UNITED STATES DEPARTMENT OF LABOR
Frances Perkins, *Secretary*

BUREAU OF LABOR STATISTICS
Isador Lubin, *Commissioner*

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Labor Laws and Their Administration 1937

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Proceedings of the Twenty-Third Convention of the International Association of Governmental Labor Officials, Toronto, Canada September 1937

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Bulletin No. 653 of the

United States Bureau of Labor Statistics

Labor Laws and Their Administration, 1937

The twenty-third annual convention of the International Association of Governmental Labor Officials convened Tuesday, September 14, 1937, and closed Thursday, September 16, 1937. Delegates were present from 20 States and the District of Columbia and from 4 Provinces and the Dominion Government of Canada.

Addresses of welcome by Hon. W. D. Robbins, mayor of Toronto, and Hon. J. F. Marsh, Deputy Minister of Labor of Ontario, opened the convention. The Honorable J. F. Marsh, after welcoming the delegates, described the organization and work of the Department of Labor of Ontario. The employment service of the department is a part of the Employment Service of Canada, and has in addition to the main office in Ontario, 28 branch offices in other cities of the Province. Over 72,000 persons were placed in employment in the 5 months ending August 31, 1937—50,797 in regular and 21,401 in casual employment. Private employment absorbed 58,994 of these workers and governmental highway and hydro jobs the rest. Of the 14,099 placed on Government work, 10,353 were from relief rolls. Other branches of the department whose work was briefly described were the operating engineers branch; the steam-boiler branch; the factory-inspection branch; the apprenticeship branch; the minimum-wage branch; the industry and labor board; industrial standards officers; conciliation officers; and the inspection branch.

President A. L. Fletcher (president of the North Carolina Department of Labor) in his presidential address called attention, among other things, to the remarkable progress made in labor legislation during the preceding year and to a factual study being made by the United States Bureau of Labor Statistics, at the request of the executive board of the I. A. G. L. O., covering the organization, functions, and administrative procedures of State labor departments.

The consideration of important subjects, presented through reports of committees and followed by discussion, occupied the first part of the convention. The role of State labor departments in relation to Federal and other State activities for the benefit of the workers was presented in a series of papers and discussions. Round-table discussions on other subjects of interest to labor departments were also conducted. The business of the association was considered in two business sessions, one at the close of the opening session and the other

at the end of the closing session of the convention. Both of the business sessions were presided over by the president of the association.

The chairmen of the other sessions were as follows:

T. E. Whitaker, commissioner, Department of Labor of Georgia, afternoon session, September 14.

A. W. Crawford, director, Minimum Wage Branch, Department of Labor of Ontario, evening session, September 14.

Joseph M. Tone, commissioner, Department of Labor of Connecticut, morning session, September 15.

Tom Moore, vice chairman, National Employment Commission of Canada, afternoon session, September 15.

John S. B. Davie, commissioner, Bureau of Labor of New Hampshire, morning session, September 16.

The twenty-fourth annual convention of the association will be held at Charleston, S. C., in September 1938.

In the presentation of the proceedings of the 1937 convention of the association, which follows, the arrangement has been by topics rather than chronologically.

International Association of Governmental Labor Officials

Activities of the International Association of Governmental Labor Officials, 1937

President's address, by A. L. FLETCHER

For the second time in its history, which now covers a period of 23 years, the International Association of Governmental Labor Officials holds it annual convention in the city of Toronto. The records show that our sixteenth annual convention was held here in June 1929. We are delighted to be here again and we are looking forward to sessions that will be interesting and helpful to all of us. In recent years we have not had as many Canadians in attendance at our conventions as we would have liked and we hope that this meeting here in Toronto will arouse the interest of our Canadian brethren in our association and result in their participation, in a larger way, in the work of the future. In Hon. A. W. Crawford, chairman of the Minimum Wage Board of the Department of Labor of Ontario, and immediate past-president of our Association, Canada has furnished us a wise leader, a safe counselor, and a pleasing personality. We would like to have all of the labor administrators of Canada in our association.

In our convention at Topeka, Kans., last year, the question of Canadian participation in the work of the I. A. G. L. O. in the future was discussed briefly. The sentiment of the members there assembled was expressed by our secretary, Isador Lubin, when he said that he favored the continuance of our present plan of organization, because the problems of labor legislation in any Canadian Province are as closely related to those of the States as are the problems of New York and Texas—in fact, more closely.

Because of this feeling on the part of all of us, we are here today for the twenty-third annual convention of our association. For many of us it was a "long, long way" to Toronto. In the States there are few labor departments with travel funds sufficient to permit out-of-the-State travel for conventions such as this, and it has not been easy to convince budgetary executives that such travel should be done at State expense. This difficulty has kept many away from this convention, as we knew it would, but we felt that we ought to meet with you Canadians again, show our interest in your problems, get your help in solving ours, and chart a course for the future.

It has been a good year, a year in which wonderful progress has been made in labor legislation in almost every State in the United States and most of the Provinces of Canada. In the United States the influence of our association was felt in the passage of improved child-labor laws, improved hour laws for men and women, wage-collection laws, and many other laws. The records will show that the first organization in America to get behind these progressive labor measures and really do something about them was our association.

So the year 1937 has been a period of fruition, of fulfillment, of dreams come true. The Division of Labor Standards of the United States Department of Labor devoted one issue of its monthly bulletin last spring to the labor legislation that had been introduced in the legislatures of 43 States in 1937, and it required 164 pages just for the captions of the bills and the briefest possible summary of their provisions. In almost every one of these 43 States, the influence of our organization could be traced in the model bills offered there, nearly all of the principal ones having been sponsored originally by our organization and painstakingly studied, drafted, and redrafted by our committees.

I should like to pay tribute to the committees who have labored behind the scenes, long and faithfully, in the preparation of the measures that go into the legislative hopper bearing various labels, and in the research and study on which these measures are based. Theirs has been the pick-and-shovel job, the rarely appreciated task of laying safe and secure foundations.

So, when these committees present their reports later in the session, I hope you will give ear and mind and heart to their reports, bearing in mind that these committees are our "shock troops" and to them, more than to any others in the field of labor legislation, we owe the achievements of which we are so proud today.

During the year your executive board has maintained close connection with the National Conference on Labor Legislation sponsored by the United States Secretary of Labor, Hon. Frances Perkins, every member of the board serving on one or more of the standing committees of the conference and taking active part in the studies, research, and discussions of these committees. Your president was privileged to attend, as official representative of the International Association of Governmental Labor Officials, the annual convention of the American Public Health Association, at New Orleans, La., and participated in the deliberations of the section of that association devoted to the problems of industrial hygiene and occupational diseases.

Carrying out the mandate of the Topeka convention, your executive board held a meeting in Washington on February 15, 1937. Among other things the board voted to request the United States Bureau of

Labor Statistics to make a study of the organization and functions of State labor agencies and the service they can render to labor and industry.

The Bureau of Labor Statistics readily acceded to the request, and began work on the study a few weeks after the executive board meeting. The study deals primarily with the labor-law administering and enforcing machinery and methods of State departments of labor, with particular emphasis on the type of organization, extent of personnel and budgets, and administrative procedures, including methods of enforcement and prosecution.

The study is solely a factual one, with neither a critical nor a comparative approach, except as comparisons may develop naturally out of the facts. The purpose is chiefly to afford a comprehensive view of the rapidly expanding duties and functions of State labor agencies, and to show the way in which those duties are discharged through the instruments of statutory authority, money, and personnel available to the administering agencies.

The administration of workmen's compensation laws, which was the subject of an earlier study made by the Bureau of Labor Statistics, is not included in the study requested by the executive board. On the other hand, certain fields generally within the jurisdiction of agencies other than State departments of labor will be covered. These include vocational education and rehabilitation, occupational diseases, labor conditions in railroad and maritime employment, and various other governmental activities in the interest of the workers.

Representatives of the Bureau of Labor Statistics, I am informed, have thus far visited the departments of labor in 34 States in the course of this study, and with the helpful cooperation of State labor officials substantial progress has been made. An introductory article will appear in the September 1937 issue of the Monthly Labor Review.

Several points of particular interest to the International Association of Governmental Labor Officials can already be noted from the survey. Of chief importance is the increase in the number of unified State departments of labor, which, while most pronounced in the South, is apparent in nearly every section of the country. Another notable trend is toward a practice long advocated by this association. That is the conferring on State departments of labor of the power to make rules and regulations enforceable as law. Formerly that authority was confined to about 12 departments. Now it has been conferred upon the newly-created departments of labor in the southern States and specifically granted to several of the established agencies whose regulatory functions have heretofore been limited to those fixed by statute.

The vitalizing effect on State labor agencies of recent developments is evident almost everywhere. This is particularly significant, espec-

ially as contrasted with the discouragements of the years immediately preceding the adoption of the program of labor legislation. One of the chief factors contributing to this renewed activity is the removal of the ban on minimum-wage legislation and administration. With the constitutionality of that type of protective legislation established, great activity and enthusiasm among the existing minimum-wage bureaus were found, and also a general movement toward establishing this enforcement medium in departments of labor in those States where minimum-wage laws have been inoperative or have been enacted since the decision of the Supreme Court in the Washington case.

The International Association of Governmental Labor Officials, as the sponsor of this study, will await with interest the completed report, which should give evidence of the increasing importance, to the whole social fabric, of the work of governmental labor officials and agencies.

You will note from the program that your executive board has planned for much discussion and few speeches. Our speakers have been selected with great care and, without exception, are leaders in their particular fields. I know that I am voicing their wishes when I extend to you an invitation to discuss their papers freely, frankly, and without reservations. We are here for the serious purpose of learning how to do better jobs as governmental labor officials when we go back home, and if we fail in this we are not doing our duty by our people back home.

In closing I wish to thank our executive board for its fine work during the year and especially to thank our very efficient secretary, Dr. Lubin, for his work. If the closing administration may be accounted successful, the major part of the credit is due to your secretary. I wish also to say that I deeply and sincerely appreciate the honor of having served as president of this splendid body of men and women.

Unemployment Compensation

Unemployment-Compensation Laws and Administration

Report of Committee on Unemployment Compensation, by GLENN A. BOWERS *(New York Department of Labor), Chairman*

The year which has elapsed since the last meeting of this association has witnessed the rounding out of State legislative programs for unemployment compensation; the setting up of State and Territorial administrative agencies; and the clarification of State and Federal relationships. The statistical data contained in this brief summary of the progress and present status of unemployment compensation in the United States have been obtained from the records of the Bureau of Unemployment Compensation of the Social Security Board.

Coverage of Laws

Forty-eight States, the District of Columbia, Alaska, and Hawaii have enacted unemployment-compensation laws (Wisconsin in 1932; New York, Washington, New Hampshire, California, and Massachusetts in 1935; 30 States in 1936; and 15 States in 1937). As of June 1937, there were approximately 865,000 employers responsible for payment of contributions under these laws. The number of employees covered was approximately 25,000,000.

Twenty-nine of the fifty-one laws embrace employers of eight or more; one (Connecticut), five or more; nine (Kentucky, Maryland, Massachusetts, New Hampshire, New Mexico, New York, Oregon, Rhode Island, Utah) four or more; two (Arizona and Ohio), three or more; and ten (Arkansas, District of Columbia, Delaware, Hawaii, Idaho, Minnesota, Montana, Nevada, Pennsylvania, Wyoming), one or more employees.

In general, these laws exempt employees in domestic service, agricultural employment, Government employment, religious, charitable, educational, and scientific employment in nonprofit organizations.

Validity of State and Federal Legislation

The Supreme Court of the United States by a 4-to-4 vote, November 23, 1936, affirmed the decision of the New York State Court of Appeals which upheld the validity of the New York law by a 5-to-2 vote (*E. C. Stearns Manufacturing Co.* v. *New York; Associated*

Industries of New York v. *New York*). While this decision upheld the validity of the New York Unemployment Insurance Act, the principle of this State legislation was not finally confirmed until in an Alabama case (*Gulf States Paper Corporation and Southern Coal & Coke Co.* v. *Alabama*) the United States Supreme Court, May 24, 1937, ruled by a five-to-four vote that the Alabama law was valid. On the same date, the United States Supreme Court ruled (*Charles C. Stewart Machine Co.* v. *United States*) that a Federal excise tax provided for under title IX of the Social Security Act is a proper tax, that this was not coercive upon the States, and that it did not violate the due-process or equal-protection provisions of the Federal Constitution. Thus in 1937, the validity of State and Federal legislation of the type enacted in the United States was cleared of all doubt as to its constitutionality.

State Administrative Agencies

The State administrative agencies under the 51 laws are established as follows: In 29 States, the agency is independent of other State departments; in 20 States, the agency is in or subject to the labor department; in 1 State, it is in the treasury; and in 1 State, it is a department of social welfare.

Contributions

Approximately $400,000,000 is in the Federal Treasury in the Unemployment Trust Fund credited to the respective States. The rate of employer contributions in 1937 was 1.8 percent of the defined pay roll in all jurisdictions but six (Massachusetts, New York, Michigan, New Hampshire, Wisconsin, and District of Columbia), in which jurisdictions the rate is 2 percent of the pay roll. These rates in most instances will be stepped up in 1938 to 2.7 percent and 3 percent of the pay roll, respectively.

In 1937, there are eight States (Alabama, California, Indiana, Kentucky, Louisiana, Massachusetts, New Hampshire, and Rhode Island) which provide for contributions by employees. These range from 0.5 percent to 1.5 percent of wages received. In 1938, Indiana drops from this list, and New Jersey is added to it.

Benefits

Unemployment benefits in most States amount to 50 percent of the value of weekly wages. The minimum benefit is ordinarily $5 and the maximum is $15. The waiting period is normally 3 weeks of unemployment, with variations among the States. The duration of benefits ranges from 12 to 20 weeks. In 28 States, the duration is 16 weeks.

Benefits become payable as follows: Wisconsin, July 1936; 22 States January 1938; 2 States, April 1938 (Indiana and Mississippi); 2 States, July 1938 (Iowa and South Carolina); 1 State, September 1938 (Idaho);

2 States, December 1938 (New Mexico and Oklahoma); 16 States, January 1939; 4 States, July 1938 (Georgia, Illinois, Florida, Montana). The date for benefit payments for Hawaii is not available.

Type of Unemployment Fund

In 44 jurisdictions, the unemployment-compensation fund is completely pooled. In Vermont, the employer may elect a pooled fund or a company-reserve fund. In four States (Indiana, Kentucky, Oregon, South Dakota) there is an employer-reserve fund with partial pooling. The Nebraska and Wisconsin laws provide for employer-reserve funds; however, in these two States there is a small pooled fund for interest earnings, unused balances, and money from other miscellaneous sources.

Merit Rating for Stable Employment

In 40 jurisdictions, there is a provision in the law for merit rating. In nine additional jurisdictions (Georgia, Hawaii, Maine, Massachusetts, Mississippi, New York, North Carolina, Rhode Island, Virginia) there is provision for study of the merit-rating problem. Only Maryland and Pennsylvania laws have no reference to merit rating. The merit-rating provisions generally provide for a credit against the tax on account of stabilized employment experience.

Employment Service

In all but two jurisdictions (Alabama and District of Columbia) the administration of the State employment service has been combined with that of the unemployment-compensation agencies. This means that employment service is administered with unemployment compensation as integrated functions under a single administrative authority, either a commission or an individual administrator.

In the absence of Federal provision for unified administration of unemployment compensation and employment service, such common action has been attained through an agreement between the Secretary of Labor and the chairman of the Social Security Board. Under this agreement, concluded March 30, 1937, a joint committee of the United States Employment Service and the Bureau of Unemployment Compensation of the Social Security Board determines State and Federal administration requirements and passes upon budgets for employment services. The Social Security Board has recognized that the supplementary costs of employment service, above those provided for under the Wagner-Peyser Act and corresponding State laws, must be borne by the Board. The Social Security Board, through the Bureau of Unemployment Compensation, and the Department of Labor, through the United States Employment Service, act as if they were a single agency with respect to all matters affecting a State employment service.

Interstate Conferences

An informal association of administrators of State unemployment-compensation agencies has met six or eight times to date. There has been developed a plan which will be acted upon at the October meeting of this interstate conference, providing for a duly constituted organization under the name "Interstate Conferences of Employment and Unemployment Compensation Agencies."

Problems

A number of troublesome problems have yet to be solved. Among these are the handling of coverage for migratory workers, the proper jurisdiction for interstate workers, the determination of seasonal industries, and the status of part-time employment. The ability of the States, large and small, to pay benefits promptly and accurately has yet to be demonstrated.

Despite these problems and the already too numerous discrepancies in the State laws, there is justification for confidence at this stage that this new form of social legislation in the United States will be administered soundly in a large majority of the States.

Discussion

Mr. LUBIN. As far as this organization is concerned, I think the most significant question in this report is the question of State administrative agencies. As you will note, in 29 States unemployment compensation is administered by an agency which is absolutely independent of the State labor departments. In 20 States only is workmen's unemployment compensation a function of the State labor departments. A very important question, I think, arises there, as to whether or not the logical place for the administration of matters of such vital concern to the laborer is not the departments of labor of the individual States.

A second question that, I think, is worthy of consideration and should be given some attention by the association, is the question of the organization, which is mentioned by Mr. Bowers and which will probably be formed very shortly, of the so-called employment and unemployment compensation agencies. In view of the fact that almost half of the 20 States in which the departments of labor administer unemployment compensation belong to this association, is there not a question of duplication of function in the starting of still another organization of the people who concentrate their attention on problems of unemployment compensation?

The final matter that should be raised at this meeting, I think, is the question of the attitude of the various State labor departments towards those workers who are not covered by unemployment-compensation acts. In some States migratory workers comprise the

bulk of the workers, particularly in those States where natural resources like lumber and canning play a vital part in the life of the community.

President FLETCHER. In view of the fact that the departments of labor throughout the United States are vitally concerned in the administration of these unemployment-compensation laws, the question has been raised whether it would be wise, or whether our organization should undertake, to bring into our fold the various boards and commissions and other agencies that have been set up throughout the country for the administration of the unemployment-compensation laws. We would like to have some discussion of the membership on this topic. That opens a great field for our association, in which we could enlarge our membership and bring in a great many people who are vitally interested, not only in unemployment compensation, but also in various other phases of labor legislation. I should like to know, and I know the incoming president would like to know, just what this convention desires to do along that line.

Mr. LUBIN. If the association so desires, it might be well to instruct the incoming president to get in touch with the group that assumes the leadership in this proposed new organization of unemployment-compensation people and confer with them as to whether or not, in view of the fact that so many of our members are involved in this question of unemployment compensation, they would be interested in becoming an integral or an affiliate part of this organization, so that there would be some official relationship between those who handle wage claims, factory inspection, minimum wages, and matters of that sort, and those who handle the problem of unemployment compensation, which is just one of a series of problems in which the State labor departments are interested.

Mr. DURKIN (Illinois). I believe that unemployment compensation is a function of the department of labor just as employment is, and because of the coordination that is necessary between the divisions in the department, I would, as a labor man not wholly in sympathy with sit-down strikes, be willing to sit down on that organization and let our group take the lead and continue that kind of service in this organization.

Mrs. BEYER (Washington, D. C.). It seems to me that if this organization is to grow and have the prominence it should have, it must take in these subsidiary organizations, such as the accident commissioners, the employment-service directors, and the factory inspectors, but I believe that these other groups should be set up as sections under this association. For instance, if we had a meeting of just the labor commissioners, such as this, the people who are administering unemployment-compensation acts might not be represented and I think they would resent that fact. It is very important, I think,

that the labor commissioners begin to think about keeping these other organizations in line. Otherwise you will have just as many different policies brought out as there are organizations. It will be some time, I think, before the industrial-accident commissioners will be willing to come into this organization, but if we begin with some of these newer organizations and show them that it is to their advantage and to the advantage of the country that they be together and have a common policy, I believe that it will not be more than a dozen years before the industrial-accident commissioners will come in also. I should like to have a committee appointed to work out a plan and to see whether the unemployment-compensation administrators and others would not like to become members of this association as a branch or section.

[Mr. Whitaker moved that a committee be appointed to work out the details of affiliation with these various organizations, as suggested by Mrs. Beyer.]

Mr. PATTON (New York). I heartily commend the attitude taken by the secretary. I think his suggestions for a private or unofficial conference is good, but I am afraid that Mrs. Beyer is a little too ambitious when she thinks we can eventually take in the accident commissioners and the employment services.

Mr. DAVIE (New Hampshire). I am going to support this motion because I believe we are going right up against something we have been through before. Our constitution as it defines membership paves the way, I think, for making the unemployment-compensation administrations really a part of this organization. And when this committee studies this problem, I want it to look over the New Hampshire situation very carefully, because in all activities the commissioner of labor steers the ship.

