overlapping of field in some of the standing committees and that consideration be given to the possibility of reduction in number of committees, and that the work of such committees as are retained be continued.

4. *Resolved*, That the report of the president be accepted as read.
5. *Resolved*, That the report of the executive board be accepted as read.
6. That the association go on record as favoring holding its annual convention at a time separate from the meeting of the I. A. I. A. B. C., except in those instances where in the opinion of the executive board the welfare of this association will be furthered by meeting either at the same time or in the same city with the I. A. I. A. B. C.
7. That regardless of where the 1937 convention is held there be made arrangements for a separate meeting for 1 or 2 days of representatives of the Canadian Provinces and of the representatives of the United States, either immediately preceding or immediately following the meeting of the association, for the purpose of considering the future organization of the association and how best it can be made effective as far as the Canadian Provinces are concerned.
8. That it is the sentiment of the association that it should be represented on the electrical standards committee of the National Fire Protection Association, and that the secretary be instructed to convey that sentiment to the American Standards Association with the earnest request that the association be granted representation.
9. *Resolved*, That a letter of thanks be sent by the secretary, in the name of the executive board, to all persons who took part in the program.
10. That a fee of \$100 be paid to Doris Patterson for recording and transcribing the minutes of the twenty-second annual convention of the association.
11. That a gratuity of \$10 be sent to Margaret Finch and to Bernice Beckman for their services to the association in registering membership.

### *Discussion*

Mr. PATTON (New York). I should like to suggest that next year our representatives on outside committees give brief reports on their work.

President CRAWFORD. One other matter which was brought before the convention on which no definite action has been taken is the matter of appointment of representatives of the association in each of the States comprising the membership. The suggestion was put forward by Mr. McLogan.

Mr. McLOGAN. My thought was that the executive committee appoint some person in each State, preferably the labor commissioner, or anyone else who may be suggested, as the agent of this association, who might appear before legislative committees when bills are pending that we are interested in, to explain to the legislators the make-up of this organization; that it is composed of labor commissioners of all the States, and that they have considered the subject matter of the bills pending before the body and have recommended to the State legislatures that it be passed. The average legislator has some 800 or 900 bills to consider, and there is no human being alive in any legislative hall who in the course of 6 months can read that many bills and know all the details. He must, of necessity, rely upon those experts who have given some thought to it. My thought is that we should give them that information and urge the passage of

such legislation as we are interested in. I move that the incoming executive board make such appointments.

President CRAWFORD. I have only one comment—care should be taken in the appointment of such persons to see that the closest possible cooperation is maintained with the Division of Labor Standards of the Department of Labor. I understand from Mrs. Beyer's remarks the other day that it already has correspondents in each State who are in direct communication with the Division, and if we are to appoint someone who is going to do more, as Mr. McLogan suggests—that is, appear before the legislative bodies—we should avoid overlapping. If your motion, however, implies only that we have the State labor commissioner appear before the State legislature, I see no value in it. He should do that anyway, and certainly he should speak as a representative of the association. I do believe that there is room for a person to do more than that—officially to represent the association, to collect and distribute information, and to cooperate with the Division of Labor Standards and the executive board on any matters pertaining to the welfare of the association throughout the year. We assume now that we have that cooperation.

Mr. LUBIN. We have authorized our president to travel to States for the purpose of presenting the views of the association to legislative bodies, but it seems to me that there are times, due to a hostile legislature or a governor who does not want to cooperate with the Federal Government, when it might be well if, in addition to our own president, a local person was our official representative. After all, our president cannot spend all his time traveling around the country; it would probably be understood that he would go only when the issue was such that his presence was needed.

Mr. SWANISH (Illinois). It seems to me that the duty of this association should be to appear before the chief executive of a State rather than to appear before the legislative bodies. It seems to me that would be much more effective.

Mr. PATTON. I feel, too, that it is rather a dangerous thing to ask a representative of, say, Kansas or New York, to appear before the legislative body of his own State. I am afraid that it might not always be welcome, and might sometimes even be resented by the commissioner of such State. After all, the commissioner does most of the appearing before the legislature, and unless he specifically requested a member of his staff to appear no member would ever go.

President CRAWFORD. But the individual would not appear as an individual at all, but would appear in the name of the association, and not as a State official.

Mr. McLOGAN. Perhaps I have not made myself clear. Certainly I never intended that someone other than a citizen of the State was going to appear before the legislature of that State. In other words,

my suggestion is that the executive board appoint someone within the State whose business it would be to see, in the first instance, that whatever legislation we are interested in is properly introduced. If that is going to be taken care of by the Division of Labor Standards, all well and good. All of our States do not operate in the same manner. Legislation of Wisconsin, for instance, does not emanate from the chief executive—not one-half of 1 percent of it. It emanates from the members of the legislature, either on request by some citizen, or on their own initiative. What I have in mind is this: We come here every year and listen to reports, and we argue and we pass resolutions; then we go home and sit idly by until next year, when we repeat the process. I do not like to spend time this way. I like to finish what we start. I should like to see the executive board appoint someone in each State. He does not need to be a great orator. All he needs to do is to convey the message that certain bills have been considered by this association; that the association is composed of all the State labor commissioners; and, for what it is worth, that the association has considered a specific piece of legislation and recommends its passage. That certainly could be done without duplicating any work of the Division of Labor Standards. It should cooperate.

Mr. PATTON. I hardly agree, for States operate differently. Suppose the association should go on record in favor of the reserve plan of unemployment insurance, and should delegate some member to appear before the legislature and have such a bill introduced. Suppose the head of the department in that State should advocate a pool plan for unemployment insurance. If I or anyone else were to have a bill introduced and appear before the legislature arguing for a reserve plan, I feel that I would find my connection with my own particular State department severed. I think it is a dangerous thing to appoint one of our members, who, after all, is technically a subordinate in his department, to introduce a bill in the legislature and appear before the legislature. I think such appearances should always be made by the head of the labor department. If he wants to designate some member of this body to do it, all right.

Mr. MURPHY (Oklahoma). I am wondering if there is not some slight confusion as to the work of the Division of Labor Standards. I do not believe any Federal agency would go into a State to further State legislation unless its aid had been sought. Is it the intention of this association to appoint persons to represent it independently, without having its service sought? Of course, I think Mr. McLogan's suggestion is that it be a State person, but do you think we could in some way clarify what we mean by representatives within the State. Would it be the State labor commissioner?

Mr. McLOGAN. Not necessarily. I am assuming that the executive board will use some discretion in making the appointments and that it will take into consideration all the questions Mr. Patton has raised.

President CRAWFORD. There is a confusion of thought here—one idea is of an official representative of the association in each State to see that the work of the association is properly presented to that State. The other idea is of someone to promote and appear before legislative bodies and initiate or lobby for legislation. In my opinion we have already provided for the latter in providing for traveling expenses of the president or some other official to go to the States on such matters. I would suggest that our discussion follow Mr. Murphy's suggestion that the executive board consider the advisability of consulting with the heads of the State labor departments.

Mr. LUBIN. I think we ought to clarify the issue. I cannot agree with you when you say that we have already provided for legislative activity when we provided for the president to go into the States. It requires someone actively at work within the State at all times, one who is cognizant of the problems of labor legislation, and such a person would have to be a local person whose primary interest is in labor legislation.

President CRAWFORD. Would not such a person have to have the full cooperation of the head of the department?

Mr. LUBIN. Nine times out of ten he would be the head of the department. He would be acting in two capacities.

Mr. WILCOX. Would it meet the issue if we think of this in terms of choosing particular persons for particular matters—one person might be the ideal representative of this association on one matter and another person on another matter. If the motion is to empower the executive board not only to use the mail, not only to send the president into the States, but also to appoint someone in the name of this association, where it was deemed advisable by the executive board to do so, and with two restrictions—one that the person would be appointed for the particular matter designated, and second, that there is no necessity for appointing a person in each and every State; he would be appointed if and as and when the situation arose that made it seem desirable—it seems to me we will have reached a satisfactory arrangement.

Mr. McLOGAN. Yes, that would meet the need.

President CRAWFORD. I think we have given it sufficient discussion. The motion, as I understand it, now is to the effect that a recommendation be made to the incoming executive board to appoint such a person where it is feasible and desirable.

[Motion carried.]

Miss MURPHY (Washington, D. C.). A number of us here feel that some definite action should be taken on the wage-claim collection bill. I should like to move that the secretary and the committee on wage-collection laws be instructed to send a copy of the bill to each State labor department and to the labor committee of each State federation of labor, looking toward the adoption of its provisions by the various States.

Mr. McLOGAN. With reference to this report I would suggest that the bill and report be adopted by this organization. I think this is the one exception where we can adopt them so that there will be some force behind the sending out of the material.

Miss MURPHY. I amend my motion, then, to include such a recommendation, that this body accept and endorse the report which has been submitted by the committee on wage-collection laws and that the secretary be instructed to send copies of the bill to each State labor department and to the legislative committee of each State federation of labor.

Mr. LUBIN. Was there not some question about certain clauses in the bill?

Mr. McKINLEY. They have all been ironed out.

[Motion carried (see p. 141 for language of proposed wage-collection law).]

[The report of the nominating committee was presented by John S. B. Davie.]