Mr. LUBIN. I also feel that anything we might do in this field will have a very definite bearing—at least in the sense that it will furnish some sort of example—on what might be done by our Canadian members. Canada, as you know, still has that problem of unemployment compensation to solve, and I am quite sure that our Canadian members would be very much interested in what has been happening in the United States and the relative efficacy of having the departments of labor administer these acts.

[Motion seconded and carried.]

The United States Employment Service

By W. FRANK PERSONS, *Director, United States Employment Service*

On this occasion I should like to speak for a few minutes, in broad terms, concerning the place which employment services have come to occupy in the social and economic life of this country.

Not so many years ago, in a discussion of this nature, one might have been called upon to defend public employment services as a legitimate function of government. That time has passed. It is significant that every one of the 48 States has passed legislation creating a State employment service and accepting the provisions of the Wagner-Peyser Act.

This acceptance of employment services as a legitimate function of government is not theoretical. It is based upon practical experience with actual operating employment services, which, in the aggregate, give Nation-wide coverage. In 50 months of operation, from July 1, 1933, through August 1937, nearly 21 million placements have been made, and 27½ million different individuals have registered. Accordingly, this acceptance of our program is based upon intimate, first-hand knowledge of the services which have been rendered, State by State, community by community, worker by worker, employer by employer. It is based upon the achievements of these employment services.

This public attitude toward employment services is indeed far stronger than mere acceptance. There is insistence upon their establishment on a firm, permanent, and adequate basis. And this public attitude results, not primarily from emergency activities carried on through 4 recovery years, but from direct and actual service to industry. The placements with private employers have numbered 6,100,000. This is a substantial record. But even more important is the rapidity of growth in this phase of our work during the current year, and its potential importance. During the latest 8 months, private placements have increased by 93 percent.

Emergency activities of the service have bulked large in number and in time and effort. The record shows that 7¾ million jobs have been filled on various phases of emergency work programs (C. W. A., W. P. A., and the like); and that more than 7 million placements have been made on prevailing wage projects of the P. W. A. or in governmental service.

There may have been times when the preponderance of the emergency activities has seemed to retard the development of the more permanent aspects of our work. But this is not a fact to be deplored. In the spirit of adaptability which characterizes our service, we did the job which had to be done at the time. Relief and work relief have been major concerns of the Nation. Employment services have done their part in relation to this problem. Those emergency activities have been tackled and met in the same spirit which will mark the assumption of new responsibilities for employment services wherever unemployment-compensation benefits become payable through our operating offices.

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In the State of Wisconsin the employment service for nearly a year has had practical experience in the conduct of those activities required in our cooperative relations with the administration of unemployment compensation. In that State the employment service has been preserved and promoted as a distinct organization. Its scope and efficiency have been increased. It has met its new obligations fully, under the administration of its own officers and the loyalty and efficiency of its own personnel.

The development of the State employment service, for employment-service purposes, is the best means of preparation for the new opportunities soon to be presented, throughout the Nation, in the cooperation which will be eagerly extended to the agencies administering unemployment insurance.

The growth of the affiliated State employment service has been impressive. At the end of June 1937 the State services were directly operating 433 offices. These offices account for the major portion of all activities of the employment service. The State offices receive 65 percent of the new applications, make 60 percent of all placements, including 63 percent of all private placements, and have in their files registrations of 53 percent of all the registered active job seekers. State offices, at this time, are responsible for service to 57 percent of the Nation's gainful workers.

I do not wish to imply that the status achieved by employment services is measured only by the volume of their activities. The quality of service rendered has been of greater import.

Much has been said and written about professionalizing the service. This we see being accomplished gradually but surely. Personnel are more carefully selected and better trained. Techniques are being refined. We know more about jobs and job requirements. We are getting and using more reliable means of testing workers' abilities.

In all such developments, we have witnessed remarkable teamwork between State and Federal officials. The United States Employment Service is charged by its statute to "promote and develop a national system of employment offices" and to "assist in coordinating the public employment offices throughout the country and in increasing their usefulness." Through the occupational-research program, the worker-analysis program, the reporting and inventory programs, the "merit system" of personnel administration, and the development of standards in all phases of employment-service operation and procedures, the United States Employment Service has attempted to fulfill this mandate.

The law "to assist in developing" implies mutual effort, and that effort has been mutual. This applies not only to the State services but also to the National Reemployment Service, because, while the latter is an exclusively Federal service, it has been administered

through a decentralized organization with a high degree of responsibility vested in its State officers. Thus, to the State employment services and to the State units of the National Reemployment Service must go the major share of credit for this development of professional proficiency.

Nowhere is this more evident than in the realm of personnel standards. It is a truism in the operation of our service that success is directly dependent upon the quality and impartiality of its personnel.

Selection of personnel by a formal merit system is not yet the rule in State governmental agencies. Prior to this year, civil service commissions existed in only nine of the States. But with splendid cooperation from the administrators of employment services in the various States and from other interested State officials, the merit system for the selection of personnel has been adopted by each one of the 45 affiliated State employment services and has become one of the uniform standards of the United States Employment Service.

Merit examinations have been administered by the United States Employment Service, with the cooperation of State representatives, in 35 States which have no civil-service agencies. Fifty thousand persons have been admitted to these examinations, and nearly 20,000 have attained places on eligible lists.

In many of these States, the personnel policy of the employment service has represented a pioneer outpost of civil service. One of our keenest gratifications, in connection with this policy, comes from the adoption of the merit principle by other agencies of State government following experience with the employment service merit system.

Employment services have achieved status, a place in the sun, a position in the social and economic life of the community. What are their functions to justify this recognition?

Much governmental effort now appears to be directed toward the stabilization of employment. Reduction in labor turn-over is a part of this effort. One cause of labor turn-over is the square peg in a round hole. Anything which can be done to reduce turn-over by accurately fitting worker abilities to job requirements, fitting round pegs in round holes, is net gain for the social order. This the emp oyment service is trying to do—not by any haphazard method, but by careful and thorough study and analysis of jobs and of workers' qualifications.

We commonly say that an employment office cannot create jobs. This is generally true. But in one respect the effective functioning of an employment service is tantamount to the creation of work. Whenever a job remains vacant because a qualified worker cannot be found to fill it, a net loss results to the potential worker, to the employer, and to the sum total of the national income. To whatever extent an employment service can speed up the filling of openings in

industry or can fill jobs more adequately, work has been created and a contribution has been made to the economic well-being of the social order.

In this connection, the operation of a clearance system is especially important. With the progress of industrial recovery, the task of securing qualified workers in particular localities assumes greater difficulty. To meet this situation, which in some sections has already become pressing, the development of an adequate yet simple method of clearance has been a prime consideration of the employment service. We all constantly hear much comment upon shortage of skilled workers and the unfortunate effect in retarding recovery which results from these shortages. Operation of a clearance system goes far to prevent losses resulting from lack of qualified workers. Only the national system of employment offices, using common terms and uniform standards, can supply a useful clearance service.

We are not content with filling the numberless jobs which would be named whether or not our service existed. We achieve our maximum usefulness to society when we are able to accomplish the difficult placement—to fill the job which, except for an orderly, efficient employment-exchange system, would go unfilled.

A valuable product of the work of an effective employment service is now widely recognized in the statistical data which its records reveal. The value of our inventory system has become strikingly more evident during the course of the past year. The immediate usefulness of detailed information concerning the total supply of registered job seekers has been anticipated in our own work. Likewise, we foresaw a very great use of the material in the general field of data concerning the labor market, but the variety and urgency of its use had not been fully anticipated. The volume and variety of requests for this information from all branches of the Government and private industry have been astonishing.

The dearth of accurate, detailed information concerning available labor supply is well known. While estimates of unemployment are provided from several sources, these give only the most general totals. With practically no exceptions, only national totals are available from these estimates. Information concerning States or local communities is available in only a few States where local censuses have been prepared and then only as of the date of the particular census. With the exception of these few censuses, information is almost entirely lacking concerning the characteristics of the job seekers. I am informed that our inventories are the sole large sample which gives information concerning such details as occupational classifications, industrial background, age, sex, and color.

The results of our first two complete inventories, those of December 1935 and July 1936, were recently published under the title "Who

Are the Job Seekers?" This was accompanied by our publication "Filling Nine Million Jobs," summarizing the detailed reports of our work during the 2 years through June 30, 1936. These publications are in tremendous demand.

For almost 4 years, employment services have operated with Nation-wide coverage. They have succeeded. They have woven themselves inextricably into the warp and woof of community life. They are to be continued. Let none of us rely for their continuation upon the normal tendency of human nature for self-perpetuation which is so evident in any agency of government. On the contrary, employment services will be continued and will be firmly and adequately established on a permanent basis because they are needed; because they perform an essential function.

The present national system of employment offices was financed in 1936–37 by 19 million dollars. This was made up as follows: 2½ millions of State appropriations; 2½ millions of matching Wagner-Peyser money; 1 million for operation of the veteran and farm placement services and for general administration; and 13 millions allocated from relief appropriations to the National Reemployment Service. The expenditure of 25 million dollars during the current year, and of 40 million dollars during the fiscal year 1939–40 seems now to be warranted.

The crux of the problem of continuation of employment services is financial. Due to emergency conditions, and through the medium of the National Reemployment Service, the growth of employment services has been accelerated greatly beyond the anticipations of those who framed the Wagner-Peyser Act. The utility of our service has been proved in all areas of the Nation and not alone in the highly industrialized sections. Employment-service facilities are needed in all States and in every part of each State. You should hear the rumpus that is made whenever a local branch office is discontinued. The demand is local; but it is also national. The provision of factual information on extent and kind of unemployment, to be worth while, must be Nation-wide. An additional and important reason for a service with complete national coverage is the imminent requirement to perform functions essential to the efficient administration of unemployment compensation.

The Wagner-Peyser Act made no reference to unemployment compensation. The Social Security Act, as a matter of fact, makes only incidental reference to its necessary coordination with employment services.

I surmise that this condition is due to the fact that those who framed the Social Security Act expected, at least at the beginning, that its administration would be in the Department of Labor and that the Federal coordination of employment service and unemployment com-

pensation would be accomplished administratively within that Department. There is not, as yet, definite Federal law to provide a statutory basis for the coordination of these two Federal services, which, however, must work in partnership.

That is not true in the States. In all States except two, the State law provides for coordination of the State employment service and the State administration of unemployment compensation. Although each retains its identity, both are placed under the same administrative organization. I will come in a moment to a discussion of what we have done in Washington to set up a voluntary plan of coordination.

It is so well understood now, I think by everybody, that there must be close coordination of employment service and of unemployment compensation in each of the States that I shall not discuss that point at length. It is sufficient to say that unemployment compensation administratively is not feasible, with the attainment of its true objectives, unless there is registration of the unemployed who are insured and proper effort to put them in employment. Without an adequate State employment service there would be undesirable dependence upon benefits, and benefits only, with little effective placement work.

The State employment service, under the Wagner-Peyser Act, if affiliated with the United States Employment Service, and all services should be, has responsibilities that are wider than its cooperation with the unemployment-compensation administration. For example, the employment service must render an employment service for employers and for employees who are not insured under the unemployment-compensation act. It must do other things, also. The employment service, therefore, needs to exist as it has existed, for employment-service reasons.

There is a field in which the interests of unemployment compensation and the interests of employment service are mutual. These interests consist of the registration and placement of those out of work who are under the unemployment-compensation act. Speaking generally, that does not bring to the employment service any problems that are new in kind. We register people now, appraise their occupational qualifications, and refer them to jobs. That field of activity is one that is not new to us.

There is one thing about this partnership work which is distinctly new, and that is that the registration of the insured worker is required. Heretofore, all of our relations with unemployed people and with employers have been upon a purely voluntary basis.

In sparsely-settled areas and even in well-settled areas, our service now is by no means adequate as to number of offices or as to number of workers. Each State that adopts an unemployment-compensation act most certainly accepts the responsibility to set up a State employ-

ment service that will cover the whole area of that State adequately. By that I mean, not only enough offices so that people can get to them without undue hardship, but also adequate personnel in those offices, and competent personnel in those offices.

Accordingly, the advent of unemployment compensation and its necessary alliance with the employment service gives assurance of prompt, uniform, and universal development of the State employment service.

The Wagner-Peyser Act now authorizes an appropriation for the United States Employment Service in the maximum amount of $3,000,000 to be given to the States. That is, of course, a most inadequate sum on any partnership basis for State employment services that are going to do a State-wide job. The Social Security Board has, by its own decision (I mean without being asked by us, and because of its own interest) decided that it will provide additional financial resources for the State employment services. It will provide for the State employment services the funds needed to set up an adequate service, over and above the joint funds now available from State appropriations, as matched by the United States Employment Service.

On the basis of that policy, which the United States Department of Labor has accepted, there is being set up in Washington a voluntary plan and practice of coordination of the United States Employment Service and of the Federal Bureau of Unemployment Compensation, which we hope will prove to be quite as effective to serve your interests in the States, and our own, as though it were prescribed by statute.

In brief, and in its essential points, that plan in Washington is as follows: The United States Employment Service will continue to make its contracts with the State employment services. But before a contract is made with a State employment service in a State in which benefits are about to be paid, the Bureau of Unemployment Compensation and the United States Employment Service will together examine the budget that is proposed by the State for the employment service. In 22 States, payments of benefits come into effect on the first of January next. Wisconsin, of course, is already in that process. So there are 23 States affected by this plan at the present time. The State employment service, under this plan, must receive from the State legislature as much money as is annually apportioned by the United States Employment Service to that State.

In any State, the Social Security Board requires that at least the normal annual apportionment must be matched by State funds. All of that money must be budgeted in the State employment service. The additional necessary amount in the budget is to be specified and to be requested from the Social Security Board. Let us take an example. Let us assume we have $100,000 of State money. We can

match it with Federal money; that is $200,000. Let us suppose the budget for the State employment service for the next fiscal year is $500,000. Both the Bureau of Unemployment Compensation in Washington and the United States Employment Service will examine that whole budget to see that the whole budget forecasts a reasonable and adequate plan for the development and operation of the State employment service for all of its purposes in that State.

The next step is for the Bureau of Unemployment Compensation to report favorably to the Social Security Board the whole budget and for the Social Security Board to vote the $300,000. Thereafter the United States Employment Service makes a contract with the State employment service for the operation of that State's employment service on the basis of that budget and on the basis of the accompanying plan of operation.

In general terms, this brief statement is accurate; but I must not leave you under the impression that the Social Security Board makes a grant of the whole year's budget at the beginning. I need to explain why it does not. Heretofore, in no State has the amount of United States Employment Service money, plus the State appropriation, been adequate for the whole State-wide employment service. Consequently, the plan has been to spend that money to the best advantage. That is a plan more simple to operate than is the plan required by the present situation. Now we must estimate how much more is needed for the whole service. We must decide how much is to come from the Social Security Board.

Obviously, at least in the beginning, it is much more sensible to make that estimate of supplementary funds on a quarterly basis than on an annual basis.

The Social Security Act does not confer upon the Social Security Board the authority to make regulations concerning personnel administration in the State unemployment compensation administrations. The United States Employment Service has that authority as concerns State employment services. It is very important, then, to have in mind that both the Bureau of Unemployment Compensation and the United States Employment Service are in harmony in the understanding that all of the employees in the State employment service, under this enlarged budget of money coming from three sources, are to be under the administration of the State employment service in accord with the uniform rules and regulations of the United States Employment Service.

The rules and regulations apply not only to personnel matters, but also to the standards and policies and procedures of operation, as prescribed by the United States Employment Service. This does not mean that the United States Employment Service in respect to those matters has become endowed with some new power. We have

no more power than we have had. It means that we have a new and heavy responsibility that we have not had before. In the administration of our relationships with State employment services we must be more uniform in our requirements than ever before. A variation made in a single State will affect not only the stability of our policies, but also the stability of the policies of the Federal Unemployment Compensation Bureau.

It also means that, in the development of our rules and regulations and in their administration, we must constantly be in the closest and most sympathetic communication with the Bureau of Unemployment Compensation. Any change, even though it be uniform, in our policies and standards, not only will affect our present interests, but will have its effect upon the development of the State employment services in matters that deeply concern the success of unemployment compensation.

Our coordination in Washington on this voluntary basis begins, naturally and necessarily, with the mutual consideration of the budgets involved. Increasingly, that cooperation will involve very careful discussion and constant mutual understanding of the need for the development of State employment services for present and for new activities. I can say, if you need to have it said, that coordination on this voluntary basis is working with complete unity of interest and sympathy of purpose.

The United States Employment Service does not intend, and the Bureau of Unemployment Compensation does not wish, the State employment services to become one-sided in their development. The reasons may be derived from the following illustration. Suppose, in a given community, there are 1,000 steady jobs, and they are all insured. Suppose in that community there is such management of labor that 2,000 occupy those 1,000 jobs during the year. In that case, no more wages are paid than the 1,000 jobs earn, but at least 1,000 may claim unemployment-compensation benefits because of partial unemployment. Suppose, on the other hand, that the ideal situation exists, and the whole thousand jobs are occupied continuously by the same thousand men. Obviously, then, the community will have just as much income from their work as in the other case, but not a cent will need to be paid in benefits.

The real objective of unemployment compensation, as far as the employment service is concerned, is to stabilize employment. The interests of unemployment compensation will be served, as ours will be served, if two things happen: First, that the employment service is regarded uniformly by employers as a worthy agency to use. We shall then have access to the jobs that are vacant. Secondly, that we are, by our own policies and with the aid and encouragement of unemployment compensation, expected by employers to put the most

suitably qualified person in our registry into each job that comes forward.

In the long run, that policy and practice will tend to increase the stability of employment. It is turn-over that creates the drain upon the benefit fund. At least that is the important factor in times of normal industrial and employment conditions.

Employment service is a big thing in the social order. It has a job to do that is definite and distinctive. It must have ample funds, and it must have ample powers to discharge its responsibilities and to meet its opportunities.

In my judgment, the financial cooperation of the State governments should not be lost. The experience of these 4 years has demonstrated the soundness of the partnership principle.

Unemployment Compensation and State Responsibility

By R. GORDON WAGENET, *U. S. Social Security Board*

Read by S. Park Harmon]

On June 30, 1937, laws had been passed in every State and Territory protecting workers against the risk of unemployment. Prior to 1935 only one such law had been passed. This amazing record is in contrast to the long history of workmen's compensation legislation, which extends back over a quarter of a century and which does not yet record laws in two States. The rapidity of the expansion of unemployment-compensation coverage was made possible by the Federal Social Security Act, which gave to each State a new freedom to enact social legislation without imposing competitive disadvantage on industries within the State. The Federal Social Security Act also opened to the States a new field of social responsibility. While it was entirely possible that many advantages would have been derived from having the Federal Government itself administer a Nation-wide system of unemployment compensation, it was considered more advisable to encourage State legislation, and thus to make direct allowance for industrial conditions within the States and for the development of local initiative in the solution of State problems. Thus, responsibility for the treatment of the problems of unemployment compensation and credit or blame for the degree of success which the program attains are given to the States.

The passage of unemployment-compensation laws has meant the establishment in each State of a new administrative agency commission, department, or division. In 22 States the administrative agency for unemployment compensation is independent of other administrative agencies within the State. In the remaining States the unemployment-compensation law is administered by a department of another State agency. In 17 States this other agency is the depart-

ment of labor; in 3 other States, an agency within the department of labor. In four States the law is administered by an agency which is independent of the labor department but which administers other labor legislation, and in three others it is administered by an independent agency which, nevertheless, has representation on it by a member of the department of labor. In only two States is the administration of unemployment compensation placed in an existing agency which does not administer other labor legislation. Without doubt, much was gained by placing the administration of unemployment compensation with an established agency. It made possible the utilization of a certain minimum personnel, of existing contacts with employers and employees, of files maintained as to employers, their industrial characteristics, and their location, and of cooperative relationships with other State agencies. Whatever may be the long-run disadvantages of an independent agency, there can be little doubt that the new agencies have the greatest problems of organization and of developing relationships with various interests throughout the State.

Of great importance in this early stage of unemployment-compensation administration is the element of time. Its critical importance is easily realized when it is pointed out that of the 22 State laws which provide for the payment of benefits in January 1938, 11 were passed in the last 2 months of 1936, and 7 of these have established new agencies. Before benefits can be paid, the State agency must determine upon its form of organization, secure such personnel as will administer the law in a manner which will command the respect of employers, employees, and the public generally, determine which employers are subject to the law, collect contributions with some assurance that they are paid on the basis provided for in the law, collect wage records on individual employees for, in most cases, a year, and develop adequate procedures for the handling of claims, payment of benefits, and the adjudication of disputed claims. This is a bare outline of the functions of a State agency that is sufficient to indicate the magnitude of the task.

Most States were materially assisted in their problem of selecting personnel by the existence in the laws of provisions requiring the selection of personnel on a merit basis. In a number of these States, the utilization of an existing State civil-service system was prescribed. Other State laws provided that personnel should be selected only after a merit examination and that job classifications should be maintained. Still other laws simply provide for the selection of personnel on a nonpartisan merit basis. These provisions have given an opportunity to the State agencies to use nonpartisan advisory committees not directly associated with the administration of the law, to establish classifications, to prepare and give examinations to appli-

cants for positions, and to establish registers of eligible applicants. This opportunity has been grasped by the States and has made possible the maintenance of a standard for the selection of personnel that would otherwise probably not have been attainable.

In the determination of subject employers the States have made use of all kinds of directories and of registers of other State departments. More recently the States have also had available the registration of employers made last November and December by the post offices for the Bureau of Old-Age Benefits. The States have also been able to classify and number employers by a uniform system of industrial classification, which was developed by the Division of Research and Planning of the New York Division of Unemployment Insurance and Placement, the Social Security Board, the Federal Central Statistical Board, and the Bureau of Labor Statistics. The States have also had available the names and Social Security numbers of employees who applied for old-age benefit account numbers.

In the collection of contributions, the State agencies have been faced with tremendous problems. It has required the utmost in legal lore and in economic experience to determine the existence of the employee relationship in a number of cases. These cases have been particularly difficult where a contractor, agency, or leasing agreement is involved. Likewise, fine distinctions have had to be drawn between various related operations incidental to agricultural labor. To a high degree the rulings of the Bureau of Internal Revenue have been helpful in this respect, but the State laws have differed so substantially from the Federal act with respect to coverage that the rulings of the Bureau of Internal Revenue cannot be relied upon without independent consideration of each case involved.

Another aspect of the problem of coverage is that of workers who normally perform services in more than one State. It augurs well for the success of the whole unemployment-compensation program that 40 States, many of them by amendment, have adopted substantially identical provisions for covering such workers. These provisions are based on the principle that the services of an individual worker should not be partitioned among a number of States, but should all be allocated to one, and that the State to which the services should be allocated should be that State in which it is most likely that the individual will seek work when he becomes unemployed. These provisions are considered sufficiently satisfactory to obviate the necessity for any general agreement among the States with respect to this class of workers.

However, problems of detail still confront the States. For instance, it is still necessary to have very uniform agreement on the meaning of such a term as "incidental work," and it is also necessary to have a substantially uniform period of time with respect to which the location

of the individual's services can be determined. With respect to the latter, however, there is also reason for hope, a substantially uniform "freezing rule" having been adopted throughout the country with respect to the railroad workers.

An additional technical problem involved in the collection of contributions is the determination of the wage base. All States collect contributions not only on cash wages but also on other remuneration. This involves placing a value on the services rendered by an employer to an employee which constitutes a part of the employee's total remuneration. In addition, 30 States include in the remuneration of an individual from his employment those tips which he receives from persons other than his employer. This involves further estimation, although there is every evidence to believe that the States are handling this problem in a satisfactory manner.

In addition to all the technical problems in the collecting of contributions, there is the purely physical problem of preparing satisfactory forms, collecting the contributions expeditiously, and depositing contributions in the unemployment trust fund in the United States Treasury. Some indication of the success which has rewarded the States in this respect is evidenced by the fact that on July 31, 1937, over $330,000,000 had been deposited by the States in the Treasury. It has been found necessary to collect these contributions monthly in order to avoid delinquencies, maintain the fund in times of heavy benefit payments, and suit the convenience of employers.

Up to the present time the State agencies have been chiefly concerned with their organization and with the determination of coverage and the collection of contributions. However, with benefits payable in a large number of States within a few months, it has been necessary to give increased attention to the procedures involved in such payment. First consideration has been given to the availability of employee wage records on the basis of which benefit rights are based. In most States benefit rights accrue for a full year prior to the payment of benefits. Likewise, in most States it has been felt necessary to collect the wage records of individual employees currently, so that there will be no question as to their availability at the time benefits are payable. A few States are relying on the collection of the wage record at the time the individual becomes separated from his work. Involved in this collection of wage reports are a number of technical problems, such as whether the reports shall be sent in by establishments or by employers, and whether the reports shall be made by lists or on a separate slip for each employee.

In general, it may be anticipated that a claim procedure will take something of the following form: The worker will learn of his benefit rights and responsibilities through official posters of the State agency in his work place or through general publicity of the State agency.

Upon becoming unemployed the worker will receive from his employer a separation notice, which will include such items as his name, Social Security account number, occupation, date of separation, and reason for separation. If the State does not collect the wage reports currently, there may be attached to the separation notice a wage report which will contain information on the wages earned by the worker in covered employment with his employer during the period on the basis of which the worker's benefit rights will be determined.

The worker will report to the employment office, register for work, and file his original claim. He will also present his separation notice or his wage and separation report. The claim for benefit will contain a statement signed by the worker that he is unemployed, available for work, and able to work. The worker will be advised to report to the unemployment-compensation representative in the employment office at regular intervals in the weeks ahead, in order to fulfill the waiting-period requirements and to remain eligible for benefits. If the worker has not previously had an application for work on file in the office he will also be referred to an employment-service interviewer. He may also be referred to the employment-service interviewer to bring his former application up to date.

The unemployment-compensation representative in the local office will send to the State administrative office a report on the claim filed, and request the determination of the individual's benefit rights on the basis of wages in covered employment. The State administrative office will, upon the receipt of such claim, establish from the claimant's wage record and previous benefit records, if any, a benefit record on which will be entered the claimant's eligibility for benefits, his weekly benefit rate, and the maximum duration of benefits. This record will be transmitted to the unemployment-compensation representative in the local employment office, together with the names and addresses of employers against whose account benefits may be charged. When the worker returns to the employment office, he makes out a continued claim and is advised of any work opportunities. He is also given an interview with the unemployment-compensation representative, who reviews with him the report on his benefit rights which has been received from the State administrative office. The worker at that time has an opportunity to file a protest if he disagrees with the report. If he agrees with it, an initial determination can immediately be made.

After a claimant has completed his waiting period, has been unemployed for one additional week, has registered for work, and filed his continued claim for that week, he is eligible for his first week's benefits. The unemployment-compensation representative in the local office determines when the claim is ready for first payment and makes out a payment order, which is reported to the State administrative office,

the State administrative office issuing the check which may be either distributed by mail to the claimant's home address or given to the claimant personally at the employment office. The local unemployment-compensation representative will send change orders to the State administrative office when there is a change in the claimant's eligibility, and will send a stop order if the worker returns to his employment, fails to register for work, fails to apply for suitable work, or refuses to accept suitable employment.

It is clear that there are innumerable serious problems involved in this procedure. Among them is that of determining the relationship between a claim and a registration for work, the responsibility of the employment service, the degree of responsibility that would be placed on the unemployment-compensation representative in the local office, the manner in which benefits should be paid to workers, and the determination of what parties are to be considered interested in the initial determination and to what extent and in what form they should be notified of the benefit payments. Clearly, the employment service will have to be expanded materially, and this constitutes a major problem in organization and personnel. Fortunately, all State laws but two provide that the employment service will be administered by the same State agency which administers unemployment compensation.

Another problem not referred to in this review of necessary procedures for the payment of benefits is that of paying benefits to individuals who are unemployed in a State other than that in which they have accumulated benefit rights. Most State laws permit the State agency to enter into reciprocal agreements with other State agencies for the payment of benefits to individuals who have accumulated rights in other States, and several such agreements have been proposed. It is to be expected that within a short time an agreement will be adopted by the States under which, as a minimum, benefits will be paid to workers who are eligible for benefits in a State, even though they are unemployed in another State. It is expected that one State may properly act as an agent for another State in the receipt of a claim, the determination of facts, and the transmittal of the benefit.

Not the least important of the responsibilities of the State agencies is that of collecting information on the state of employment and unemployment and on all related factors that will assist the State in its efforts to handle the problem of unemployment most adequately and to encourage employment stabilization. To this end it is already agreed that, as a minimum, the States will collect monthly figures on coverage and contributions, including such information as the number of reporting units, the number of covered workers, the total wages subject to contributions, and the contributions

received for the pay-roll month. Likewise, they will keep monthly reports based on financial transactions, which will include the total amount of contributions transferred by the State agency to the State treasury and the total amount of contributions actually deposited in State depositories, the total amount transferred to the unemployment trust fund, the total amount withdrawn from the unemployment trust fund, the amount of benefit checks issued by a State agency, the total amount of uncashed benefit checks returned to the State agency, and the average daily balance in the benefit disbursing account. Likewise, annual reports will be kept on coverage and contributions, classified by industry groups.

The Social Security Board, through the Bureau of Unemployment Compensation, has given material assistance to the States in the administration of their unemployment-compensation laws. It is perhaps an understatement to say that grants from the Federal Government to the States for the cost of proper administration of State laws is an assistance to the States. Such grants are provided for in title III of the Social Security Act, and in the fiscal year 1937 $9,074,798 was so certified to 47 States. Had the money been granted to all States on the basis of the grant for the last quarter of that fiscal year, the amount would have been in excess of $16,000,000. It is estimated that the additional cost of handling claims and paying benefits, exclusive of the cost of the employment service, will double that amount. The Social Security Board has agreed to pay such costs of the employment service necessary for the proper administration of unemployment compensation which exceed the amounts available under the Wagner-Peyser Act. The State is expected to match the maximum apportionment under the Wagner-Peyser Act.

Just as the employment service in the State must act with the unemployment-compensation agency as a unified service, so likewise it has been found necessary at the Federal end to coordinate the work of the United States Employment Service and the Bureau of Unemployment Compensation with respect to the State employment services. To this end an agreement has been made between the Department of Labor and the Social Security Board to the effect that in all relationships with the State employment service, the Social Security Board and the United States Employment Service will act as if they were a single agency.

The Social Security Board has in the past greatly assisted the States in drafting their laws, advising them on the requirements of the Social Security Act and on the technical implications of proposed provisions. The Board is continuing to assist the States in maintaining legislative standards that will hold the soundest principles of unemployment compensation and of proper administration.

It also has the duty of working out new provisions to handle more satisfactorily some of the more besetting problems of State agencies. For example, it feels the necessity for developing more satisfactory provisions for the payment of benefits for partial unemployment and for the payment of benefits to part-time and seasonal workers. Studies also suggest the advisability of modifying the provisions now most commonly found in the State laws with respect to claim procedure. The Board also has the obligation of coordinating the present Federal-State program with any other Federal legislation that may be proposed which relates directly or indirectly to unemployment compensation, and to assist the States in working out reciprocal agreements.

In the actual administration of the unemployment-compensation laws the Board has also been of assistance in developing standards of organization and selection of personnel and for the procedures to be followed in the determination of coverage, the collection of contributions, and the payment of benefits. Draft procedures have been prepared and upon request of the States these procedures have been adjusted to the specific requirements of the individual State laws. Likewise, in fulfilling its obligation to pay only the costs of administration which are proper, the Board has been of material assistance to the States in developing efficient procedures.

If the State program for unemployment compensation is to prove successful, one advantage of State action must become effective. This advantage is that of experimentation within the bounds of a minimum uniformity of essentials. To assist in the realization of this advantage the Bureau of Unemployment Compensation has acted as a clearing house for the States, passing on the experience of one State to other States. This clearing-house function has the result of discouraging unsuccessful methods and encouraging the universal adoption of successful methods.

Beyond the experimentation of the States, the Bureau of Unemployment Compensation must carry on advanced studies on those problems which are not yet of pressing importance to the States, but which from the long-run point of view must be met satisfactorily if the State program is to succeed. The studies of detailed procedures for the payment of benefits are set in this class, and to this may be added studies of payment of benefits to seasonal workers and to multi-State workers.

Not all the assistance that can be given by the Federal Government will remove from the States the responsibility of the success of the unemployment-compensation program. Upon the States remains the primary obligation for the maintenance of sound principles of unemployment compensation. To be specific, the States must preserve

such provisions in the State laws as will assure such an income from contributions as is reasonably calculated to insure the payment of benefits over a period of years. It must be recognized that while it may be considered highly desirable to recognize in the contribution rates the efforts of employers to reduce unemployment, such recognition must not be such as to so reduce contributions that benefits cannot be paid in a business recession of no more than anticipated proportions. The efforts to reduce contributions to the State funds will probably represent the strongest attack on unemployment compensation in the next few years, when it is to be expected that rising employment would and should permit an accumulation of unemployment reserve.

It is not simply because of the necessity for keeping the State funds solvent that I propose that the States guard the volume of contributions. For solvency might be secured, even in the face of falling revenues, by a progressive reduction in benefits. And, indeed, in times of relative prosperity, the State agencies may so administer their laws that benefits will not be paid to workers. The favor of employers anxious to secure the most favorable merit rates may in this way be secured. However, the objectives of unemployment compensation would be defeated.

It cannot be emphasized too strongly that the objective of this unemployment-compensation legislation is to pay compensation to unemployed workers, to keep them from relief, to maintain purchasing power, and thus to keep the whole economic machine in motion. The effectiveness of the legislation is only to be judged on the basis of the extent to which benefits are actually paid to workers who are genuinely unemployed, and to the extent that workers covered by the system are able to maintain themselves on the benefits provided by the system through this process; the effect of a business recession is mitigated. While the efforts of the State unemployment-compensation agency should be directed with all possible force to the placement of workers and its greatest glory should be in full employment, the other side of the picture also needs constant emphasis. Benefits must be paid to those employees for whom jobs cannot be found, and these benefits must be sufficiently regular and sufficiently large to keep the individual from relief. With benefits limited in almost all States to 50 percent of the weekly wage, the margin above relief is so narrow that constant care will have to be exercised to see that it is maintained. Otherwise the unemployment-compensation system will fail as an effective method for the handling of the economic problem of unemployed workers.

To assure the prompt payment of benefits, the State laws will have to be administered by personnel that is wise in the operations of our

economic system. It must be capable of understanding the problem of the unemployed. It must be incapable of raising legalistic barriers to the payment of benefits when there is a clear case of genuine unemployment and eligibility for benefits. It must refuse to refer men to work opportunities acceptance of which would break down labor standards in the proffered employment and in the long run result in more unemployment rather than less. Likewise, benefits for partial unemployment must be paid so expeditiously and in such amounts as effectively to encourage men to retain those positions which are offering temporarily only partial employment.

There need be no disagreement on the necessity for supporting workers who have been out of work for a long time out of funds which are raised on a broader tax basis than is that supporting unemployment compensation. Furthermore, special treatment must be given to those workers through retraining and through the good offices of social agencies, to the end that major readjustments may be made in the individual's relationship to work opportunities. However, this concession does not mean that the unemployment-compensation system will not be expected to supply the workers covered by the unemployment-compensation law with sufficient benefits, for a sufficient period of time, to afford them real compensation for their wage loss and to tide them over temporary periods of unemployment.

It can honestly be said that a tremendous piece of machinery is being built up for that purpose. If it fails to pay benefits, but simply acts as an investment trust for employers, into which employers shall pay contributions until such time as the contributions equal a certain proportion of their pay roll, then it will have failed. It will be a great tragedy if the machinery thus built up for such a noble purpose is not used for the object for which it was designed. The failure will bring discredit to the whole institution of unemployment compensation, although those of us who know will realize that the responsibility will be at the doors of the unemployment-compensation agencies in the States. In these and other matters the States must have a strong spirit of cooperation, in order that minimum uniformity shall exist which will give a national result to this State program.

It must also be realized that unemployment compensation is a form of labor legislation having widespread effects on labor relations and on the welfare of workers everywhere. The effectiveness of the provisions of unemployment compensation will have widespread repercussions throughout the mass of working Americans and properly administered unemployment-compensation laws will form a strong link in the economic and social security of the Nation.

The Canadian Employment Service

By R. A. Rigg, *Director, Employment Service of Canada*

It has been my privilege on several occasions in the past to address conferences attended by delegates engaged in the public services of the United States and Canada on the subject of the Employment Service of Canada. These audiences, however, have been principally composed of officials of various public employment services. Therefore, while much that I have prepared to lay before you is a repetition of what has previously been said, it will, no doubt, be quite new to many of my present listeners. A further justification for this paper consists of the fact that during the past 2 years new developments have taken place which profoundly affect the history of the Employment Service of Canada.

This organization owes its origin to a Federal measure entitled the Employment Offices Coordination Act, "An act to aid and encourage the origin and coordination of employment offices," which passed the Parliament of Canada in May 1918. In accordance with the terms of this legislation an annual agreement is entered into between the Federal Department of Labor and eight Provincial governments consenting thereto. Among other things, this agreement determines the financial contribution which the Federal Government shall make to Provincial governments for the purpose of assisting in the maintenance of government employment offices; coordinates the activities of all the offices of the service; ensures uniformity of procedure; and gives to the Federal Department of Labor authority to inspect and supervise.

Under the terms of the British North America Act, which is the title of Canada's written constitution, the authority for the establishment, operation, and regulation of employment offices is vested in the Provincial governments. The Federal Parliament annually appropriates under authority of the Employment Offices Coordination Act the sum of $150,000, which is disbursed as subvention payments to "the governments of the respective Provinces in the proportion which their expenditure for the maintenance of employment offices bears to the total of expenditures of all the Provinces for such purposes." This sum represents about 30 percent of the total outlay. In addition, the Federal administrative costs amount to about $60,000 per year, making the total Federal contribution approximately $210,000.

Under this arrangement, instead of each Province setting up its own system of offices, each adopting forms, methods of procedure, and statistical compilation different from the rest, and creating aggravating problems of interprovincial clearance, a unified service, national in its scope, has resulted. To date all the Provincial governments of Canada, with the exception of the small maritime Province of Prince Edward Island, have established free public employment offices and

maintained them in operation. The system comprises a continuing chain of 74 offices located in 66 centers of chief industrial importance, stretching across the Dominion from the Atlantic to the Pacific. All the forms, some 30 in number, necessary for use in these offices are supplied free of cost by the Federal Department of Labor and are uniform in all offices. These include a report form which is daily completed and mailed to Federal headquarters at Ottawa. The form contains necessary details concerning every registered applicant for work, every vacancy notified, and every placement made during the day. From these uniform reports the office records of the entire system are compiled and tabulated by means of the Hollerith system, thus ensuring the maximum degree of accuracy. For the instruction and guidance of the staffs of the various offices, and further to assist in securing uniformity of method in each office, the Federal Department of Labor has prepared and issued a manual of procedure which explains in detail the proper use of each form.

Incidental reference has previously been made to interprovincial clearance of labor. While the United States and Canada are constituted as national entities, both are divided into geographical areas, designated, respectively, States and Provinces. But it is neither desirable nor practicable in either country to confine workers within the State or Provincial territorial boundaries in which they have originally been domiciled. It is of primary importance in a properly organized public employment service in either country that facilities should be provided which would enable a demand for labor in one State or Province, which could not be met by the local supply, to be met by competent surplus labor available in another State or Province.

In Canada the Federal-Provincial government employment system meets this need. It is the common practice for one Province to come to the aid of another in the effort to fill labor requirements. Procedure regulations provide that in the event of a shortage of labor existing in the zone of a local office, an order covering the vacancy should be circulated among all offices in the Province in which the originating office is located. If the workers required are not available within the Province the order may then be given Dominion-wide clearance; that is, be circulated among all the offices of the service. The regulations further provide against the possibility of workers being dispatched to the employer filing the order only to find on arrival at their destination that others have secured the employment, and that therefore their services are not required.

Very frequently, however, it is found to be quite unnecessary to put the whole of this machinery in motion. General superintendents of the Employment Service of Canada for the several Provinces have acquired an intimate knowledge of labor conditions as they commonly obtain in all Provinces. A general superintendent for one Province,

having found that one of his local offices is faced with a demand for a certain class of workers, is very often in a position to know that the demand cannot be met from any source within his Province, but that the necessary labor can be secured from some other Province. In such a case, to observe the procedure above described would not only mean the expenditure of useless effort, but also involve that which is more disastrous, namely, an unwarrantable delay in filling the vacancies. Therefore, in such circumstances the observance of the formal routine is disregarded, and the transfer of workers is arranged by direct communication between the two general superintendents concerned.

The principle underlying the regulations of the Employment Service of Canada governing the interprovincial transfer of labor is that each Province has the authority to determine the question of the admission of labor from other Provinces, and in accordance with this principle the offices of the service in each Province are forbidden to send workers outside their own provincial boundaries until the consent of the receiving Province has been secured.

Having regard to the facts that nine governments, one Federal and eight Provincial, jointly enter into the composition of the Employment Service of Canada; that the employment offices are established and staffed by the Provincial governments; and that the function of the Federal Government is to bind the several Provincial systems into a composite organization under the terms of the agreement annually entered into between the Federal Department of Labor and each of the Provinces—what guiding principle is observed in order that harmonious cooperation may be maintained? The administration of a public employment service by multiple governmental authorities, and particularly under the condition in which the cementing factor possesses no constitutional right of jurisdiction, can only be perpetuated in one way; that way is for each to respect the rights and interests of the rest and to practice such frankness in the discussion of problems that unanimous action may be secured. As a means of meriting and promoting confidence and harmonious cooperation, although annual agreements bind the Provinces to use such forms and records as the Federal Department of Labor may supply, it is the policy of the department that no changes in forms or procedure, no matter how insignificant, are made until the proposed changes have been considered by and received the sanction of the Provincial authority.