#### Report of Nominating Committee

Your committee recommends the election of the following list to serve as officers for the ensuing year:

*President.*—A. L. Fletcher, of North Carolina.

*First vice president.*—W. E. Jacobs, of Tennessee.

*Second vice president.*—L. Metcalfe Walling, of Rhode Island.

*Third vice president.*—W. A. Pat Murphy, of Oklahoma.

*Fourth vice president.*—Martin P. Durkin, of Illinois.

*Fifth vice president.*—Adam Bell, of British Columbia.

*Secretary-treasurer.*—Isador Lubin, of Washington, D. C.

[Mr. Magnusson moved that the secretary be instructed to cast a unanimous ballot for the election of these officers. Motion carried.]

[At this point Mr. Crawford, the retiring president, turned over the chair to the incoming president and wished him success in the coming year and an opportunity for greater and better service. President Fletcher expressed his appreciation of the honor conferred on him and asked for the cooperation and help of the members.]

[Mr. Lubin reported that the association had received official invitations to meet in various parts of the country, among them, invitations from the Mayor of Toronto; from the Commissioner of Labor of Missouri; from the Labor Commissioner of the State of New York; from the Mayor of Philadelphia; from the Governor of South Carolina; by wire, from Memphis, Tenn.; and from Commissioner Jacobs of Tennessee. Mr. Lubin made a motion that, in view of the fact that the question of the meeting next year with the Canadian Provinces had been raised, the meeting next year be held in Toronto.]

Mr. CRAWFORD. I should like to report that during the year I did make an earnest effort to interest the various Provinces in the work of this association. I have very definite assurance from at least six of the Provinces that not only are they willing to cooperate, but that they do desire some effective organization within Canada. They have objected to attending as individual Provinces meetings of an organization which they still regard as an American organization, and simply sitting and listening, but they say that, if some provision can be made for a distinctly Canadian section within the body, where we can discuss our own particular problems and foster cooperation with our own Dominion government, then we are very much interested and realize the need for such an organization. They are not so sure that they see this opportunity within this organization. Two or three have definitely intimated a desire to retain a very close association with the International Association of Governmental Labor Officials. One or two have intimated they would prefer to set up a separate organization and have some fraternal relationship. I simply present to you an opportunity for service to the Canadian Provinces in meeting in Ontario, and express the sincere hope that if you accept the invitation we will be able in some way to maintain a close relationship between the Canadian Provinces and this association.

Mr. LUBIN. Without any breach of international amity, I believe we might honestly and fearlessly discuss the problem. Personally, I do not agree with the commissioners on the problems of Canada. Their problems are the same as ours. The problems of labor legislation in any Canadian Province are just as closely related to our States as are the problems of New York and Texas—in fact, closer. So I wish to take issue with the members of the Canadian departments who feel we have nothing in common. They think they have nothing in common with us, and we should face that fact and attempt to bring them into the association, because through their being at meetings and taking part in them they will realize that their problems are the same as ours. So I should like to amend the motion to include a recommendation to the executive board that we meet in Toronto if the executive board feels that by so doing a closer relationship may be worked out between the American labor commissioners and the commissioners of the Canadian Provinces. If 3 months hence, Mr. Crawford sees there is little hope, then there will be no need for us to go to Toronto. We appreciate the invitation and the facilities offered, but we must remember that it will be harder for a lot of American commissioners to get permission to go to Canada than to another State, and vice versa. I suggest that the motion take this form, so that the executive board can decide at a later date, on the basis of commitments Mr. Crawford may receive from the Canadian Provinces, whether the meeting shall be held in Toronto.

[Motion carried.]

[Mr. McLogan made a motion that authority be granted to the executive board, in the event it does not think proper to hold a convention in Toronto, to name the city in which the meeting will be held. Motion carried.]

[Miss Murphy moved that the two committees which were functioning in the field of industrial home work—that is, the committee appointed by the president of the association and the committee appointed by the Secretary of Labor—be combined and function thereafter as one committee.]

[Mr. Lubin proposed as a substitute motion that the association committee be expanded to include such members of the secretary's committee as are members of the association. Motion carried.]

[Miss Murphy moved that the home-work bill which was drafted by the secretary's committee be adopted by the association. Motion carried. (See page 161 for language of proposed State home-work law.)]

[Convention adjourned.]

## APPENDIXES

---

### Appendix A.—Organization of International Association of Governmental Labor Officials

#### Officers, 1936-37

- President.*—A. L. Fletcher, Raleigh, N. C.  
*First vice president.*—W. E. Jacobs, Nashville, Tenn.  
*Second vice president.*—L. Metcalfe Walling, Providence, R. I.  
*Third vice president.*—W. A. Pat Murphy, Oklahoma City, Okla.  
*Fourth vice president.*—Martin P. Durkin, Chicago, Ill.  
*Fifth vice president.*—Adam Bell, Victoria, Canada.  
*Secretary-treasurer.*—Isador Lubin, Washington, D. C.

#### Honorary Life Members

- GEORGE P. HAMBRECHT, Wisconsin.  
FRANK E. WOOD, Louisiana.  
LINNA BRESSETTE, Illinois.  
DR. C. B. CONNELLEY, Pennsylvania.  
JOHN H. HALL, Jr., Virginia.  
HERMAN WITTER, Ohio.  
JOHN S. B. DAVIE, New Hampshire.  
R. H. LANSBURGH, Pennsylvania.  
ALICE McFARLAND, Kansas.  
H. M. STANLEY, Georgia.  
A. L. ULRICK, Iowa.  
DR. ANDREW F. McBRIDE, New Jersey.  
LOUISE E. SCHUTZ, Minnesota.

#### Constitution

Adopted at Chicago, Ill., May 20, 1924; amended August 15, 1925; June 3, 1927;  
May 24, 1928; May 23, 1930; September 15, 1933; September 29, 1934

#### ARTICLE I

SECTION 1. *Name.*—This organization shall be known as the International Association of Governmental Labor Officials.

## ARTICLE II

SECTION 1. *Objects.*—To encourage the cooperation of all branches of Federal, State, and Provincial Governments who are charged with the administration of laws and regulations for the protection of women and children, and the safety and welfare of all workers in industry; to maintain and promote the best possible standards of law enforcement and administrative method; to act as a medium for the interchange of information for and by the members of the association in all matters pertaining to the general welfare of men, women, and young workers in industry; to aid in securing the best possible education for minors which will enable them to adequately meet the constantly changing industrial and social changes; to promote the enactment of legislation that conforms to and deals with the ever-recurring changes that take place in industry, and in rendering more harmonious relations in industry between employers and employees; to assist in providing greater and better safeguards to life and limb of industrial workers, and to cooperate with other agencies in making the best and safest use of property devoted to industrial purposes; to secure by means of educational methods a greater degree of interstate and interprovincial uniformity in the enforcement of labor laws and regulations; to assist in the establishment of standards of industrial safety that will give adequate protection to workers; to encourage Federal, State, and Provincial labor departments to cooperate in compiling and disseminating statistics dealing with employment, unemployment, earnings, hours of labor, and other matters of interest to industrial workers and of importance to the welfare of women and children; to collaborate and cooperate with associations of employers and associations of employees in order that all of these matters may be given the most adequate consideration; and to promote national prosperity and international good will by correlating as far as possible the activities of the members of this association.

## ARTICLE III

SECTION 1. *Membership.*—The active membership of this association shall consist of—

(a) The United States Department of Labor and subdivisions thereof, United States Bureau of Mines, and the Department of Labor of the Dominion of Canada.

(b) State and Provincial departments of labor and other State and Provincial organizations administering laws pertaining to labor.

(c) Federal, State, or Provincial employment services.

SEC. 2. *Honorary members.*—Any person who has rendered service while connected with any Federal, State, and Provincial department of labor, and the American representative of the International Labor Office, may be elected to honorary membership by a unanimous vote of the executive board.

SEC. 3. *Associate memberships.*—Any individual, organization, or corporation interested in and working along the lines of the object of this association may become an associate member of this association by the unanimous vote of the executive board.

## ARTICLE IV

SECTION 1. *Officers.*—The officers of this association shall be a president, a first, second, third, fourth, and fifth vice president, and a secretary-treasurer. These officers shall constitute the executive board.

SEC. 2. *Election of officers.*—Such officers shall be elected from the members at the regular annual business meeting of the association by a majority ballot and shall hold office for one year, or until their successors are elected and qualified.

SEC. 3. The officers shall be elected from representatives of the active membership of the association.

## ARTICLE V

SECTION 1. *Duties of the officers.*—The president shall preside at all meetings of the association and the executive board, preserve order during its deliberations, appoint all committees, and sign all records, vouchers, or other documents in connection with the work of the association. He shall fill all vacancies caused by death, resignation, or otherwise.

SEC. 2. The vice presidents, in order named, shall perform the duties of the president in his absence.

SEC. 3. The secretary-treasurer shall have charge of all books, papers, records, and other documents of the association; shall receive and have charge of all dues and other moneys; shall keep a full and complete record of all receipts and disbursements; shall keep the minutes of all meetings of the association and the executive board; shall conduct all correspondence pertaining to the office; shall compile statistics and other data as may be required for the use of the members of the association; and shall perform such other duties as may be directed by the convention or the executive board. The secretary-treasurer shall present a detailed written report of receipts and expenditures to the convention. The secretary-treasurer shall be bonded for the sum of \$500, the fee for such bond to be paid by the association. The secretary-treasurer shall publish the proceedings of the convention as promptly as possible, the issue to consist of such numbers of copies as the executive board may direct. The secretary-treasurer shall receive such salary as the executive board may decide, but not less than \$300 per year.