As indicative of the measure of response the practice of such confidence by the Federal Department of Labor elicits from its Provincial partners, the following illustration is quoted. For the purpose of exercising jurisdiction in matters affecting the interests of discharged members of the Canadian Expeditionary Forces which were engaged in the World War, the Government of Canada organized a special

department, known as the Department of Soldiers' Civil Reestablishment. Some years ago this department was merged with that of Health under the name of the Department of Pensions and National Health. One of the functions of the Department of Soldiers' Civil Reestablishment was to provide facilities for securing employment for ex-soldiers who were handicapped by reason of disabilities sustained in the war. To discharge this responsibility the department organized a special employment service and established offices throughout the country. Eventually it came to be realized that not only was there a duplication of Government activity in maintaining two systems of employment services, but also that the Employment Service of Canada was much more suitably equipped to give maximum service to handicapped soldiers than were the offices of the Department of Soldiers' Civil Reestablishment, and at the request of the returned soldiers the employment-service work previously performed by the Department of Soldiers' Civil Reestablishment was transferred to the offices of the Employment Service of Canada.

The problem of giving effect to this transfer presented one grave difficulty which had its origin in the fact that responsibility for the care of these disabled ex-members of the forces rested admittedly upon the shoulders of the Federal Government, while the offices to which it was proposed that the work should be transferred were established and directly controlled by the Provincial governments, subject to such conditions as were set forth in the annual agreements. The representatives of some of the Provincial governments sensed the possibility that if the proposed scheme were carried out the handicapped ex-soldiers might develop the practice of regarding the Provincial governments as having undertaken responsibility for providing them with employment or maintenance. These fears, however, have been allayed, and in accordance with the terms of a section incorporated in the annual agreements, the offices of the employment service are performing a function for which the Federal Government is entirely responsible, thereby assisting the Federal Government to effect a substantial economy and securing more efficient service for those who are industrially handicapped, due to their participation in the Great War. Among six of the larger offices, where the volume of this work is greatest, the Federal Department of Labor has placed 11 Federal employees, whose salaries and expenses are paid by the Federal Government, to assist the Provincial staffs. These Federal civil servants are subject to the direct control and supervision of the Provincial officials in charge of the offices in which they are employed.

The coordination of the government employment-office activities has resulted in the railways of Canada granting a special reduced transportation rate solely in favor of those workers who secure their employment at a distance through the Employment Service of Canada.

This rate, which is approximately three-fourths of the regular tariff rate, applies on all journeys where the fare exceeds $4. In 1936 the number placed was 332,195, 9,888 of whom were issued reduced transportation certificates.

While referring to the highly valued cooperation rendered to the employment service by the Canadian railways, attention may be called to a striking change which has taken place in this country profoundly affecting the transfer of mobile labor over thousands of miles. Prior to the year 1929, the grain growers of the three western Prairie Provinces—Manitoba, Saskatchewan, and Alberta—were dependent for the successful harvesting of their valuable crops upon labor recruited in the eastern Maritime Provinces, Quebec, and the eastern portion of Ontario. To attract labor from the East, willing to travel over half, and in many instances three-quarters, of the distance between the Atlantic and the Pacific Oceans for the very brief seasonal period of the harvest, the railways provided especially cheap rates and operated special trains. The yearly demand for harvest workers from the East ranged from 25,000 to 40,000. This condition prevailed until 1927. In 1928 the aid of only 9,000 eastern workers was required, and since that year such demand has been nonexistent. Thus, as will be noted, the demand ceased while economic prosperity was at its height. Ten thousand harvester combine reapers had solved the problem.

The operation of the offices of the Employment Service of Canada has resulted in the virtual elimination of private commercial fee-charging agencies. In six of the eight cooperating Provinces the operation of such private offices is forbidden by law. In one Province, although no prohibition has been enacted, no private offices are known to exist, and in the other, where a few years ago there were a considerable number of licensed fee-charging agencies, there are now only some four such offices in operation.

The foregoing has been devoted to an attempt to sketch in very broad outline the origin, structure, and modus operandi of the Employment Service of Canada. These bold strokes must suffice for this aspect of the picture, or the limitation of reasonable time be unpardonably exceeded. Some attention must now be given to two matters which during the past 2 years have been of pronounced importance to Canadians generally, and to those interested in employment-service work especially. In May 1935, Parliament passed a measure entitled "The Employment and Social Insurance Act." It is sufficient for our present purpose to state that this act provided for unemployment insurance applicable to a wide coverage of workers, the setting up of a wholly federally controlled and Nation-wide employment service system, and the appointment of a commission of three to give administrative effect to the provisions of the act. The

act was proclaimed and the three commissioners appointed. A vast amount of preparatory research and detailed planning was done, towards which the Employment Service Branch of the Federal Department of Labor zestfully contributed. The keenest interest of the whole Provincial staffs was naturally aroused, since the plan inevitably involved the passing of the Provincial services. Great expectations were kindled and the highest aspirations stimulated. A new era, which would challenge the best thought and skill among the most experienced and competent employment-service workers, was dawning.

While members of all parties represented in Parliament had voted for the measure and had expressed approval of the general principles of the policy involved therein, grave doubts were voiced by the Liberal opposition leaders that the act was constitutional and could successfully withstand the test of the courts. In October of the same year a general election was held and the Liberal Party returned to power. Steps were taken to clear the air of the legal fog. The Employment and Social Insurance Act was referred to the Supreme Court of Canada, the terms of reference calling for the opinion of the learned justices as to its validity. While not unanimous, the majority opinion declared the act to be ultra vires of Parliament and an unconstitutional invasion of Provincial jurisdiction. To insure that no possibility of doubt could remain, the Government then referred the measure to the highest legal tribunal in the British Empire, the Judicial Committee of the Privy Council in London, England. The decision of their lordships, handed down early this year, coincided with the majority opinion of the justices of the Supreme Court of Canada. And thus faded away the ardent hopes for the immediate realization of a dearly cherished dream. The Government is now taking steps by which it is hoped that the constitutional impasse may be overcome; a royal commission on Dominion-Provincial relations has recently been appointed to study the rather muddled jurisdictional situation, with a view to the discovery of some device which will solve the perplexing problems involved.

The second matter of special interest affecting employment-service organization in Canada to which allusion was previously made has reference to a recommendation made by the National Employment Commission. This commission was appointed by the present Government to advise the Government upon, among other things, what policies might be adopted to promote economic recovery and clarify a somewhat unsatisfactory unemployment-relief system. The following is quoted from a report submitted by the commission to the Honorable Norman McL. Rogers, Minister of Labor, under date of July, 21, 1937:

> Early in the Commission's investigations it became evident that the first and most vital step necessary to the successful handling of employment, reemployment, and aid administration problems is the development of more efficient

employment services throughout Canada. The present Provincial employment services are in practice unfitted to meet the exigencies of the situation. Divided responsibilities and diversity of aims between different Provinces; unequal development as regards numbers, types, and functions of local offices; unsuitable locations of premises; defects in Provincial boundaries when used as economic administrative units, etc., have all tended to result in the Provincial employment services not being utilized fully either by employer or by employee.

The provision of a proper link between employer and employee; of local advisory councils supplementary to local employment-service offices in order to provide focal points for attack on local problems; of means for gaging the relative degree of employability of those in receipt of aid, are of preeminent importance if any real progress is to be achieved in handling unemployment problems. Indeed this is the experience of other countries also.

Bearing in mind the desirability of uniformity of practice where financial aid for the Dominion is in question; of freedom from local pressure in administration; of a Dominion source of local information independent of Province or municipality in respect to unemployment assistance, etc., the Commission recommended in August 1936 that the employment service be administered nationally. In any case the situation requires increased and improved service which will cost more, but it is recognized that national administration in itself would not add anything to the total cost to the country as a whole. The Commission, however, believes the extra cost to the Dominion Government of the transfer from the Provinces would be more than offset by efficiency and, therefore, economies which would result.

It will be noted that the Commission recommended, in August 1936, that the employment service be administered nationally, and shortly thereafter your humble servant, at the request of the Minister of Labor, conducted a survey of the employment-service system and submitted a report thereon, which contained recommendations for a plan of organization on purely Federal lines, indicating necessary changes in office premises, lay-outs, staff personnel, etc., and the increased cost to the Federal Government that would be involved by the adoption of these recommendations.

Following the issuance of the report of the National Employment Commission above referred to, the Honorable Mr. Rogers, Minister of Labor, issued a statement for press publication, in which he stated that certain recommendations made by the Commission had been held in abeyance, including the proposal to bring the employment service under national administration, because "of the present uncertainty regarding the boundaries of Dominion and Provincial jurisdiction on the subject of industrial relations and social legislation. In the absence of constitutional amendments it was thought to be unwise for the Dominion Government, either by subvention or by legislation, to invade fields which the British North America Act and judicial decisions had declared to belong to the Provinces." It would appear, therefore, that until agreements have been reached by the Dominion and the Provincial Governments, and a constitutional way discovered under which the Dominion Government would be empowered to set up a purely Federal system of employment offices without violation

of the jurisdictional rights of the Provinces, there can be little or no hope of the recommendation made by the National Employment Commission being realized.

In accordance with recommendations made by the National Employment Commission the Federal Government is cooperating with the Provincial governments in providing the means for the work training of youths, who during the past few years have suffered the dire penalties of the depression, including failure to acquire the habit of or the zest for work. Only passing mention needs to be made here of this phase of governmental attack upon the problem of youth employment, since delegates are here representing the National Employment Commission from whom fuller details regarding this and other projects may be acquired.

Another royal commission, the Veterans' Assistance Commission, appointed some 16 months ago, is administering a plan to assist in securing steady employment for veterans who are anxious to follow their former or other suitable occupations, but who require a short period of training in order to regain efficiency. Under this plan employers enter into a contract to engage unemployed ex-soldiers whose skill and general work value have deteriorated as a result of long periods of idleness, provide them with the means to recover skill and workability, and pay them such wages as their services may be worth, this remuneration to be augmented by contributions from the Federal Government during the "refresher" course of training, which must not exceed 3 months. The Federal contribution, limited to $50 per month, is applied to cover the difference between the amount paid by the employer and the standard rate of pay for similar work in the locality. The employer undertakes to provide regular employment at standard wages after the training period is ended.

In connection with the carrying out of both the youth and ex-soldiers training plans, the wholehearted cooperation of the Employment Service of Canada is given to the placement phase of the work, and a very real contribution is being made toward ensuring success through this medium.

And now I desire to take advantage of this opportunity to assure my fellow delegates from the United States of the keen and unalloyed satisfaction and pleasure which we in Canada experience at the dramatic success recently achieved in your country by the realization of your dream of a coordinated and nation-wide system of public employment services. Some of us are very proud that it has been our privilege to contribute, even though in a very slight degree, toward this consummation devoutly to be wished.

Many requests from United States citizens have in the past been received in my office for copies of our act and regulations, forms and manual of procedure, and so forth, and cheerfully complied with. Less

than a decade ago I was a member of a committee formed to consider and report to a convention of the International Association of Public Employment Services upon the subject of uniform methods of procedure, and so forth, for adoption by the public employment offices in the United States, and at the convention I gave expression to the following:

> Certain it is that if the United States Employment Service is ever to attain within measurable distance of the glorious achievement which is possible to it, the existent chaotic condition must be changed and a uniform and coordinated system evolved. The achievement of this task is the most important problem immediately awaiting us. It constitutes a challenge to us and untiring zeal should be directed to effect its accomplishment. To be content with less would be our shame.

It is not suggested that the revolutionary change which has produced the present set-up results from this and other similar educational efforts, but these have undoubtedly influenced public opinion and impressed public authorities in some measure. The economic and social crisis created by the depression was needed to focus the attention of public representatives upon this subject and energize them to legislative and administrative action.

Crises, either actual or impending, have provided the vital urge which led our respective governments to take steps necessary to establish the United States Employment Service on its present Nation-wide basis and the Employment Service of Canada. In one instance it was the actual cataclysmic force of appalling unemployment, and in the other the threatened, but nonetheless real, menace involved when Canada was confronted with huge post-war problems including the reabsorption into civilian life and remunerative employment of her army of more than a half million men, among a population of 8 millions, and the rapid transformation of her industrial organization from a more than 4 years' war footing to that of a peace establishment.

It is a favorite pastime for people to berate governments for what they do, and perhaps more so for what they do not do. Such practice under our democratic constitution is very largely idle, futile, and unjustifiable. Until the madness of our acting as though the full duty of citizenship has been performed by the mere registering of a vote is replaced by the intelligent application of the public mind upon the problems of State, criticisms of governmental shortcomings possess boomerang qualities. The noble army of pioneers and martyrs whose sacrifices begot for us our hard-won democratic rights never envisaged a democracy that would be content to think that its whole duty, or even a very substantial fraction of that duty, has been performed by the casting of a ballot.

Conjure up from your memories the state of the public mind when this organization last met in this city. The date was June 1929.

The industrial and general economic conditions at that time were such that unemployment, with all its concomitant social ailments, was reduced to a minimum. Prosperity reigned supreme. To the spirit of "Roll on, Sweet Chariot" we gaily rode along the golden highways of a paradise. That it was a paradise of fools was unheeded. The accelerator was pressed down to the floor like a drunken car driver to whom checkerboard or other danger road warnings have no meaning. The stern lessons of history had been forgotten and must be repeated in sterner and more painful fashion.

And what fate would have befallen any government that under these circumstances had dared to take the wheel, apply the brakes, and spoil the fun? We refer to persons we elect as representatives of the public. What a mercy that there are among them those who are much more unselfishly devoted to the public interest than the majority of those who elect them. The mission of such crises would appear to be to restore some degree of sanity to the public mind and enable well-meaning, public-spirited legislators to take a few more forward steps toward social peace and security by such measures as those which established the United States Employment Service and the Employment Service of Canada.

And so it will continue to be until a much higher level of intelligent appreciation of the meaning of citizenship is realized and the duties involved faithfully discharged. More applicable and significant to this crazy-minded age of ours than that of any previous one are the lines of Browning:

> "Earth's crammed with Heaven
> And every common bush afire with God,
> But only those who see take off their shoes;
> The rest sit around and pick blackberries."

It is a fundamental principle of any good social order, as Kipling has so powerfully reminded us, that—

> "As the ivy that clings to the tree trunk,
> So the law runneth forward and back;
> That the strength of the pack is the wolf
> And the strength of the wolf is the pack."

As the Federal Director of the Employment Service of Canada I wish to say a word about the spirit of the service. It is a human instrument and, therefore, while possessing ideals it is by no means ideal. Some of its weaknesses and shortcomings are attributable to the character of its organization, some to the lack of adequate provision by the various governments of the means necessary for more successful operation, and others to the human element in its employ.

But it is not only human, it is humane. Self-preservation is the first law of nature, and the primary instinct of all living things is the urge to live, preferably in comfort, but none the less to avoid death as long as

possible. Those who have read Charlotte Bronte's Jane Eyre will recall the hard-crusted, severe disciplinarian of a reverend principal who was little Jane's tutor and spiritual adviser. Desiring to impress the child with the enormity of her sins and the eternally dire consequences to which, according to his harsh theological creed, they must inevitably lead, he asked Jane if she believed in hell. The affirmative answer being dutifully given, he further inquired, "What must a wicked girl do to escape the punishment of hell?" to which Jane logically replied, "Keep on living, and never die."

Humans, like all other beings, desire to live, and since for most of us it has been decreed that through employment the means of life shall be acquired, employment-service work is fundamentally necessary; more vitally so than those of many of the professions. To be the agency through which the means of life are made available to the unemployed is surely a high vocation. To place a man or woman in self-sustaining, remunerative employment is not merely to place within their reach food, clothing, and shelter, but to change the condition in which their souls live and move and have their being from oppressive, cheerless anxiety and fear to self-respect and the joy of living. For, as James Whitcomb Riley, in his quaint way, has put it:

> "Ain't no juice in the earth an' no salt in the sea;
> Ain't no ginger in life in this land of the free;
> An' the universe ain't what it's cracked up to be,
> W'en a feller is out of a job."

It is consciousness of the great value to the individual and to society of the work performed which animates a large percentage of the employees of the Employment Service of Canada and inspires them to render a high quality of earnest, unselfish effort and to scorn the practice of mere time service. Thus motivated, and with understanding sympathy and zealous labor, the field staffs of the Employment Service of Canada have performed their tasks during the depression, amid difficulties and disappointments, but refreshed and stimulated by the consciousness that not only have the wheels of industry run more smoothly, but that hearts have been cheered and homes brightened as a result of their labors.

Discussion

Chairman CRAWFORD. I do not know how many of the Canadians felt as I did when listening to Mr. Persons, but I was reminded of the eternal triangle. I think some of us up here are not familiar with the set-up in the States and the relationship between the States and the Federal Government, and now the new relationship. Would you mind explaining briefly?

Mr. PERSONS. Under the Wagner-Peyser Act, which is our enabling statute, an appropriation was made by the Congress through the

United States Employment Service, which was in two parts—the larger part earmarked for distribution to the States, and the other part for administrative expenses. Under the law the part for the States is allocated by the Director of the United States Employment Service to the respective States in proportion to their population, not in proportion to the development of their State employment service. No State employment service, however, needs to accept that allocation or apportionment—it is a voluntary act. In the event that the State desires to avail itself of this Federal aid under the law, the State must make available for a State-controlled employment service an amount which we can match. In many States the State appropriation is larger than we can match. Before we can match the money under the law, the State must propose a plan of operation, sending it to my office, and it must be approved. There must be a contract indicating that that plan has been accepted and adopted by both parties, and that the plan incorporates the assurance that that State employment service will make its report, and accept the standards and the procedures that are uniformly required by the United States Employment Service in all such agreements of affiliation. The law, in my opinion, imposed upon the United States Employment Service this responsibility for establishing and requiring certain standards only for the purpose of having uniformly good employment services in all of the States, and for the purpose of assuring that those 48 State employment services would operate as though they were a national unit, with common standards of interchange of experience and services. I think that is the gist of the relationship between the United States Employment Service and the State employment services.

The new thing is that a State employment service may secure from the Social Security Board, in addition to our matched funds, whatever other money is required to operate a State-wide State employment service. It must be State-wide in order to meet the requirements of unemployment-compensation administration. But there is still the single contract as to standards and as to plans made by the State employment service with us.

[Chairman Crawford expressed the thanks of the association to Mr. S. Park Harmon, of New York, the able substitute sent by Mr. R. Gordon Wagenet, of the Social Security Board, who was unable to attend the convention, and also to Mr. Rigg for his interesting discussion of the Canadian Employment Service.]

Mr. HUDSON (Ontario). I was attending a meeting in Cincinnati in 1931. There was a dullness about the atmosphere of the meeting and the reporters were asleep, so I decided to wake them up. I got up, as chairman, and remarked that I expected unemployment insurance or unemployment compensation in Canada as well as in the United States in 5 years. That got 8-column headlines in the papers in both countries. I sit here with mingled feelings when I realize

that you folks beat us to it. When unemployment insurance comes in the Province of Ontario, and when it becomes a benefit-paying proposition in the United States, as I believe it will in January 1938 and is now in Wisconsin, I think those of us connected with the employment services are going to need 48 hours a day. As I listened to Mr. Harmon I was flabbergasted at the intricacies of the whole situation—the difficulties, the adjustments, and the volume of work. For one thing, I look forward to all the accountants and bookkeepers and clerks who will be employed on the scheme—taken off the unemployment rolls, if and when we get unemployment insurance here. The first time I had the pleasure of hearing Mr. Harmon speak was in the United States war emergency course in employment management at the University of Rochester in 1918. In his lectures to us at that time he told us a little about unemployment insurance in Great Britain, but he was not optimistic enough to anticipate that he would be coming to Toronto 19 years later to tell us about his part in the scheme in the United States administration.

Mr. WHITAKER (Georgia). As I understand from Mr. Wagenet's paper, Congress has made funds available to those States that did not have unemployment compensation in 1936, which I think involves about 2½ million dollars for Georgia. As a result of that, some of our people have been sponsoring an amendment to our unemployment-compensation act to make the benefits accrue earlier than the act originally provided. I wonder if he would think that a wise move, because he stated that we did not know just what amounts, in connection with merit rating, it would take to maintain a substantial reserve fund. I should like to have the opinion of some of you who have given that some study.

Mr. HARMON (New York). Of course I am associated with the bureau in the State, so I have the State's point of view. Talking from Washington, I should say that it is up to you as to what you do, but inasmuch as you are not going to pay until July 1, 1939, a good deal of experience will be accumulated by then, and you can probably get your organization in shape and your procedures worked out. The benefit of the experience of other States that begin to pay in January 1938 will also be available to guide you. Even if an amendment were passed to provide for payments beginning in January 1938, I do not see how you could possibly be ready by that time, and in all probability when the time arrived you would have to postpone payments anyway, because your organization would not be ready.