SEC. 4. The business of the association between conventions shall be conducted by the executive board, and all questions coming before the board shall be decided by a majority vote, except that of the election of honorary members, which shall be by unanimous vote.

## ARTICLE VI

SECTION 1. *Finances.*—With the exception of those organizations included under (a) of section 1 of article III each active member shall pay for the year ending June 30, 1936, and thereafter annual dues of \$25, except that where the organization has no funds for the purpose, and an individual officer or member of the staff wishes to pay dues for the organization, the fee shall be \$10 per annum for active membership of the organization in such cases.

The executive board may order an assessment levied upon affiliated departments not to exceed 1 year's dues.

SEC. 2. The annual dues of associate members shall be \$10.

## ARTICLE VII

SECTION 1. *Who entitled to vote.*—All active members shall be entitled to vote on all questions coming before the meeting of the association as hereinafter provided.

SEC. 2. In electing officers of the association, State departments of labor represented by several delegates shall only be entitled to one vote. The delegates from such departments must select one person from their representatives to cast the vote of the group.

The various bureaus of the United States Department of Labor and the Department of Labor of Canada may each be entitled to one vote.

The rule for electing officers shall apply to the vote for selecting the convention city.

## ARTICLE VIII

SECTION 1. *Meetings.*—The association shall meet at least once annually at such time and place as the executive board may decide unless otherwise ordered by the convention.

## ARTICLE IX

SECTION 1. *Program.*—The program committee shall consist of the president, the secretary-treasurer, and the head of the department of the State or Province within which the convention is to be held, and they shall prepare and publish the convention programs of the association as far in advance of the meeting as possible.

SEC. 2. The committee on program shall set aside at least one session of the convention as a business session, at which session the regular order of business, and election of officers, shall be taken up, and no other business shall be considered at that session until the "regular order" has been completed.

## ARTICLE X

SECTION 1. *Rules of order.*—The deliberations of the convention shall be governed by "Cushing's Manual."

## ARTICLE XI

SECTION 1. *Amendments.*—Amendments to the constitution must be filed with the secretary-treasurer in triplicate and referred to the committee on constitution and bylaws. A two-thirds vote of all delegates shall be required to adopt any amendment.

## ARTICLE XII

SECTION 1. *Order of business.*—

1. Roll call of members by States and Provinces.
2. Appointment of committees:
  - (a) Committee of five on officers' reports.
  - (b) Committee of five on resolutions.
  - (c) Committee of three on constitution and bylaws.
  - (d) Special committees.
3. Reports of officers.
4. Reports of States and Provinces.
5. Reports of committees.
6. Unfinished business.
7. New business.
8. Election of officers.
9. Adjournment.

Development of the International Association of Governmental Labor Officials<sup>1</sup>

## Association of Chiefs and Officials of Bureaus of Labor

No.	Date	Convention held at—	President	Secretary-treasurer
1	September 1883.....	Columbus, Ohio.....	H. A. Newman.....	Henry Luskey.
2	June 1884.....	St. Louis, Mo.....	do.....	Do.
3	June 1885.....	Boston, Mass.....	Carroll D. Wright.....	John S. Lord.
4	June 1886.....	Trenton, N. J.....	do.....	E. R. Hutchins.
5	June 1887.....	Madison, Wis.....	do.....	Do.
6	May 1888.....	Indianapolis, Ind.....	do.....	Do.
7	June 1889.....	Hartford, Conn.....	do.....	Do.
	1890*.....	Des Moines, Iowa.....	do.....	Do.
8	May 1901.....	Philadelphia, Pa.....	do.....	Frank H. Betton.
9	May 1892.....	Denver, Colo.....	Charles F. Peck.....	Do.
	1893*.....	Albany, N. Y.....	do.....	Do.
10	May 1894.....	Washington, D. C.....	Carroll D. Wright.....	L. G. Powers.
11	September 1895.....	Minneapolis, Minn.....	do.....	Do.
12	June 1896.....	Albany, N. Y.....	do.....	Samuel B. Horne.
13	May 1897.....	Nashville, Tenn.....	do.....	Do.
14	June 1898.....	Detroit, Mich.....	do.....	Do.
15	July 1899.....	Augusta, Maine.....	do.....	Do.
16	July 1900.....	Milwaukee, Wis.....	do.....	James M. Clark.
17	May 1901.....	St. Louis, Mo.....	do.....	Do.
18	April 1902.....	New Orleans, La.....	do.....	Do.
19	April 1903.....	Washington, D. C.....	do.....	Do.
20	July 1904.....	Concord, N. H.....	do.....	Do.
21	September 1905.....	San Francisco, Calif.....	do.....	W. L. A. Johnson.
22	July 1906.....	Boston, Mass.....	Charles P. Neill.....	Do.
23	July 1907.....	Norfolk, Va.....	do.....	Do.
24	August 1908.....	Detroit, Mich.....	do.....	Do.
25	June 1909.....	Rochester, N. Y.....	do.....	Do.

<sup>1</sup> Known as Association of Governmental Labor Officials, 1914-27; Association of Government Officials in Industry, 1928-53.

\* No meeting.

## International Association of Factory Inspectors

No.	Date	Convention held at—	President	Secretary-treasurer
1	June 1887.....	Philadelphia, Pa.....	Rufus Wade.....	Henry Dorn.
2	August 1888.....	Boston, Mass.....	do.....	Do.
3	August 1889.....	Trenton, N. J.....	do.....	Do.
4	August 1890.....	New York, N. Y.....	do.....	L. R. Campbell.
5	August 1891.....	Cleveland, Ohio.....	do.....	Isaac S. Mullen.
6	September 1892.....	Hartford, Conn.....	William Z. McDonald.....	Do.
7	September 1893.....	Chicago, Ill.....	John Franey.....	Mary O'Reilly.
8	September 1894.....	Philadelphia, Pa.....	do.....	Do.
9	September 1895.....	Providence, R. I.....	do.....	Evan H. Davis.
10	September 1896.....	Toronto, Canada.....	C. H. Morse.....	Do.
11	August and September 1897.....	Detroit, Mich.....	Rufus R. Wade.....	Alzina P. Stevens.
12	September 1898.....	Boston, Mass.....	do.....	Joseph L. Cox.
13	August 1899.....	Quebec, Canada.....	do.....	Do.
14	October 1900.....	Indianapolis, Ind.....	James Campbell.....	Do.
15	September 1901.....	Niagara Falls, N. Y.....	do.....	R. M. Hull.
16	December 1902.....	Charleston, S. C.....	John Williams.....	Do.
17	August 1903.....	Montreal, Canada.....	James Mitchell.....	Davis F. Spees.
18	September 1904.....	St. Louis, Mo.....	Daniel H. McAbee.....	Do.
19	August 1905.....	Detroit, Mich.....	Edgar T. Davies.....	C. V. Hartsell.
20	June 1906.....	Columbus, Ohio.....	Malcolm J. McLead.....	Thomas Kelly.
21	June 1907.....	Hartford, Conn.....	John H. Morgan.....	Do.
22	June 1908.....	Toronto, Canada.....	George L. McLean.....	Do.
23	June 1909.....	Rochester, N. Y.....	James T. Burke.....	Do.

**Joint Meeting of the Association of Chiefs and Officials of Bureaus of Labor  
and International Association of Factory Inspectors**

No.	Date	Convention held at—	President	Secretary-treasurer
24	August 1910.....	Hendersonville, N. C. and Columbia, S. C.	J. Ellerly Hudson.....	E. J. Watson.
25	September 1911.....	Lincoln, Nebr.....	Louis Guyon.....	W. W. Williams.
26	September 1912.....	Washington, D. C.....	Edgar T. Davies.....	Do.
27	May 1913.....	Chicago, Ill.....	A. L. Garrett.....	W. L. Mitchell.

**International Association of Governmental Labor Officials <sup>1</sup>**

[Resulting from amalgamation of the Association of Chiefs and Officials of Bureaus of Labor and the International Association of Factory Inspectors]