Mr. WRABETZ. In connection with Mr. Whitaker's question, I should like to make a comment. In Wisconsin our unemployment compensation went into effect in 1934 and we have been paying benefits for more than a year—since July 1, 1936. I think it can

be said that contributions ought to continue for at least 2 years to safeguard the adequacy of the fund, but another consideration is the time element in building up the personnel of administration, from the standpoint both of contributions and of preparing for the payment of benefits.

Mr. LUBIN. I wonder if we might inquire relative to the Canadian act—whether any provision is made for the advancement of fares by the employment service for the transportation of workers beyond the $4 geographical area, or must they advance their own money?

Mr. RIGG. In the agreement between the Federal Department of Labor and the Provinces, there is a clause which provides that in the event of the Provincial governments advancing fares for transportation purposes and failing to recover the amount from the person to whom it is advanced, that item of expenditure shall be included in the statement of expenditures made to the Federal Department of Labor.

Mr. LUBIN. Do any of the Provinces advance fares?

Mr. RIGG. No, not to any great degree.

Mr. LUBIN. One further question I should like to ask is relative to the subsidizing of veterans who, apparently, are so-called semistandard workers. I note you stated that the Federal Government will make up the difference between the standard wage rate in the plant and the actual amount paid by the employer, up to the extent of $50, on the theory that the worker cannot produce a sufficient amount to justify his receiving full wages. Plus that fact is a guaranty by the employer to give regular employment. Have you attempted to define that?

Mr. RIGG. No, there are no conditions attached save that of providing permanent employment, and of course, the interpretation of that phrase would cover the same duration of employment which commonly prevails in the establishment in which the worker is employed.

Mr. SHARKEY (Washington, D. C.). I should like to announce that the United States Bureau of Labor Statistics, in conjunction with the United States Employment Service, is publishing a bulletin containing the text of the private and public employment agency laws, as well as the laws relating to immigrants. It is now in the page-proof stage and will be available to the public within 5 or 6 weeks.

Mr. PERSONS. Before the meeting adjourns I should like, on behalf of the United States Employment Service, to make a fitting acknowledgment of our gratitude for and appreciation of the contributions to our employment service we have received from the Canadian Provinces. It is an open secret in our country that our act is based upon the act in your country and upon its experience. We have profited in many ways by your experience. Our work in the employment service for

veterans parallels yours. We went through the period of separate offices and now have consolidated them in our regular operations. In many respects, Mr. Chairman, we feel we have advanced a decade by the opportunity to profit by your experience and by the character of your law.

Chairman CRAWFORD. It is indeed gratifying to know that Canadians have made some contribution. We usually attend these meetings feeling somewhat as if we were spongers—we go to absorb knowledge—but if we have been of real value, we can feel we are repaying somewhat the many, many services you have rendered us.

I think Mr. Persons stated in his paper that it was estimated that in the course of 2 or 3 years the cost of the United States Employment Service would rise to about 40 million dollars a year. In large part, I presume, that rise of cost is due to the work of the employment service in assisting in the administration of unemployment insurance, as we would call it. I was wondering whether any estimate had been made as to what would be considered a fair division of the total cost as between unemployment compensation on the one hand and the work of the employment service proper on the other hand. Have any percentages been worked up yet?

Mr. PERSONS. It would be an ideal of any Federal or State employment service to afford a service as extensive as the geographical jurisdiction and as the needs of that jurisdiction's citizens. The extent of our service is determined by the need to serve the regularly employed who are benefiting by unemployment compensation. It is true that public attention has been attracted to the fact that unemployment compensation cannot succeed unless there is in every jurisdiction exclusive provision of an employment service. The fact that money is derived from pay-roll taxes under the unemployment-compensation acts which can appropriately be used in partial support of an extensive and inclusive employment service makes the opportunity for the proper establishment of an altogether adequate employment service greater, but it seems to me that by definition and by public interest any employment service in any jurisdiction should be extensive enough to serve everybody. The proportion of the expense of an inclusive and adequately extensive employment service which should be charged for services to those not insured in proportion to the charge for those insured we have not attempted to determine. In some States the insured worker is included only among those who are employed by employers of eight or more, but ultimately I think that we shall find an extension of the coverage by the lowering of the definition and by the extension of the classifications covered. The point that is inevitably brought out is whether it is advisable that funds should come in two streams. That is a question we have to face some time. Ideally, it

should come in one stream. The next step in that direction unquestionably will be the placing of the Bureau of Unemployment Compensation and the United States Employment Service in the same Federal executive agency, which will mitigate the difficulties that now exist. The future alone can tell, and the experience of the immediate future alone can determine whether ultimately we must have employment-service money coming from a single source.

Old-Age Assistance

Proposed Changes in Our Old-Age-Assistance Laws

Report of Committee on Old-Age Assistance, by HARRY R. MCLOGAN (*Wisconsin Industrial Commission*), *Chairman*

In this paper I shall confine myself to a discussion of the specific problems that must be solved if our system of aid for the aged is to be effectively administered. In the first place, an old-age assistance or pension law should be as simple and inexpensive to administer as possible, and should eliminate as much as possible the irksome "red tape" involved in ascertaining eligibility of applicants and provide for a careful determination of eligibility, which I believe would prove the most useful and important function, especially as the same relates to residence, age, and income.

The law should make provision not only for financial aid but also for other assistance when desired. For example, recipients of old-age assistance not only should be assisted financially, but also should be helped to secure the benefit of other services, such as the supplying of artificial limbs, glass eyes, and artificial teeth, not to mention medical and surgical care of which many are in need.

We should always bear in mind that the giving of assistance, either in the form of money or services, should be governed by the theory that an individual's independence and self-sufficiency, properly supported and encouraged, entails a minimum of administrative expenditure and requires a minimum of surveillance by publicly employed personnel.

In fixing the amount of old-age assistance to be granted, the amount should be fixed on the general level of well-being. That is to say, it should be an amount that will enable the recipient to live in decency and comfort in the state in which the old-age-assistance beneficiary finds himself. But whatever the amount fixed, it should be uniform throughout the State, and the only "need test" that should be applied is the actual income of the recipient. In other words, every recipient who has no income should receive the full amount provided in the law, and those who have some income should receive the difference between that income and the amount provided in the law.

The recipients of old-age assistance are men and women who, for the most part, have rendered to society unselfishly and unstintingly the best years of their lives, and in their declining years they ought not to

be subject to cold charity; nor should the assistance granted by the State be denied them because perchance unfaithful children, although able financially to do so, grudgingly contribute to their parents' support. To be obliged to accept cold charity from strangers is indeed galling, but to be obliged, as a condition of receiving any old-age assistance, to accept charity from ungrateful, selfish, and begrudging children and relatives is not only a deep humiliation but a mortification and abasement to which honorable, decent men and women should never be subjected.

In most of the State laws, and indeed in the Federal Social Security Act, old-age assistance is granted only to the needy aged, and the practice is to have investigators interview the recipients personally and to set up a more or less arbitrary budget, subject the recipients to humiliating interrogatories, and remind them of what they already know too well, that their children should be supporting them, all of which results in grants as varied and ununiform as there are different county agencies in the State. Verily, many of the recipients of old-age assistance under the present laws can justly cry out, "We have asked you for bread, and you have cast to us a stone."

Mandatory

Old-age assistance laws should be mandatory in operation in every governmental subdivision of the State.

Age Requirement

The age requirement should be 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. It might be provided, in addition, that a person 60 years of age or over permanently incapacitated on account of accident or disability would also be eligible.

Citizenship

As to citizenship, I submit the suggestion that this requirement might be waived in favor of aged people who have lived in the country for 25 years.

Residence

Residence requirements, of course, should be such as will comply with the Social Security Act. I recommend, however, that in addition thereto a provision be inserted in the law that the applicant be required to reside in the county in which the application is made continuously for at least 1 year immediately preceding the date of application. However, any person otherwise qualified who has resided in the State the required period and who has no county residence, should be per-

mitted to file his application in the county in which he resides, and the amount, if granted, should be paid entirely by the State until he gains such county residence.

Limitation on Property and Income

I recommend that applicant's real property, in order for him to be eligible, must not exceed $5,000, and his personal property should not exceed $500, in addition to an exemption of $500 for household goods. Applicant's income, if single, should 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. Non-income-producing property owned by the applicant should not be taken into consideration in computing his income.

Funeral Expenses

I also recommend that in addition to the assistance granted during life, a grant for funeral expenses be allowed so as to insure a decent burial instead of one in the potter's field.

Transfer of Real Estate

I strongly recommend the repeal of the provision in most of the laws which requires the applicant to transfer his real property as a condition of being granted old-age assistance. This provision has the effect of stripping from the old men and women the last vestige of independence and self-reliance. It is the straw that finally breaks the camel's back, so to speak, and results in literally tens of thousands refusing to accept old-age assistance in order to hang onto their last earthly possession. I recommend, as a substitute (and to the end that ungrateful relatives may not inherit property of recipients, depriving the State from being reimbursed for assistance granted during the life of the recipient) that the law provide for the filing with a court or the register of deeds of a certificate showing the amount of aid given to the applicant, which would become a lien on the real estate of the recipient for the total amount of aid granted.

State Free Fund

In view of the variance in financial ability as between the several counties of the States, it would seem that the State agency should have at its disposal a free fund or equalization fund to permit assisting financially hard-pressed counties to give the same standard of assistance as can be paid in the counties that are better situated financially. In other words, a person in need of old-age assistance should not be heavily penalized as the result of the financially weak condition of the county in which he resides.

In this paper I have confined myself to substantive law and have not touched upon the set-up of the administrative machinery. I believe that with the substantive law made as simple, fair, just, and equitable as herein outlined, the "red tape," inquisitorial methods, and burdensome features, as well as the great expense, will be removed from the administration of the law.

Integration Between Federal Old-Age-Insurance System and State Old-Age-Assistance Plan

Another reason why I advocate that the only "need test" be that of actual income and that the old-age-assistance or old-age-pension grants should be the difference between the actual income of the recipients and the maximum amount fixed by the State, is that it seems to me that there is need for integration between the Federal old-age-insurance system and the State plans of old-age assistance or pension laws. While there can never be complete integration between the two systems, because the Federal old-age-insurance plan provides for benefits payable regardless of need, and the State old-age assistance or pension plans provide for payments only on the basis of need, I do believe that the nearest approach to integration between the two systems is to have the old-age assistance or pension plan grant to the applicant who is not entitled to any benefits under the Federal old-age-insurance system the maximum amount set by the State, subject only to reduction by whatever income the applicant might have. In the case of applicants whose benefits under the Federal old-age-insurance system are less than the maximum provided in the State old-age assistance or pension law and who have no other income, the benefits granted under the Federal old-age-insurance system should be counted as income and they should be allowed to receive under the State old-age assistance or pension plan the difference between the amount of benefits they receive from the Federal old-age-insurance plan and the maximum set under the State old-age assistance or pension plan.

While at first blush it may seem that this would place too heavy a burden on the taxpayers, and while it is true that we will always have some recipients under the State old-age assistance or pension plans—to wit, those who are ineligible under the Federal old-age-insurance plan—however, in a short number of years—15 years at the most—the average benefits the workers will receive under the Federal old-age-insurance plan will be in excess of the maximum standard now set by almost all the States under the old-age assistance or pension plans, thereby reducing the number who will be receiving assistance or pension under the State plan to a small percentage of those who now receive such aid.

Discussion

Mr. YOUNG. In Colorado the law was initiated to pay $45 a month to everyone 60 years of age and over, whether or not they had money. The legislature, when it went into session to find ways and means for paying the pensions, was up against it. We had a 2-percent sales tax and the legislature added on a 2-percent service tax which it thought might raise enough, but it will hardly do so. I expect the Governor will have to call another session of the legislature to raise more money. It seems to me that it is much better for old people to be sure of a certain amount of money than to try something like we have in Colorado. I hope that other States will benefit by our experience. No one favors the idea more than I do, but the present law is too much for the taxpayers of the State of Colorado, and everyone out there knows it now.

Mr. WHITAKER (Georgia). I should like to speak on the recommendation relative to liens on real estate. I think our State first had a similar old-age-assistance provision, but when it was put into operation, about July of this year, there were serious objections to signing away property rights, and that requirement was eliminated in a special session of the legislature. I wonder how much trouble some of the other States are having with that particular situation, and how many other States require these aged people either to give a lien or to transfer their property. Each way seemed to cause a great deal of embarrassment to the enforcement agency, which is under the public welfare department. Most of the applicants in our State had just a small home and no income, they wanted to be independent, and hesitated to give a lien to the State in order to secure assistance. At the present time they are not taking any papers at all and are returning those they had. I am interested in that phase of the law, because we are expecting some reaction in our special session this fall as to what we should do in our State. It looks now as if the legislature will eliminate provision for any security at all, unless a maximum of perhaps $5,000 is set, or something like that.

Mr. MCLOGAN. I think that these provisions and old-age-pension laws, in general, need amendment in almost every State, and I want to assure you that my statements were made only after experience in Wisconsin.

Mr. WHITAKER. You mentioned a limitation of $5,000 for real property and $500 for personal property, with an additional exemption of $500 for household goods. On property below that amount do you take any liens at all?

Mr. MCLOGAN. My recommendation is that if these persons have $5,000 in real estate or $500 in personal property in addition to $500

in household goods, that they be not entitled to assistance at all, but if they have less, of course there would be no transfer made of the property by a lien.

Mr. HALCROW (Ontario). It seems to me that the workings of the old-age pension has bonused the spendthrift in a great many cases. There comes to my mind the case of a man in my city. He never did an honest day's work in his life. He gambled and spent every cent he got for booze, and yet when he arrives at that time of life he goes up to the old-age-pension committee and they pat him on the back and say, "You are the very type that we are going to give the maximum to." Across the road from me today there is an old lady who has a little home—not one of her children is in a position to support her. Anything she could leave would be a godsend to them. But today she is standing in that position with our law, while they are dickering about giving her consideration. Back of it is that little piece of property which is prohibiting her from getting the benefits. On one hand you are handing out with a free hand to the wastrel, the spendthrift, and on the other hand, one cannot receive this benefit without first disposing of one's last piece of property. I recognize that there is tremendous difficulty in the way there, but I do think that there is a limit on which a lien should be put and that you cannot put it on indiscriminately of the person.

Mr. MCLOGAN. I agree with you, of course. Unfortunately, under any system there will be abuse, but it does not follow that everyone who finds himself penniless in his old age has been an irresponsible individual. The terrible depression wiped out overnight the property of many who were frugal all their lives. Of course, the administrators ought to take circumstances into consideration.

Minimum Wage

Minimum-Wage Laws

Report of Committee on Minimum Wages, by FRIEDA S. MILLER (*New York Department of Labor*), *Chairman*

Developments of such importance have taken place in the field of minimum-wage legislation since the last meeting of the International Association of Governmental Labor Officials that the past 12 months may well be considered the most eventful in its history.

The decision of the United States Supreme Court upholding the constitutionality of the State of Washington's minimum-wage law; the number of new State minimum-wage laws passed as a result of the decision; the new orders that have been put into effect in many industries; the provisions for appropriations to assure enforcement of the new orders—these are some of the important developments in a year most fruitful to the many proponents of minimum-wage legislation.

In addition, the controversies that have raged around the action of the United States Supreme Court in invalidating the New York State minimum-wage law provoked such Nation-wide discussion that it has helped considerably in popularizing and bringing home to the people the essential need for this type of law.

May I review the year as it affects this committee. At the annual meeting last year we were faced with two unsettled issues following the 5-to-4 decision of the United States Supreme Court declaring the New York State minimum fair-wage law unconstitutional: First, a petition for a rehearing of the New York act on the ground that the Supreme Court in its majority opinion had stated "he [the appellant] is not entitled and does not ask to be heard upon the question whether the *Adkins case* should be overruled"; and second, court action involving the minimum-wage laws of the States of Washington, Illinois, and Ohio. Both of them have since been disposed of.

On October 12, 1936, the United States Supreme Court refused to reconsider its decision invalidating the New York act by denying a request of the attorney general of New York State for a rehearing of the basic question decided in *Adkins* v. *Children's Hospital.* The States of Illinois and Massachusetts had joined in the appeal. This action of the Court appeared at the time to wipe out all further chances of consideration; but the same day the petition for rehearing

was denied in the New York case, the Court consented to hear an appeal by a hotel proprietor from a decision of the Washington State Supreme Court upholding a minimum-wage law based upon a wage that would "supply the necessary cost of living, and maintain the worker in health."

Those in the forefront in the struggle for minimum-wage legislation were downcast by the denial of the rehearing, and did not view with a great deal of optimism the granting by the Court of a request to hear the appeal in the Washington State Act. The Washington minimum-wage law, enacted in 1913, set up health and morals standards, while the New York statute, enacted in 1933, had been drafted to meet the court's objections in the *Adkins case* to a law similar to the Washington statute. At the time it was thought highly improbable that the Supreme Court would reverse itself and declare the Washington act constitutional.

Therefore, the conclusion of last year's report stressed the constitutional aspect of such legislation, and recommended that attention be given to the method by which such legislation could best be put on a secure constitutional foundation.

But the unexpected occurred. The United States Supreme Court, in another 5-to-4 split decision, overruled itself on March 29, 1937, and held constitutional the Minimum Wages for Women Act of the State of Washington. By this decision the Court ordered the Cascadian Hotel, in Wenatchee, Wash., to pay Mrs. Elsie Parrish, a chambermaid, $216 due her under the minimum-wage scale of $14.50 a week set for that industry by the State board.

The Court's opinion in the *Parrish case,* read by Chief Justice Hughes, said specifically: "Our conclusion is that the case of *Adkins* v. *Children's Hospital* should be, and is, overruled." "What can be closer to the public interest," the majority decision stated, "than the health of women and their protection from unscrupulous and overreaching employers? And if the protection of women is a legitimate end of the exercise of State power, how can it be said that the requirement of the payment of a minimum wage fairly fixed in order to meet the very necessities of existence is not an admissible means to that end?"

The majority decision declared that the Washington case had necessitated a reexamination of the Adkins decision and, moreover, that the New York minimum-wage case had come to the Supreme Court on the contention of attorneys for the State that it was distinguishable from the *Adkins case.* "We think that the question which was not deemed to be open in the *Morehead* [New York minimum wage] *case* is open and is necessarily presented here," the majority decision pointed out. The Court contended that the State had a direct interest in its citizens, their welfare, and protection.

"We emphasized the need of protecting women against oppression despite her possession of contractural rights," the decision stated. The minority decision contended that the "meaning of the Constitution does not change with the ebb and flow of economic events," and advanced the suggestion that "the remedy in that situation, and the only true remedy, is to amend the Constitution."

By this decision minimum-wage legislation was open to effective enforcement through State laws establishing minimum wages for women and minors, and further legislation to accomplish this purpose was advanced in States which heretofore had none.

When the United States Supreme Court handed down its ruling on the Washington minimum-wage case, 17 States had minimum-wage legislation. They were: California, Colorado, Minnesota, North Dakota, Oregon, South Dakota, Washington, Wisconsin, Utah, Connecticut, Illinois, Massachusetts, New Hampshire, New Jersey, New York, Ohio, and Rhode Island. That decision gave new validity to the earlier laws of the District of Columbia, Puerto Rico, and Arkansas which had been inoperative because of prior unfavorable Court action. As a result of rulings by the Attorney General all three of these statutes are now being enforced. At present, litigation is going on in the courts of Puerto Rico against the $6 weekly minimum-wage rate for women employed in homes there and not working in factories.

Since the decision, four more States (Pennsylvania, Oklahoma, Nevada, and Arizona) have passed minimum-wage laws, bringing the total to 22 States, the District of Columbia, and Puerto Rico. Nevada and Oklahoma passed minimum-wage laws in April of this year, Pennsylvania in May, and Arizona in June. Nevada, in addition to the earlier law of South Dakota, has passed a flat-rate type of act for women. The rate in Nevada is $3 per day; pro rata payment must be made for part-time work. The Pennsylvania and Arizona laws are based on fair wage and value of services rendered. The Oklahoma law sets minimum wages for men, women, and children, the first law of its kind in the United States. It is modeled after the Washington law and provides that all orders issued shall apply to similar or competing industries or occupations, and shall apply alike to all units of an industry.

In three States (New York, Massachusetts, and Wisconsin), minimum-wage legislation has been revised, in view of the Court's decision to include the cost-of-living principle.

In the District of Columbia the minimum-wage law, invalidated in 1923, has been revived and again becomes enforceable through the decision of the United States Supreme Court in the Washington State minimum-wage case. Two orders were issued in July by the Minimum Wage Board of the District of Columbia. The first

order provided that all previous orders and amendments to orders of the former board be rescinded as of July 15. The second order provided that all employers of women or minors must keep certain information concerning each employee.