No.	Date	Convention held at—	President	Secretary-treasurer
1	June 1914.....	Nashville, Tenn.....	Barney Cohen.....	W. L. Mitchell.
2	June-July 1915.....	Detroit, Mich.....	do.....	John T. Fitzpatrick.
3	July 1916.....	Buffalo, N. Y.....	James V. Cunningham.....	Do.
4	September 1917.....	Asheville, N. C.....	Oscar Nelson.....	Do.
5	June 1918.....	Des Moines, Iowa.....	Edwin Mulready.....	Linna E. Bresette.
6	June 1919.....	Madison, Wis.....	C. H. Younger.....	Do.
7	July 1920.....	Seattle, Wash.....	Geo. P. Hambrecht.....	Do.
8	May 1921.....	New Orleans, La.....	Frank E. Hoffman.....	Do.
9	May 1922.....	Harrisburg, Pa.....	Frank E. Wood.....	Do.
10	May 1923.....	Richmond, Va.....	C. B. Connelley.....	Louise E. Schutz.
11	May 1924.....	Chicago, Ill.....	John Hopkins Hall, Jr.....	Do.
12	August 1925.....	Salt Lake City, Utah.....	George B. Arnold.....	Do.
13	June 1926.....	Columbus, Ohio.....	H. K. Witter.....	Do.
14	May-June 1927.....	Paterson, N. J.....	John S. B. Davie.....	Do.
15	May 1928.....	New Orleans, La.....	{ H. M. Stanley <sup>1</sup> Andrew F. McBride Andrew F. McBride <sup>2</sup> Maud Swett	{ Do. Do. Do.
16	June 1929.....	Toronto, Canada.....	{ Andrew F. McBride <sup>2</sup> Maud Swett	{ Do. Do.
17	May 1930.....	Louisville, Ky.....	Maud Swett.....	Do.
18	May 1931.....	Boston, Mass.....	{ John H. H. Ballantyne <sup>4</sup> W. A. Rooksbery..... E. Leroy Sweetser <sup>5</sup>	{ Do. Do. Maud Swett.
19	September 1933 <sup>5</sup> .....	Chicago, Ill.....	{ E. R. Patton..... T. E. Whitaker.....	{ Maud Swett. Isador Lubin.
20	September 1934.....	Boston, Mass.....	T. E. Whitaker.....	Do.
21	October 1935.....	Asheville, N. C.....	Joseph M. Tone.....	Do.
22	September 1936.....	Topeka, Kans.....	A. W. Crawford.....	Do.

<sup>1</sup> Known as Association of Governmental Labor Officials, 1914-27; Association of Government Officials in Industry, 1928-33.

<sup>2</sup> Mr. Stanley resigned in March 1928.

<sup>3</sup> Dr. McBride resigned in March 1929.

<sup>4</sup> Mr. Ballantyne resigned in January 1931.

<sup>5</sup> No convention was held in 1932, but a meeting of the executive committee and other members was held in Buffalo in June 1932 to discuss matters of interest to the association.

<sup>6</sup> Mr. Sweetser served as president from May 1931 to the end of December 1932.

**Appendix B.—Persons Attending the Twenty-Second Annual  
Convention of the International Association of Governmental  
Labor Officials**

UNITED STATES

*Arkansas*

E. I. McKinley, commissioner, bureau of labor and statistics,  
Little Rock.

*Connecticut*

Morgan Mooney, deputy commissioner, department of labor and  
factory inspection, Hartford.

Joseph M. Tone, commissioner of labor, Hartford.

*Delaware*

C. W. Dickey, E. I. du Pont de Nemours & Co., Wilmington.

*District of Columbia*

Mary Anderson, Director, Women's Bureau, United States Depart-  
ment of Labor.

Charles E. Baldwin, Washington, D. C.

Clara M. Beyer, Assistant Director, Division of Labor Standards,  
United States Department of Labor.

Marshall Dawson, United States Bureau of Labor Statistics.

Charles Hodge, United States Department of Labor.

Dr. Roy R. Jones, Division of Labor Standards, United States  
Department of Labor.

Swen Kjaer, United States Bureau of Labor Statistics.

M. D. Kossoris, United States Bureau of Labor Statistics.

Isador Lubin, United States Commissioner of Labor Statistics.

Leifur Magnusson, International Labor Office, Washington, D. C.

Beatrice McConnell, Director, Industrial Division, Children's  
Bureau.

A. Louise Murphy, Division of Labor Standards, United States  
Department of Labor.

Charles F. Sharkey, United States Bureau of Labor Statistics.

Estelle M. Stewart, United States Bureau of Labor Statistics.

Louise Stitt, Director, Division of Minimum Wage, United States  
Women's Bureau.

Sidney W. Wilcox, Chief Statistician, United States Bureau of  
labor Statistics.

*Illinois*

Daniel D. Carmell, assistant attorney general, department of labor, Chicago.

Dr. Peter T. Swanish, chief of division of statistics and research, department of labor, Chicago.

*Iowa*

Frank E. Wenig, commissioner, bureau of labor, Des Moines.

*Kansas*

B. G. Baird, factory inspector, commission of labor and industry, Topeka.

Everett Baker, attorney, Lyons.

G. Clay Baker, chairman, commission of labor and industry, Topeka.

Mrs. G. Clay Baker, Topeka.

Rhita Baxter, National Reemployment Service, Topeka.

Alice Beveridge, State statistical supervisor, National Reemployment Service, Topeka.

A. A. Billings, Topeka.

C. A. Bowman, veterans' placement, Topeka.

Marie M. Brindell, secretary, workmen's compensation commission, Topeka.