In Minnesota the minimum-wage law is again applicable to adult women, according to a ruling of the State's attorney general. Pending the fixing of new rates, the rates in effect in 1925 automatically are in force. An advisory board of 11 members was set up late in June by the State industrial commission to recommend minimum wages for women in industry.

In Rhode Island, the first mandatory order went into effect on August 1 in the jewelry industry. The order fixed a minimum of 30 cents an hour, which "shall not be reduced by any arrangement or device." On July 15 the minimum-wage board for the wearing-apparel industries recommended the rate of 35 cents an hour in that industry, and this rate has been accepted by the director of labor.

In Illinois the laundry order has been made mandatory, effective since August 2.

Massachusetts has been extremely active during the past year. Nine directory wage orders became effective on March 1, 1937, one on April 1, one on July 15, and one on August 1, 1937. The first 10 of these will become mandatory October 1, 1937. Wage boards have been formed for the jewelry and related lines and the muslin-underwear industries. This is the second board for the latter industry, the report of the first board having been rejected by the commission. The commission approved the report of the muslin-underwear board after a public hearing held on August 11.

In March, New Hampshire issued a directory order for the hosiery and knit-goods industry, providing a minimum-wage rate of 27½ cents an hour for all experienced women and minors, this rate to be guaranteed to piece workers as well as time workers. Directory orders have fixed minimum wages for three other industries in the State.

Ohio has issued mandatory orders for three industries, and a hotel and restaurant mandatory order went into effect May 1.

In Oklahoma, hearings have been held for laundry, dry cleaning, and mercantile establishments, garages and filling stations, the drug industry, and hotels and restaurants.

In New Jersey the industrial commissioner has very recently promulgated a directory order for the laundry industry, setting rates from 33 cents down to 26 cents an hour, with a 40-hour week.

Oregon in the last few months has revised the majority of its wage orders, changing from a weekly wage of $13.20 for 48 hours to an hourly rate of 30 cents and a basic week of 44 hours. For office workers the hourly rate was established at 35 cents an hour and a basic week

of 44 hours. A new order was issued for the cherry stemming and pitting industry, setting a rate of 32½ cents an hour.

Funds for enforcement of wage orders have been provided in New Jersey, Colorado, and Utah, where the laws had not functioned for varying periods through lack of an appropriation.

That, in brief, is the picture of recent minimum-wage activities in the various States. In the 6 months that have elapsed since the Supreme Court decision we have seen such stirrings for this type of legislation that most of the country appears likely soon to make minimum-wage laws an integral part of its labor standards.

A Federal wage and hour bill was considered by the United States Congress and hearings held on it, but it did not pass. The bill differed from most State minimum-wage laws in the following respects: It affects only those businesses engaged in interstate commerce; it applies alike to men and to women; it permits the setting of maximum hours as well as minimum wages, and limits the amount which may be fixed as a minimum rate as well as the extent to which hours may be curtailed.

With such an extension of minimum-wage activity and of interest in the subject, questions involved in the administration of minimum-wage laws naturally take on a new urgency. Those that appear to be calling most urgently for thought and decision fall into two main categories, one group relating in various ways to matters of coverage of minimum-wage laws, and the second to enforcement problems.

One interesting and important group of considerations relates to the enforcement of minimum-wage orders. The usual questions of adequate appropriation, sufficient personnel, proper record forms, etc., must, of course, be taken care of. More particularly, the adequate enforcement of a minimum-wage law calls for the provision of research facilities that will make constantly available to the administrator current, adequate information on wages and working conditions concerning industries cover or to be covered by wage order, as well as cost-of-living data where this latter is to be considered as one of the bases for wage determination. Unless there be a separate research personnel, the necessary work in preparation for new boards, the necessary appraisal of changing conditions in industries already covered by wage orders, but subject to revision, will be only the haphazard, "extra" activity of the enforcement staff. It is futile to expect that those whose immediate job is law enforcement can ever swing free enough of the exactions of inspection work to undertake planned and systematic research. The research staff should be recruited from among trained and experienced research people who have shown their fitness for this kind of work.

Suitably trained personnel for actual enforcement is also a problem. It is to be taken for granted that every new wage order presents first of

all an educational undertaking. The purpose to be accomplished, the suitability of the administrative regulations for achieving it, maintaining necessary records—all these and other details must be explained and their reasonableness proven to the employers subject thereto. Ordinarily, agreement can be expected to follow a full, intelligent, reasonable presentation of the situation, and this, with occasional follow-up to see that things go smoothly, is all that is needed in many establishments. But those plants where it by no means completes the job are never lacking. In every industry there will be employers who deliberately evade the provisions of a wage order. To deal with such situations it is necessary that an effective enforcement staff have its quota of trained accountants who can analyze the financial records of an establishment to find the facts. Skillful applications of their special knowledge can ordinarily reconstruct the plan whereby it was intended to cover up underpayments.

If a wage order is to accomplish its purpose, if it is really to assure a reasonable minimum to women and minors employed at any industry, the rate set by the wage board must be made to "stick" for everyone. It must not be emasculated by defining as learners large numbers of workers who can then be employed at a lower rate. Nor must earnings be cut into by long stretches of involuntary waiting time, by fines, by excessive charges of one sort or another. Only if the wage rates are safeguarded at all pertinent points, will a real improvement in income be assured for the low-paid workers. The administrative regulations, drafted to deal with these various practices, therefore become the vital defenses of the standard act. They should be given most careful consideration by the wage board in the light of existing practices and of possible developments in the industry. Reports of wage boards recently issued in various States show clearly that careful consideration has been given to administrative regulations and effective orders drawn in consequence. Furthermore, in considering the effectiveness of any minimum-wage order both wage boards and administrators need to give thought to another very basic question: How far can any hourly rate, no matter how favorable to the worker, be presumed to go toward providing an amount "sufficient for adequate maintenance and the protection of health" unless it carries with it also a guaranty of a certain fixed minimum period of employment? Are we not compelled by the terms of our laws to struggle with this question and to seek, by every means we can devise, an answer that considers minimum wages in terms of annual needs and annual income rather than in terms solely of a rate which may yield all the way from an adequate return to practically nothing.

There is finally, and most important, the matter of cost of enforcement. Inspection and checking of pay rolls must necessarily be a timetaking and therefore an expensive matter. It is the essential core

of minimum-wage enforcement. The more wage orders set, the more workers covered under them, the more pay rolls will have to be checked. What possibilities are there, or what can be devised, to lessen the cost of this enforcement? As enforcement gets under way in a larger number of States, any short cuts or savings that are devised should be carefully appraised and made known to all. It would be interesting to know, for example, why California, which long since transferred to the canning industry the cost of a special annual pay-roll check for that industry, has not extended the practice. Was it tried elsewhere? Have other plans for cutting costs been successfully tried?

So far as matters of coverage go, there is no more basic question than whether minimum-wage laws shall be applied to men as well as to women and minors. It is hoped that the experiences of the Canadian Provinces which have been administering male-minimum-wage acts will be interpreted for the benefit of this association. Certainly the question has a new vitality in the United States.

The proposal to apply wage and hour regulations nationally to wage earners of both sexes is one reason for this. Since our last meeting a year ago one State (Oklahoma) has decided to include men for the first time under a State law. Elsewhere there has been vigorous discussion of similar measures. Organized labor is no longer so consistent in its opposition to the setting of minimum standards for men by law, though it is true that where it is actively seeking the legal establishment of such standards that is more likely to be on a national than on a State-wide scale. Many individual employers and whole industry groups have also changed their opinion.

Certainly, this organization should consider its position on this question. In so doing I believe we should recognize, first, that it is possible to make satisfactory gains in the setting of legal minimum-wage standards for women regardless of whether or not these are set for men; second, that the continuance of serious unemployment has altered the situation so far as legal minima for men are concerned, making it desirable to include them where possible.

A second question related to coverage is that involved in the length of time required to apply a law to the group of industries and occupations which it may cover. Where the statute itself calls upon wage boards to have regard for value of services, either as the principal consideration or else in combination with other criteria in establishing minimum rates, more detailed study of employment conditions, including earnings and type of work within the industry, would seem to be called for. Determination solely of the amount necessary for adequate maintenance, which might be expected to be fairly similar for a wide range of employments, would not be enlightening as to value of services for different types of jobs. Rather, some subdivi-

sion of employments to be covered, which will assure the opportunity to consider as wide a group as possible of similar or related services, at the same time not spreading their variety too broadly, seems necessary to assure satisfactory determinations. The administrator is pretty certain to find himself under pressure, on the one hand, to cover occupations as rapidly as possible, so as to spread the benefit of legal rates, and on the other hand, to subdivide in order that industry problems regarded as peculiar by those dealing with them may have the benefit of consideration by a group with closely similar interests and experience. Furthermore, if industries are covered too slowly the groups first selected may come to feel that they are being held to requirements in excess of those generally required in the State; and workers in other industries may lose the benefit of the law's protection. It may be added that where inclusion of cost of living as an item to be considered has been newly added to the statute, that does not simplify the matter of preparation for the calling of wage boards. But certainly everything consistent with sound administration should be done to extend coverage rapidly.

For the administration of State or Provincial laws, still another problem related to coverage is raised by the interstate, competitive aspect of many of the manufacturing industries to which the act should be applied. It would seem the part of wisdom, where one is setting out to apply a new law, to initiate its application in the least controversial fields. By so doing certain extraneous objections can be kept from arising and the enforcement of the order will not be so complicated as would otherwise be the case. Experience with problems inherent in such enforcement, the development of proper techniques, etc., can then proceed more smoothly. However, if State laws are to be our tools for setting decent minima in industries paying substandard wages, those industries which are interstate in character cannot be allowed indefinitely to remain substandard. In putting this decision into effect, the administrator of a minimum-wage law will do well to recall the many factors other than wage differentials which go into determining the advantages and disadvantages of industry location in a given spot. Access to markets, skill and experience of labor supply, access to raw materials, obsolescence of plant, etc., have been repeatedly shown as among these.

But, since the claim of competitive disadvantage arising out of the fixing of legal minimum wages will be made wherever possible, regardless of whether or not in a given situation it is important, it would be well to do whatever is possible to counteract its influence when planning coverage. One possibility would be that contiguous and competing States try, as far as possible, to study and to cover interstate manufacturing industries at the same time. If this is done, the arrangements should be through informal, administrative con-

ferences. For any formal, rigid machinery set up between the States might easily become a fifth wheel, impeding and slowing down the progress of agencies that had much better remain strictly State agencies unless they can become truly national in character.

I have said, "if State laws are to be our tools for setting decent minima," thus raising the most basic question of all concerning the coverage of minimum-wage laws: Can an organization like this one, comprising as it does a group of men and women recognized as among the leading labor experts of the North American continent, accept complacently our present checkerboard of relatively progressive and enlightened jurisdictions with the black, the irresponsible, the undercutting squares interspersed? Regardless of the debatable issue of competitive disadvantage, which its proponents would certainly have difficulty in proving, there are other considerations which should put us actively on the side of nationally and internationally effective minima.

First, as I have already said, all those by nature or position opposed to any single wage order will decry its application on the ground of "competitive disadvantage," whether or not the facts support the claim. Always, such opposition befuddles the issue and alarms the timid and the ignorant. Why should we have to go on fighting this shadow battle?

Second, every man and woman here who has advocated labor legislation for his own State has done so, ultimately, on humanitarian and social grounds. Hungry workers, exhausted workers, workers with no stake in an established order, cannot make a contribution to the State's prosperity, to good citizenship. All of us, I am sure, have argued with conviction that we want minimum-wage laws because the guaranty of the State's backing for a decent minimum is a guaranty of stability and of growing enlightenment. How, then, can we any longer tolerate in our midst areas which give sanctuary to those few who object to the practice of elementary economic democracy? We know that sometimes there even go forth from such localities invitations to those who would fatten on the absence of legal protection of workers' wage standards safely to continue those practices within their friendly borders. But do we not want the same democracy, the same stability of our institutions of popular government, the same reasonable participation therein by workers whose interests are safeguarded, over our whole North American continent? Then is it not up to us consistently, logically to work for the application on a national, indeed on a continental, scale of those laws, like minimum wage, to this whole North America where democratic, representative institutions today are more prized and more practiced than in many other parts of the world, and where, in order to have them apply effectively, we should make sure that they apply universally?

Minimum-Wage Legislation in Canada

By MRS. REX EATON, *British Columbia Department of Labor*

It is gratifying to report that considerable progress has been made in Canada during the past year in the matter of legislation providing for the regulation of wages and hours of work for labor. Such protective legislation for women has long been accepted and is firmly established in most of the Provinces. The significant accomplishments have been in the field of minimum wages for men. Certain progressive steps have been taken by the various Provinces which would indicate that public support will be given to the further extension of the scope of minimum-wage regulations.

In 1935 the Federal Government passed three statutes to implement conventions of the Industrial Labor Conference—the Limitation of the Hours of Work Act, the Minimum Wages Act, and the Weekly Rest in Industrial Undertakings Act. It was decided to secure a judicial determination as to whether the legislation in question was within the jurisdiction of the Federal authorities before the administrative machinery was set up. After reference to the Supreme Court of Canada and the Judicial Committee of the Privy Council these acts were declared invalid in January 1934. This decision assured the Provinces that the regulation of minimum wages came within their jurisdiction.

Since 1900, however, the Federal Government has provided for the observance of fair rates of wages on work for which it contracted.

Since 1935, under the Fair Wage and Hours of Labor Act, the Federal Government requires (with certain exceptions and other provisions) that on all contracts for the manufacture of Government supplies and on any work subsidized by a Federal loan, not less than current or fair and reasonable rates should be paid; and also that males and females under 18 years of age will be entitled to rates of wages not less than those provided for women and girls in the minimum-wage scales of the respective Provinces. It is also provided that in no event shall the wage rate for male workers, 18 years and over, be less than 30 cents per hour and for female workers over 18 years of age not less than 20 cents per hour, but in any cases where the Provincial wage law requires the payment of higher wages such rates shall apply. This statute provides for a 44-hour week on all such work.

Between 1918 and 1930 statutes providing for the establishment of minimum-wage rates for females by boards or commissions had been passed in all Provinces of the Dominion except Prince Edward Island, the dates being as follows: British Columbia and Manitoba, 1918; Quebec and Saskatchewan, 1919; Nova Scotia, Ontario, and Alberta, 1920; New Brunswick, 1930. In Quebec the first orders were issued in

1926 and in Nova Scotia in 1930. The New Brunswick statute comes into force on proclamation and this has not yet been done.

Regulations have been passed providing for minimum-wage rates for males in certain of the Provinces. British Columbia, under authority of the Male Minimum Wage Act of 1934, has issued orders covering a wide scope of industries and occupations. Ontario, at the last session of the legislature, has enacted a Male Minimum Wage Act. The Minimum Wage Act of Manitoba prior to 1931 applied only to female workers but by subsequent amendments the scope of the act now includes all employees within the Province. The Minimum Wage Act of Saskatchewan also has been amended in the past year to provide for regulations to cover all employees within the Province. Alberta passed a Male Minimum Wage Act in 1936. In Ontario and Alberta no male minimum wage orders have as yet been passed but action will shortly be taken. Four orders have been revised by the board in Saskatchewan in August 1937 and will cover men as well as women.

Either under authority of the Minimum Wage Act or under an order of the lieutenant governor in council, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Quebec have ordered that when males are employed in occupations and industries where the work is ordinarily and by custom performed by women, and where wage rates for women are established within the industry or occupation, then the males shall be paid at a rate not less than that which is set for females.

In certain Provinces legislation provides that the wage rates and hours of labor agreed upon by representatives of employers and employees in a trade or industry for a locality, district, or whole of the Province may be made obligatory by order in council on the recommendation of the minister in charge of the administration of labor legislation. These provisions are given effect under the Industrial Standards Act of Nova Scotia, Ontario, and Alberta, and the Collective Labor Agreements Extension Act in Quebec.

Special regulations are in effect for males in certain industries and occupations such as forest operations in Quebec and taxicab drivers in Manitoba.

While wage rates established under the acts and special regulations reported in the two foregoing paragraphs may be somewhat removed from the ordinary interpretation of minimum-wage regulations, they yet have considerable bearing upon the discussion of regulation of wage rates for males.

In general, in those Provinces where boards have been established to regulate wages for female workers or for male and female workers, such boards have authority to set minimum-wage rates in all industries, trades, and occupations (with the exception of agricultural and domestic workers) within the Province; to limit the application of the

order according to locality or district, or to a certain classification within the industry; to fix rates for inexperienced and part-time workers; to grant permits to handicapped workers and to limit the percentage of inexperienced or handicapped workers who may be employed; and to make whatever regulations are necessary to vary an order to meet emergencies.

Nova Scotia, Alberta, Quebec, Ontario, Manitoba, Saskatchewan, and British Columbia have promulgated orders to regulate wages for female employees in the following industries and occupations: Manufacturing, mercantile, personal service, and public housekeeping. Laundry workers have a legal minimum rate in the above Provinces except Manitoba, and with the exception of Saskatchewan the office occupation is regulated in the above-listed Provinces. Alberta, Quebec, Ontario, and British Columbia have issued orders affecting employees in the fruit and vegetable industry; Nova Scotia, Ontario, and British Columbia for telephone operators; Ontario and British Columbia for elevator operators under a separate order; and British Columbia has a minimum wage rate for janitresses employed by the hour or in apartment houses.

It would be impossible to give the rates set in each order. They vary not only in each trade and occupation but also in each Province. For instance, in the personal-service order, which includes the work in beauty parlors, we find in connection with the weekly rate for experienced workers only, that Nova Scotia sets $11 in towns over 17,000 in population, while in towns under 17,000 the rate is $10. In Quebec the rate is $12.50 in the city of and Island of Montreal and $10 in towns over 25,000 population. Ontario orders $10 in places between 5,000 and 10,000 and up to $12.50 in Toronto. In the Western Provinces there are rates of $12 in Manitoba, $13 in Saskatchewan, $14 in Alberta, and $14.25 in British Columbia, and the whole area of each of these Western Provinces is covered. This illustration serves to show that a summary of rates of minimum wages in Canada is too complicated a task for such a report as this, and it perhaps draws to our attention the advisability of interprovincial discussions of standards of wages. One would hesitate to suggest a uniform standard of minimum wages throughout Canada, but there might be a greater uniformity in some phases of the various orders.

Under the Minimum Wage Act of Saskatchewan four orders have been passed, taking effect August 18, 1937, to regulate wages for males (1) in shops; (2) in laundries, dyeworks, tailoring, fur sewing, dressmaking, and millinery establishments; (3) in factories, garages, and automobile service stations; (4) in hotels, restaurants, and refreshment rooms. In each instance female employees are covered by the same order and on the same conditions and wage rate. The orders apply to the cities of the Province and within a radius of 5 miles. An

interesting feature of these revised orders is that the scale is graduated according to length of experience and does not refer to the age of the employee.

In Manitoba, concern over the fact that boys were being employed in lieu of girls at a lesser rate of wages than the minimum prescribed by regulations promulgated under the Minimum Wage Act, a provision was made by amendment in 1931 to provide a rate for boys under 18 years of age and certain regulations were revised by the board to take care of the situation. In 1934 a further amendment provided that no person of the age of 18 years or older shall be permitted to work as an employee in any class of industry at a rate less than 25 cents an hour, except in cases where the board has passed specific regulations providing for a different rate. Therefore, all workers in Manitoba, other than agricultural or domestic workers, are now governed by the regulations passed by the minimum wage board.

In British Columbia under the authority of the Male Minimum Wage Act, the board of industrial relations has issued orders governing the following occupations and industries: Logging, sawmills, shingle industry, box manufacturing, woodworking, baking, fruit and vegetable industry, construction, carpentry (in Victoria district), shipbuilding, transportation (other than by rail, water, or air), bus drivers (in Victoria and adjacent district), taxicab drivers, mercantile industry, stationary steam engineers, barbering, elevator operators, first-aid attendants, janitors.

In some of these orders the rates are varied according to the age of the employee; in others according to experience; while in others, such as the shipbuilding and taxicab driving order, only one rate is set. In this Province, as well as Alberta, Ontario, and Saskatchewan, there will be an extension of the regulations in other industries and occupations during the coming year.

No board can have any sense of satisfaction in issuing orders unless enforcement of its terms are assured. The orders for men as well as women have been well received and from the majority of employers has come a splendid cooperation. There always will be those who try to escape from the regulations, and in each Province some provision has been made for enforcement through inspectors. The courts are used to compel payment after other means of urging cooperation have failed.

Ontario has the services of the departmental inspectors, who also act for all branches of the department of labor. On the minimum-wage staff there are two special investigators (one man and one woman) and an auditor in addition to the staff of 10 clerks, stenographers, etc. In the past year $20,083.41 in arrears of wages has been collected, affecting 796 employees, and adjustments of wages ordered in

connection with 1,993 employees. In Manitoba 22 cases were taken to court and 480 claims were dealt with involving the sum of $9,-084.25. Four inspectors are employed full time. Other inspectors of the department devote part of their time to this work.

British Columbia maintains offices in Victoria and Vancouver. Fifteen inspectors are engaged full time in inspection work re minimum wages. During the past year 10,245 inspections were made; $60,172.72 was collected in arrears of wages. Of this amount $34,-796.31 was collected directly through the office for men and boys and $21,227.86 for women and girls. The balance, $4,148.55, was ordered paid to employees as a result of court cases.

A vigorous program of enforcement will very often bring out weaknesses in the act or in the order and will require amendments and adjustments more frequently than will be found in a section where the enforcement is inadequate.

In British Columbia under the Female Minimum Wage Act, it is possible to set maximum hours of work for women. The Hours of Work Act as amended in 1934 sets a limit of 8 hours in a day and 48 hours in a week in mining, manufacturing, and construction. The board of industrial relations, administering the act, may make exceptions or add other industries. Barbering, catering, baking, drug stores, transportation, the occupations of hotel clerk and elevator operators, the mercantile industry, and the soft-drink industry have been brought within this act.

In Alberta the Hours of Work Act, which also is administered by the board of industrial relations and was brought into effect September 1, 1936, provided for an 8-hour day and a 48-hour week for female employees and a 9-hour day and 54-hour week for male employees. It applies to any establishment, work, or undertaking in or about any industry, trade, or occupation with the exception of farming and domestic service.

The amended Minimum Wage Act of Saskatchewan authorizes the board to set maximum hours of work, but this power has been used only in the order governing employees in shops.

In some other Provinces regulations have been made affecting hours of work under authority of acts such as the Limiting of Working Hours Act of Quebec, passed in 1933, which provided that the lieutenant governor in council is empowered to limit the number of hours in a day or week which a workman employed in manual labor may work. In New Brunswick a fair wage act directs the board of commissioners of public utilities to establish fair rates of wages and maximum hours for which such wages shall be paid in any trade, industry, or business. This may be done through the direction of the minister of health and labor, or by a voluntary arrangement.

In some Provinces certain other regulations are made, governing hours of work under special acts, such as the factory acts, shop regulations acts, etc.

Interesting changes have taken place in some of the Provinces in the methods of administration and the setting up of the board. It will be impossible at the present time to review these changes.

Throughout Canada, it would seem that the boards have earned the confidence of the general public, exercising judgment and tact with employers and employees in their negotiations to set rates and hours of benefit to the workers. Industry has learned that it is possible to adjust itself to these rates and that there is a real value in the stability given to the wage structure when a basic minimum-wage rate is assured.

Discussion

Mr. GRAM (Oregon). As far back as 1932 California, Oregon, and Washington entered into a tri-State agreement as far as the canning industry was concerned. That agreement provided for the auditing of pay rolls. When the N. R. A. came into effect we dropped the agreement, and when the N. R. A. went out we went back on it, and are still working under it. This year, however, it is somewhat different. California raised the minimum wage for women from 35 cents to 40 cents. There is no limitation as to hours, except that time and a half must be paid for all time over 10 hours, and double time for all time over 12 hours, and the overtime rate paid for the seventh day of the week. I am not sure what it is going to cost this year, but last year it cost an average of 62 cents per 1,000 cases packed. Oregon has just passed new orders covering employment of women in all industries, increasing the minimum wage to 30 cents an hour, and reducing the hours to 44 a week. We have had very little protest from the employers, and I do not believe we will have any difficulty. However, the day I left for this meeting I received a wire from Cincinnati, signed by a representative of labor unions. The wire protested our orders, and said they wanted the same provisions in Oregon as they have in Pennsylvania.

Miss MILLER (New York). Have any of the western States tried this system of an audit paid by the industry anywhere else than in the canning industry?

Mr. GRAM. Only in the canning industry. It works fine there. The only problem in other industries is how to place the cost. I am not sure which is the most practical way of doing it—whether it should be on the basis of the number of employees, the percentage of the pay roll, or what. We have discussed it at some length but have not yet established a principle.

Mr. LUBIN. I should like to raise a question which has a bearing on the whole question of minimum wages, namely, the proposed legislation of the Federal Government in this field. As you no doubt know, there was passed by the Senate a minimum-wage law covering all people, with provision for administration by a board. The board would be permitted to provide for differentials between States or areas of one sort or another. I should like to hear a discussion on differentials from those persons from States that have been administering minimum wages for women. Is there a justification for differentials between geographical areas, or between different industries, or within the same industry in different parts of the country, or is there not? The original Federal bill provided that in fixing wage rates such things as cost of living, productivity of labor, and so forth, should be taken into consideration. I should like to know what the bases of differentials are—why select 30 cents in one case and 35 cents in another?

Mr. GRAM. The reason we fixed 35 cents for the canning industry was because the canning industry is a seasonal industry. As for our industries, I do not know anything else that ought to be taken into consideration as a basis for minimum wages unless, perhaps, cost of living, and that is almost as much in one place as in another.

Mr. LUBIN. Do you mean that you would fix a 35-cent rate in one town and a 30-cent rate in another town because of lower rents, and so forth?

Mr. GRAM. That is not the theory on which we have worked. Our arrangement is absolutely uniform, irrespective of the cost of living in the different communities.

Mr. MCLOGAN (Wisconsin). I am wondering if there is much difference in the cost of living as between different parts of a State or different parts of the country—if, for instance, some articles do not cost more in the large cities than in rural communities, and vice versa, thus offsetting each other in the total. We have had that problem with reference to fixing the amount of old-age assistance under our present law. Our experience is that they pretty nearly balance—where rent is quite high in the city, other things are high in the rural communities and less in the city. For instance, general foods are much more reasonable in the larger cities than they are in the rural communities, outside of the strictly farming communities.

Miss MILLER. I think another factor in regard to this notion that the cost of living is so much less in some parts of the country is this: Is it the same living that is referred to? Even between the different parts of the State that I happen to come from I have a suspicion that the strength of organized labor in certain centers has brought about a state of affairs where more in return for what one gets in a pay envelope is taken for granted than in other parts of the State

where, for a long period, there has not been a labor organization to back such demands. I wonder whether we will not find eventually that in agreeing to differentials—which we may have to do—we are agreeing that the mode of living is different in different jurisdictions.

Mr. LUBIN. The charge that has been made, and it is one of the arguments that has been used to defeat, or at least temporarily to delay, the passage of the Federal law, that minimum wages, if more or less uniform, would result in firms being forced out of business and people losing their jobs. Is there any experience in any of the States to prove that? The work of the Women's Bureau has shown that it has not been true in certain industries after minimum wages have been imposed. Is there any State in which this may be true?

Mr. WHITAKER (Georgia). That argument has prevailed for many years, but I do not believe there is any evidence to back it up. I am convinced that a really decent living will cost practically the same wherever you go, and I believe that it would be manifestly unjust to pay too much attention to differentials in localities, because it would be unfair competition, and it certainly is not guaranteeing the workers the same living they would have in other places. We have no minimum wage, but I am debating in my mind whether or not it should be exclusively for women. The reason for most of the objections is that people who have contractual relations, who organize labor, etc., are afraid that in establishing a minimum their employers will consider that the maximum. They seem unable to distinguish between a minimum and a maximum. My thought now is to recommend to the legislature in our State a bill covering the women. They are the people who are poorly paid and unorganized. Then perhaps we can take in the men later. I believe we would have a better chance at first of securing minimum hours and wages for women. I am hoping to get from this meeting actual experiences of other States that will enlighten me and guide me in formulating my plans. I am relying a great deal on the Department of Labor, and I have been assured that it will help me.

Mr. BELL (British Columbia). Speaking as one who has had some experience in this field, I think that if I were to tell you something of the difficulties we have run up against in British Columbia it might be of some interest and help to the gathering. Mrs. Eaton has already told you when the acts were put on the statute books in the various Provinces of Canada. We in British Columbia are in the proud but rather difficult position of having been pioneers in this type of legislation.

British Columbia enacted female-minimum-wage legislation in 1918, and that was the first minimum-wage act in the Dominion of Canada. I think Manitoba enacted one about the same time. The female-minimum-wage board started to make orders, and the principle on which it proceeded was to fix a minimum wage on the principle of a minimum

amount that was sufficient for a prudent, self-supporting woman to maintain herself in decency and comfort. Between 1918 and 1920 a number of orders were made—I think about nine—which covered practically all branches of business and industry in which women were employed. They have remained in effect substantially in the same form from then until the present time.

Until the years of the depression there was very little opposition to these orders and the matter of enforcement did not create great difficulties, but when we ran into hard times the administering authorities were subjected to severe pressure to bring the rates down. It was a very hard struggle, and a difficult position for the board, but we were successful in maintaining the scales which had originally been set up with one exception, and that was in the fruit and vegetable industry. Every year we have a struggle with the fruit and vegetable industry. Mrs. Eaton will support me in saying that we look upon it as our annual Waterloo. In 1932 we did bring the rate down 10 percent, but this year we have raised it to its original figure.

In 1925 our Male Minimum Wage Act in British Columbia was passed, but not very much was done along that line until 1934, when our acts were all substantially revised and brought under a board of industrial relations. Our orders require that the board, after due inquiry, shall fix a minimum wage. In conducting the inquiry we naturally have to consult employers and employees. Formerly, the inquiries were by public hearings, and the act still provides that the board may secure its information in that manner, but lately we have followed the principle of interviewing employers and employees separately. We have found that more conducive to free discussions. Employees were very hesitant to express themselves freely in the presence of their employers.

Naturally, we have to take into consideration the ability of the industry to pay. Speaking of different scales in different occupations or different industries, some industries can pay more than others, and we naturally take that into consideration. In some lines of work it is more expensive for the employer, because the employees may require more expensive clothes, as for example, in the logging industry, where the logger requires boots, etc. We have tried to take all those factors into consideration in fixing a suitable wage. We do not try to go up and down the scale and fix wages for all and sundry, but we follow the principle of trying to fix a basic wage in the industry upon which higher rates may be built. We do not satisfy everybody by a long way. In fact, when we get the repercussions after an order has been made, if I find the employer belaboring us for fixing it too high and the employee belaboring us because we fixed it too low, I generally feel that we have done the right thing. As I say, we are still going ahead and are increasing the coverage. Since 1934 we have made

orders that have brought 125,000 employees under our regulations pertaining to minimum wages and hours of work.

In the matter of inspection, I was interested to hear the comments upon auditing pay rolls by way of a levy on the industry. We do not follow that principle at all. We have our inspectors and are building up our inspecting staff. It is a line of work where, when you make the order or regulation, you cannot say, "Well, thank goodness, that's finished." Everything you do means that much more work, and as our orders increase and the employees under our responsibility become more numerous we have to build up our inspection staff. We have our staff regularly inspect the pay rolls and records of employers which under our act they are required to keep.

With reference to the fruit and vegetable industry, we have inspectors regularly attending to that industry during the season. In British Columbia the industry is largely centered in one district, so that during the season we keep at least two inspectors regularly inspecting the pay rolls and visiting the plants; in other words, what you might term "a patrol." We find it necessary, so we keep our own inspection staff. We do not call upon employers for any assistance, either financial or otherwise, in that respect.

Miss ANDERSON (Washington, D. C.). I should like to ask Mr. Bell a question. We have often come up against the question of the industry's ability to pay, and so far we have been able to keep that out of legislation. I am wondering just how you can find out what is the ability of the industry to pay. There are so many items that enter into the matter.

Mr. BELL. Our act empowers the board to demand the production of profit and loss accounts. We frequently call upon the services and assistance of experts to perform that work. In British Columbia, in practically all lines of business—and I think it would apply generally—we have what are termed the "large employers" and the "small employers." Sometimes we find the larger concerns operating in the large centers and the smaller concerns operating in the smaller localities. That little concern is just as important to that small community as the big one is to the big city. The big, up-to-date lumber mills that have a high efficiency basis are of course on a much better footing. Occasionally, employers tell us that they appreciate and support the work we are doing, and they do so on the grounds that they would like to have us stabilize the industry. Some employers' idea of stabilizing an industry is to put someone else out of business, but that is not our idea. So we have to consider the small concern as well as the big concern, and in that way try to arrive, as fairly as we can, at the industry's ability to pay. We have been told many, many times when dealing with these questions—sometimes before we have made the

order and sometimes afterwards—that we were going to put some employers out of business, but they are wonderfully pertinacious, and manage to keep going.

Mr. FINE (Ontario). If $12 is the minimum set as the requirement to maintain a decent standard of living, do I understand you to say that it is all based on the ability of industry to pay? If $12 is the standard minimum required by a female to maintain herself in decency and comfort, what has the ability of the industry to pay got to do with the subject? If the ability of the industry to pay is to be used, I am afraid you will have very few decent minimum standards.

Mr. BELL. Perhaps I did not make that point clear. I tried to point out that the female-minimum-wage orders in British Columbia were originally fixed about the years 1918, 1919, and 1920, and at that time the board proceeded along the line of trying to ascertain an amount that was sufficient for a prudent self-supporting woman to maintain herself in decency and comfort. The pressure that was brought to bear from certain points made it difficult to keep the amounts up but since that time we have tried to and frequently have succeeded in raising them a little more. We have tackled minimum wages for males since 1934, and I am not saying that the board of industrial relations has held exclusively to the principle of the cost of living. We have tried, as far as we could, to get the highest possible minimum wage under the circumstances, but we have not adhered to any hard-and-fast rule regarding the cost of living or anything else. We have always had to take into consideration to some extent the ability of the industry to pay.

Mr. LUBIN. What is the minimum for men? What is the highest minimum, and in what industry is it?

Mr. BELL. The highest we have fixed so far is 62½ cents in the shipbuilding industry, but it varies considerably in other industries; for example, we have 40 cents in the sawmill industry, and 38 cents for male employees in the fruit and vegetable industry. There is no uniform standard, but each industry has a separate order of its own and no two of them are exactly the same.

Women in Industry

Women in Industry

Report of Committee on Women in Industry, by MARY ANDERSON *(United States Women's Bureau), Chairman*

Labor Legislation During the Past Year

The past 12 months have witnessed significant progress in the field of labor legislation affecting women. While minimum-wage legislation has shown the most spectacular advance, gains were evident in the enactment of more stringent hour limitations on women's work and more effective home-work laws. In addition, night-work laws were amended in two States.

Minimum-Wage Legislation

The past year's major legislative development affecting woman workers was without question the decision of the United States Supreme Court on the Washington State minimum-wage case, declaring the law constitutional, and, as a consequence, the revision of the 1923 decision on the District of Columbia law. The effects of this decision were immediate and far-reaching. In four jurisdictions where minimum-wage laws had been invalidated because of the 1923 Supreme Court decision (Arkansas, the District of Columbia, Minnesota (for adult women), and Puerto Rico) attorneys general have declared these laws now valid. Swept along by the rising tide of interest in setting a bottom level for women's wages, minimum-wage laws were enacted in four additional States (Arizona, Nevada, Oklahoma, and Pennsylvania). Two States (Colorado, with a law dating from 1913 but never enforced, and Utah, with a law passed in 1933) secured their first appropriations and have surveyed wages for women in the State preliminary to beginning enforcement. During the year the minimum-wage laws of Connecticut, Massachusetts, New York, and Wisconsin were either amended or revised.

In all, 24 jurisdictions (22 States, the District of Columbia, and Puerto Rico) now have minimum-wage laws. All but five of the laws apply to women and minors; Arkansas, Nevada, Puerto Rico, and South Dakota laws cover only females; the Oklahoma law applies to men, women, and minors.

All but three of the laws provide for determination of rates by boards or commissions. In Nevada, South Dakota, and Puerto Rico the minimum wage to be paid is specified in the law. A wage is written also into the Arkansas law, but it is subject to adjustment by the commission.

Hour Legislation

In the past 12 months, 11 States have made more or less drastic alterations in their hour-law provisions affecting woman workers. Connecticut, Illinois, Nevada, New York, Ohio, Oregon, and Pennsylvania adopted the 8-hour day in certain industries and occupations. Connecticut reduced its hours in mercantile establishments from 9 a day and 52 a week, to 8 a day and 48 a week. Illinois shortened its daily and weekly hours for practically all employment from 10 hours daily with no set weekly limit to 8 hours daily. Nevada broadened the coverage of its 8-hour day to include all private employment, and reduced its 56-hour provision to 48. New York extended its law for an 8-hour day and a 48-hour week to include hotels, never before covered, as well as restaurants in smaller cities that had not been included before, elevator operators, employees of street railroads, and employees in certain canneries, and passed a 48-hour law for messengers of telegraph or messenger companies. Ohio reduced its daily and weekly hours from 9 a day and 50 a week to 8 and 45, respectively, in manufacturing and 8 and 48, respectively, in industries other than manufacturing. Oregon, through State welfare commission orders, has placed practically all woman workers on a 44-hour-week basis. The previous weekly limit was 48 hours. Pennsylvania shortened its hours from 10 a day and 54 a week in any establishment to 8 a day and 44 a week of 5½ days.

Arkansas extended the coverage of its 9-hour-day and 54-hour-week law to include, among other employments, hotels and restaurants; North Carolina adopted a 9-hour day and 48-hour week, covering any labor except seasonal industries, thereby reducing its 11-hour day and 55-hour week for factories, etc., and its 10-hour day and 55-hour week for mercantile establishments. Canneries were covered for the first time in this State by a law that set a 10-hour day and a 55-hour week. Vermont lowered its provisions for a 10½-hour day and 56-hour week, covering manufacturing and certain other employments, to 9 hours daily and 50 hours weekly.

New Hampshire adopted a 10-hour daily and 48-hour weekly law for labor in manufacturing, reducing the hours of work for such employment from 10¼ daily and 54 weekly.

Washington passed a bill limiting the weekly hours of work of all household or domestic employees to 60, applying to men and women alike. This is the first time these employees have been covered by an hour law in any State.

Home-Work Law

The last year has brought marked progress in the enactment and enforcement of legislation to prohibit or control industrial home work. Massachusetts, Pennsylvania, and Illinois have revised and improved their laws dealing with home-work regulation; Connecticut has amended its home-work law; and Texas has enacted such legislation for the first time. The Texas law has no specific prohibitions, but empowers the State board of health to prohibit and regulate work if injurious to the health and welfare of employees and public. Seventeen States now have some type of home-work legislation on their statute books.

The effectiveness of such legislation was recently attested to by Connecticut law administrators, who reported that in 1933 when the State law went into effect, there were 7,000 home workers in the State, 600 of whom were children at work on bead bags. All sorts of processes were performed at home, such as sewing on infants' dresses, garter making, carding snaps and hooks and eyes, knitting children's garments, and wrapping wire for kid curlers. At the present time only 137 women in the State hold certificates allowing them to do home work.

A recent effort by the New York and New Jersey departments of labor to curb fly-by-night manufacturers using home workers has resulted in an agreement whereby New York contractors cannot send nor give out work to home workers in New Jersey.

Night-Work Laws

New Jersey during the recent legislative session changed its period during which women cannot work, which had been 10 p. m. to 6 a. m., and made it 12 p. m. to 7 a. m. It also extended the coverage of the law to new groups. New York shortened the prohibited night period for restaurants by 2 hours; such period now begins at 12 p. m. rather than at 10 p. m. The prohibited period remains 10 p. m. to 6 a. m. for females under 21 in hotels and restaurants.

Administration of Labor Laws Affecting Women

The volume of new labor legislation during the past year indicates the scope of administrative problems which necessarily follow such legislative action. As new labor laws are enacted, as old laws extend coverage to additional groups of workers, as questions of the constitutionality of labor laws are determined by the courts, new problems of administration arise necessitating new methods of enforcement, new emphases, additional personnel, in order that the will of the people, as expressed in legislative enactments, may be carried out. To provide a background for a discussion of labor-law administration—

a subject of vital interest to the delegates of this assembly—I shall briefly discuss some of the major factors involved in the successful administration of labor laws for women.

The Law Itself

A basic essential for good labor-law administration is a good law to begin with. An adequate law must be properly drawn and drafted so as to be enforceable. There must be no loopholes from the standpoint of a constitutional test. While simple language is desirable, so that administrators, employers, and the public at large can understand the laws' specific provisions, simplicity should not be sought at the expense of expert draftmanship which enables the law to withstand any court test.

A good labor law should be drawn with the consideration of the pitfalls of administration always in mind. Of special importance is the matter of exemptions. These are mainly of two types: Those clearly specified in the law and those permitted under the law at the discretion of labor department officials. Both types of exemptions are vicious, but the second type perhaps creates more serious administrative difficulties. When too much power for exemption is placed in the hands of administrators, there sometimes is created pressure which cannot be withstood. Exemptions are then made without proper investigation, with unfortunate results to the woman workers whom the law was designed to protect.