Dana Brown, reporter, workmen's compensation commission, Topeka.

S. A. Campbell, supervisor, National Reemployment Service, Topeka.

Valda Campbell, workmen's compensation commission, Topeka.

Leona Carlin, National Reemployment Service, Topeka.

Lewis Douglas, department of labor, Topeka.

Loraine Edmonds, department of labor, Topeka.

Roy H. Galvin, factory inspector, commission of labor and industry, Topeka.

Mrs. Roy H. Galvin, Topeka.

Vera Greenwood, Kansas state employment service, Topeka.

J. R. Gordon, safety engineer, Phillips Petroleum Co., Kansas City.

Daisy Gulick, director, women's work, commission of labor and industry, Topeka.

Agnes E. Hannigan, Topeka.

Cecil Keating, workmen's compensation commission, Topeka.

Nellie Kennedy, department of labor, Topeka.

J. C. Marsh, statistical clerk, department of labor, Topeka.

Mrs. J. C. Marsh, Topeka.

Beth Martin, department of labor, Topeka.

Alice K. McFarland, Topeka.  
 Geraldine McQuilkin, National Reemployment Service, Topeka.  
 J. Walter Mills, workers' action committee, Topeka.  
 William A. Murphy, commission of labor and industry, Topeka.  
 Louise J. Myler, National Reemployment Service, Topeka.  
 J. W. Newby, safety and personnel, Eagle Picher Mining & Smelter Co., Galena.  
 Opal Nichols, workmen's compensation commission, Topeka.  
 Crystal Niemeir, workmen's compensation commission, Topeka.  
 Fred St. John, workmen's compensation commission, Topeka.  
 A. S. Strain, Post Office, Topeka.  
 G. L. Warders, State director, National Reemployment Service, Topeka.  
 Mildred Williams, department of labor, Topeka.  
 A. Parmelee, president, John Titus Co., Kansas City, Mo.  
 John Campbell, insurance manager, Eagle Picher Mining & Smelting Co., Joplin, Mo.  
 A. J. Hoffman, Tobin Quarries, Nebraska City, Nebr.

*New Hampshire*

John S. B. Davie, commissioner, bureau of labor, Concord.

*New Jersey*

Russell Eldridge, director, bureau of employment, department of labor, Newark.

Stephen J. Lorenz, deputy commissioner, bureau of workmen's compensation, Trenton.

*New York*

Elmer F. Andrews, industrial commissioner, department of labor, New York City.

Henry Epstein, solicitor general, department of labor, New York City.

Frieda Miller, director, division of women in industry and minimum wage, department of labor, New York City.

E. B. Patton, director of statistics and information, department of labor, New York City.

H. W. Steinhaus, Equitable Life Assurance Society, New York City.

*North Carolina*

A. L. Fletcher, commissioner of labor, Raleigh.

*Oklahoma*

C. B. Gammons, personnel officer, Phillips Petroleum Co., Bartlesville.

Mrs. Zelda Harrell, inspector, division of women and children in industry, department of labor, Oklahoma City.

E. C. Mabon, safety engineer, Eagle Picher Mining & Smelting Co., Picher.

W. A. Pat Murphy, commissioner of labor, Oklahoma City.

Mrs. Clover Powers, department of labor, Oklahoma City.

*Oregon*

J. C. Joy, commissioner, State industrial accident commission, Portland.

*Rhode Island*

Mrs. Louise Q. Blodgett, chief, division of women and children, department of labor, Providence.

L. Metcalfe Walling, director, department of labor, Providence.

*South Carolina*

C. R. Carter, director of inspection, department of labor, Columbia.

John W. Nates, commissioner, department of labor, Columbia.

Mrs. John W. Nates, Columbia.

*Tennessee*

W. E. Jacobs, commissioner, department of labor, Nashville.

*Texas*

George Coates, general secretary, Brotherhood of Locomotive Firemen and Enginemen, Amarillo.

*Utah*

O. F. McShane, industrial commissioner, department of labor, Salt Lake City.

*Wisconsin*

Harry R. McLogan, commissioner, industrial commission, Madison.

Paul A. Raushenbush, director, unemployment compensation department, industrial commission, Madison.

Maud Swett, field director, woman and child labor department, industrial commission, Milwaukee.

## CANADA

Fred W. Armstrong, vice chairman, Workmen's Compensation Board of Nova Scotia, Halifax.

A. W. Crawford, chairman, Minimum Wage Board, Department of Labor of Ontario, Toronto.

C. K. Newcombe, chairman, Workmen's Compensation Board of Manitoba, Winnipeg.

## SWITZERLAND

David Vaage, Chief of Safety Service, International Labor Office, Geneva.