Personnel

A second major consideration in labor-law administration is the matter of administrative personnel. A splendid law passed by a State legislature may mean little if the enforcement personnel is inadequate. The whole question of whether a State does a satisfactory or a mediocre job of administration is, after all, largely a matter of personnel. It is a well-accepted principle that the staff of a State labor department dealing with labor-law administration should be well trained and experienced, with special qualifications in accordance with special duties. There is another factor I should like to stress because of its extreme importance. To my mind, genuine understanding of and sympathy with problems and needs of labor constitute a more significant qualification than formal training.

Encouraging progress has been made during 1937 in the enactment by six additional States of laws placing State employees under civil service. These States (Arkansas, Connecticut, Kentucky, Maine, Michigan, and Tennessee) bring the total of States with civil-service systems to 15. The District of Columbia administrative personnel also is subject to civil-service specifications. This trend toward the

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removal of the personnel of State government from political influence is very significant. Nothing is more fatal to proper labor-law administration than the removal of competent and experienced workers when politics steps in.

Educational Program

One function of the State department of labor which takes on increasing significance and importance with the times is that of education. The three major groups touched by administrators must have a distinct type of education. The employer must know the specific provisions of each law affecting his plant or his workers so that he can escape violations and can recognize the advantages of compliance; labor must know the potentialities of the law itself and what it can do; the general public needs to have its social consciousness developed in order to determine what benefits it can derive directly or indirectly from good labor laws. In particular the public must be trained to accept its responsibility for participating in public hearings, reporting violations, and withdrawing its patronage from firms that break the laws. It is on the efficacy of this type of educational program that, in the last analysis, the amount of appropriation received by the labor department depends.

One of the most important types of education conducted by a labor department is done by factory inspectors. These persons are continually teaching workers and employers alike. A growing recognition of the significance of this education is apparent in the fact that the civil-service requirements for factory inspector in several States specify ability to do just this type of work.

Cooperation of Labor in Administration of Laws in Its Behalf

Another aspect of labor-law administration which has been found of increasing importance in the various States is the need for the cooperation of labor. We recognize that the administration of labor laws depends largely on trade-union participation and cooperation. Since an individual worker often is afraid to report a violation, in the majority of cases the unions must be depended upon for violation reports and thus for help in establishing high standards of law enforcement.

Department Records

In order that labor laws may be as effective as possible, departments must make goods inspections. On the basis of these inspections records must be complete, but it is not enough to have an excellent file of records; it is essential that they be used to evaluate the law itself—its adequacy, the effectiveness of the department enforcing the law, and the determination of whether the law is benefiting the worker in the way it was designed to do. On the basis of departmental records,

changes in the law or its enforcement depend. Record data from inspections should show whether or not certain unfavorable conditions the law is hoping to control—such as industrial home work—are diminishing in scope. The public has a right to know whether progress along these lines is being made, and only from the department's records can such information be secured. If further, more progressive and comprehensive laws are to be passed, the public is entitled to know what use is being made of active legislation.

Next Steps in the Field of Labor Legislation Affecting Women

A critical continuous evaluation of existing labor legislation by the department engaged in its administration paves the way for recommendations along the lines of additional coverage of workers or new types of laws. To date it has been felt by most States that the industries to be covered first by labor legislation are those where the largest numbers of low-paid woman workers may be found. States in the early stages of labor-law development will do well to begin in a like manner, starting with the coverage of occupations for which a technique of administration has been evolved by States with a longer experience.

The time has come, however, when we must begin to consider seriously ways and means of extending the protection of labor laws to new groups. While in certain fields, such as agriculture and domestic service, the problems of enforcement are enormous, States that have had a long-time background in labor-law administration should be experimenting with the coverage of these groups. The inclusion of new classifications of workers is even more important in view of probable Federal coverage of industrial workers in the wage-hour legislative program when it is enacted.

The question arises, Is it yet time to work for labor legislation covering men as well as women? Without question such a program is ultimately right and just. There are at present, however, certain obstacles in its path. In the first place, among many legislators the old-time attitude still persists of viewing certain types of labor legislation as valid only because it protects women. In the second place, the problems of labor-law administration are quadrupled when men are covered in addition to women. The status of wage legislation affecting men has not been tested in the courts, and it is not known whether or not this kind of law is constitutional. Therefore, it is recommended that when the subject of minimum-wage legislation is considered, preparatory to State legislative action, two bills should be introduced—one covering women and minors only, and the other including men as well. This step is desirable so that legislation covering women will stand even if that covering men should be declared unconstitutional.

Women's Divisions in State Labor Departments

With the marked advance in labor legislation for women, State departments are gradually realizing the imperative need of creating special women's divisions or women's bureaus to administer this legislation. The last year has witnessed the creation of three new divisions of this type—in Illinois, Louisiana, and Utah. The Illinois division is of special significance as it is entrusted with the administration of important laws affecting women, such as the minimum-wage law, hour law, the industrial home-work law, and the law providing for 1 day's rest in 7. In addition, during the past year, three States and the District of Columbia have created minimum-wage divisions or boards; these States are Colorado, Connecticut, and New Jersey. According to the latest information, at least 14 States and Puerto Rico have special divisions or administrative units to carry out legislative mandates in connection with the particular interests of women, or women and minors.

Conclusion

In formulating this report I have tried to bring out certain aspects of the very important question of labor-law administration. This has been done with the purpose of provoking discussion, and I sincerely hope that in such a discussion you will all participate.

Discussion

Mr. LUBIN. What would the effect of legislation prohibiting certain night work be on the employment of women? It is sincerely and definitely believed by certain very important groups that by prohibiting the employment of women at night you automatically make it impossible for women to secure jobs during those hours in the evening when they might be working. They claim that this has actually taken place in certain States. The same problem was raised during the arguments on the wage and hour bill in Congress; the telephone company was given as an example.

Miss ANDERSON. We have in the United States certain groups of women who feel that any labor law for women that is different from that for men restricts women in employment We have not found that to be true. We have made several investigations and we are still making investigations. We know of no woman who has lost her job because of the hour law or the minimum-wage law. What the minimum-wage law has done is to raise the wages of the marginal workers, and women are largely the marginal workers As Miss Perkins so often says, put a bottom to wages. The minimum will not have to be so high that there will be no room for bargaining after that. The hour law is the same. We know, of course, that industries, through trade-union agreements and even in raising standards of their own accord, have come much further than the law on the statute

books, and we can find no case, except one in Massachusetts, where a woman lost her job. That woman who lost her job because of the law was employed by the railroads, and when it was found that the railroads did not come under the law in Massachusetts she was put back to work.

The night-work law, of course, is a different kind of law. The hour law and the minimum-wage law are standard-making laws. They raise the standards. But the night-work law is quite different, and I was with them when they protested against including that night-work provision in the wage and hour law. There is probably room for discussion on that.

Mr. NATES. We have in South Carolina cotton mills more spindles than any other State in the United States, and of course we have no night-work law regulating the hours of women in the mills. At the present time approximately one-third of the cotton mills in South Carolina are operating three shifts. Women, of course, are working on the second and third shifts as well as on the first shift. I should like to see this convention take some action or go on record with regard to its attitude toward night work for females. That is a great problem of the South Carolina Department of Labor.

We have a mercantile law which prohibits the employment of women more than 12 hours a day or more than 60 hours a week, and after 10 o'clock at night. Many stores, particularly in Charleston, would like to employ additional clerks and remain open until 12 o'clock at night, but the night-work law prohibits them from doing it. I do not say that I agree with that, but that is what Charleston and the majority of the cities want to do.

We have no law in South Carolina regulating the hours of women in restaurants. Recently, however, I have taken the position that restaurants are mercantile establishments and have placed women employed therein under the 60-hour week and 12-hour day, and have prohibited them from working after 10 o'clock at night. This position has been upheld in the courts twice. In taking this position I gave the restaurant owners approximately 2 weeks' notice. Very few of the women in restaurants were working more than 12 hours a day, but they bitterly opposed this 10 o'clock clause in the law. Business and professional women of South Carolina have opposed it. They have written all kinds of letters to me, even going back to the conference that was held in Geneva, where they were going to ask all nations to outlaw legislation that applied to women only, and they are going to make a bitter fight in the next session of the legislature to outlaw such legislation.

In our last session of the general assembly we passed a bill providing for a 9-hour day and 54-hour week, but it got into the senate too late for passage. I know it will pass at the next session and it may be

amended to 48 hours a week. In order to clarify the situation in South Carolina and in other States, I think it would help a great deal if this convention would go on record approving laws regulating the hours of women only, particularly women working between the hours of 10 o'clock at night and 6 in the morning.

Mr. WHITAKER (Georgia). Perhaps Miss Anderson could help you by giving you a copy of actions taken last year with regard to women's work.

Mr. GRAM. Perhaps it might be well to report some of our experiences in Oregon. As far back as 1916 our State welfare commission passed a regulation prohibiting women from working in mercantile establishments after 6 o'clock. In restaurants and cafeterias they could work all night provided they did not work more than 8 hours a day or 48 a week. As a result of that regulation the stores all closed at 6 o'clock. Then in 1931 a chain store wanted to put on an extra shift. The commissioner refused its request and it applied to the court and got an injunction against the commission. It was upheld in the supreme court. The language of the law was not broad enough to permit the commission to say how long a woman could work. Shortly after that the law was amended. I had quite a fight, lasting for several months. Even the women who were directly affected by the regulation appeared before the commission, and stated there and in the newspapers that they were just as capable as men and demanded the same rights as men. As a result, our commission has changed its views, and now we simply prohibit the employment of women for more than 8 hours a day or 48 hours a week, with no restriction as to what hours of the day or night they may work.

Mr. MCLOGAN (Wisconsin). I am wondering what the theory is behind the prohibition of women working between the hours of 6 at night and 6 in the morning. Is it health conditions or moral conditions, or what is the real foundation for the objection?

Mr. WHITAKER. In our State we have an 18-year age limit.

Mr. MCKINLEY (Arkansas). I have heard it argued that if women have to work at night they are generally not able to employ servants and therefore they do their housework the next day and don't get sufficient rest. Miss Anderson in her paper referred to Arkansas. Prior to the last legislature there was a provision in our act permitting the industrial commission to include restaurants and cafes under the provisions of the law. The commission had done that, but since there was some question as to the constitutionality of the commission's taking that authority, we just included them in the law itself. Although the industrial commission had never fixed a wage for restaurant employees, by including them in the law they became subject

to the wage stated in the law. For the information of those who have unemployment compensation, it may place them in a rather embarrassing situation. For instance, we have not permitted the amounts of tips to be credited as wages in fixing the wage in restaurants. But under the compensation law we collect for the estimated amount of tips that they might get. There was also some discussion about regarding banks as mercantile establishments and we included them, and we also included other establishments of all kinds.

Mr. McLogan. The reason I asked that question was that we are having quite a controversy in the cigar industry in Milwaukee. Our statute provides that the industrial commission may extend the hours of women until 10 at night under certain conditions, at the discretion of the commission. During the depression, in the textile and certain other industries we did grant permits for women to work until 10 o'clock, on the condition that an additional number of men would be given work. That was the only reason the commission had for granting permission for women to work until 10 o'clock—putting people to work.

Within the last 6 months one of the cigar manufacturers in Milwaukee wanted permission to work women until 10 o'clock on machines. It rents machines on a royalty basis, and if it can work two shifts it can make that much more in profits. It is quite a controversy. However, as one of the commissioners, I took the position that since the Wisconsin Legislature had made it a public policy in Wisconsin that women should not work later than 8 p. m., and under no circumstances after 10 p. m. and beyond 8 and up to 10 p. m. only with permission of the industrial commission, the commission ought not to grant it this permission. But what I was after is the real reason for the legislation. Of course, I think we are fully justified because the legislature put it on the statute book.

Miss Swett (Wisconsin). A long time ago we found that when women were working nights it was usually young girls, 18, 19, or 20 years old, or else married women, who tried to do two jobs—work all night and then go home and take care of children and their day's work too, with no uninterrupted sleep. Then I think you must also consider transportation, supervision around the plant, supervision of night lunch period—the whole question of supervision and the moral hazard, especially with regard to these younger girls.

Mr. Nates. The last session of our general assembly passed a 16-year child-labor law. Hot-dog stands were employing boys 14, 15, and 16 years of age as car hoppers—a car would roll up and they would go out and take orders. After the child-labor law was passed they fired all the boys and took on girls, 16, 17, and 18 years of age. These 16-, 17-, and 18-year-old girls may be forced to work to support

families, and in these places, as well as in other places, the girls have to wait on drunken people, who sit there and drink before them. That is one reason I think we are justified in having such laws.

Miss ANDERSON. I think this particular question in South Carolina, if I know anything about how the hot-dog stands or wayside restaurants operate, is another case where they employ the girls at no pay at all, or, as in the District of Columbia where it is necessary that they pay a wage, where they give, perhaps, 10 cents a week to get by the law, and the girls have to depend upon tips. The tips cannot be very much when a person drives up and gets a sandwich and some drink. Probably the whole bill would be about 20 cents, and a great many times, 10 and 15 cents. It is that kind of employment, I feel—that kind of exploitation of our young girls, as well as boys—that it is justifiable to stop by law. That is the sort of thing we ought to have in mind when we are talking about special labor laws for special groups. In some of our industries we found many girls and women working full time during the depression, and afterwards they had to be subsidized by relief—the taxpayers had to pay for what the employer took out of those people. It is that sort of thing we have to safeguard against, and I am ready for any kind of a law that will stop it.

Mr. TONE (Connecticut). As Miss Swett has said, in most cases these girls work as waitresses in the city during the day and then secure positions in the roadside stands, etc., at night, and there must be some limitation to stop that. In conversation with the employers in these roadside stands and taverns, they claim that a woman will work for less money than a man, and in most instances, in the event a man patronizes the place alone or with a woman, he will give a larger tip to a woman than to a man—therefore passing it right on to the consumer.

One other thing I should like to discuss is the subject of complaints coming in from various industries. We have crusaded through our State, and have informed the workers at various union meetings, trades councils, and central labor unions, in any church groups, or anywhere we could speak to these people, that in the event they fear being put in jeopardy through signing their names to a complaint, to send it in anonymously. I might say that most of our success in wiping out the conditions spoken of is due to anonymous letters. The labor departments should be very careful to make sure that they do not victimize the individuals who send in complaints.

Mr. MCKINLEY. Speaking of car hoppers, when we applied the minimum-wage laws the wayside stands got rid of the girls and hired boys. This method did not work so well either, so we got rid of the hot-dog stands, too.

Mr. MOONEY (Connecticut). Since the subject of restriction of working hours of women is a very important one, and since legislation prohibiting women from working during the evening between the hours of, say, 6 p. m. and 6 a. m., is now being attacked in a number of different ways and by a number of different groups, I move that the convention instruct the resolutions committee to bring in a resolution endorsing legislation prohibiting employment of women and minors between the hours of 6 p. m. and 6 a. m.

Mr. BELL. I feel that an organization such as this would be on perfectly safe ground in placing itself on record as opposed to night work for women in industry as an unsound principle. I use the words "in industry" advisedly. In the Province of British Columbia since 1908 we have had legislation in force which prohibits women from working in factories after 8 o'clock at night. Our factories are all contained in a schedule attached to the act. These factories comprise practically every branch of manufacturing that is done. So far as mercantile establishments are concerned, these are closed by virtue of city bylaws at 6 o'clock. And the working hours for women in mercantile establishments are fixed by our minimum-wage law at 8 in the day and 48 in the week. So, we have these points practically all covered by one law or another. But I think that an organization such as this would be on safe ground in passing and supporting a resolution that night work for women in industry should be prohibited.

[Mr. Mooney agreed to the amendment of his motion in accordance with the suggestion.]

Miss MACKINTOSH (Ottawa). Since the United States is now a member of the International Labor Organization, it seems to me that this organization should go on record as urging the enactment in the United States and Canada of the ratification of the two International Labor Organization conventions prohibiting work of women at night.

[Mr. Mooney's motion, as amended, was seconded and carried.]

Child Labor

Child Labor

Report of Committee on Child Labor, by BEATRICE MCCONNELL *(United States Children's Bureau), Chairman*

In the field of social legislation and governmental protection with which this committee of the International Association of Governmental Labor Officials has to deal, that of the regulation of the conditions of employment of young people, the past year has seen marked advances, not only in the United States and in Canada, but internationally as well. While we cannot quite say that yesterday's goal is today's bench mark, at least looking back over the period of the past few years, this year's goal can be set somewhat ahead of last year's.

In international child-labor standards this year has seen an advance from 14 to 15 years in the basic minimum-age standard set by the draft conventions of the International Labor Organization for work in industrial, commercial, and maritime occupations. In both the United States and in Canada during the past few years there have been interesting and significant developments in centralized Federal Control of labor standards establishing basic minima effective throughout the States of the United States and the Provinces of Canada.

In the United States the National Recovery Act passed in 1933, dealing with minimum wages, maximum hours, and child labor, was declared unconstitutional by our Supreme Court in 1935. Since then, however, there has been constant and increased consideration of other means by which Federal minimum standards as regards both general labor and child labor might be accomplished. During this past year many proposals along this line were brought before Congress. More than 30 bills providing for Federal regulation of child labor were introduced. The Black-Connery bill, which set up standards for wages and hours and prohibited child labor under 16 on goods going into interstate commerce, passed one House of Congress. Although Congress adjourned without finally enacting a law on the subject, it seems reasonable to believe that in the next session of Congress, which will convene in a few months, either a Federal child-labor law or a law dealing with general labor standards which will include child-labor provisions will be enacted.

Special legislation for the sugar industry, enacted by Congress in 1937, includes as a condition for the payment of benefits to producers

of sugar beets and sugarcane certain labor conditions, among which is a minimum-age standard of 14 years and hours limitation to 8 a day for minors between 14 and 16 years. The child-labor provisions, however, do not apply to members of the producer's immediate family. The proposed child-labor amendment which, by amending the Constitution, would give the Federal Government specific power to regulate child labor is still under consideration. Twenty-eight States have now ratified the amendment, four of these States having ratified this year. Favorable action by eight more States is needed, however, before the amendment becomes a part of the Constitution.

In Canada, the Dominion Government in 1935 enacted three statutes to implement the international labor conventions relating to the 8-hour day, minimum wages, and weekly day of rest for industrial workers, which it had ratified. Although the subject of child labor was not included in these laws, this attempt to establish Dominion control of labor conditions is significant, since it could easily be extended to the regulation of child labor once the principle was established. However, though the Supreme Court of Canada divided equally on the validity of these laws, they were finally declared by the Judicial Committee of the Privy Council of Great Britain to be ultra vires of the Parliament of Canada, on the basis that the subjects of the legislation involved come within the class assigned exclusively to the Provincial legislatures.

In both the United States and Canada, however, there does exist Federal regulation of the labor conditions under which Government contracts for supplies and the construction of public works are performed. The present Canadian law regulates hours and wages, but contains no minimum-age standards for employment of young persons on Government contract work. The United States Public Contracts Act, effective September 28, 1936, in addition to regulating wages and hours, fixes a minimum age of 16 for boys and 18 for girls on work performed on Government contracts for purchases of supplies amounting to $10,000 or over.

A brief review of State and Provincial legislation in 1937 indicates both the progress which has been made in State and Provincial legislation and the weak places in the legislative structure for the protection of young workers.

Some advance has been made in minimum-age standards for general employment. In Canada, Quebec this year enacted an amendment to its Industrial and Commercial Establishments Act, giving the lieutenant-governor in council the power to prohibit the work of boys and girls under 16 years of age in any industrial or commercial establishment designated in the order in council. In New Brunswick the new factory act establishes a minimum age of 15.

Two of the important textile manufacturing States in the United States (North Carolina and South Carolina) have set a basic 16-year minimum age for the employment of minors, bringing up to 10 the number of States with a 16-year minimum-age standard, at least for work in factories or for all work during school hours. Included in these 10 States are several highly industrialized States which formerly had a large number of employed minors under 16. Based on the distribution of child labor in manufacturing and mechanical occupations as reported by the United States census of 1930, nearly one-half of the total number of children under 16 employed in these occupations in 1930 would be protected, at least during the time schools are in session, by this legislation. In addition to these 10 States, Massachusetts has set temporarily, through a regulation established by the commissioner of labor under his authority to suspend the night-work prohibition for women in the textile industry, a minimum age of 16 in textile factories. The only other advance in general minimum-age legislation in 1937 was in Vermont, where, although the minimum-age standard was not raised, the 14-year standard was extended to cover work in any gainful occupation during school hours, instead of applying only to factory and related employments.

In Pennsylvania and South Carolina the compulsory-school-attendance requirements were raised to accord with recent changes in the minimum age for employment, South Carolina raising the upper age for school attendance of unemployed children from 14 to 16 and Pennsylvania from 16 to 17 in 1938–39, and 18 thereafter. The Pennsylvania law accords with the standard set up by the International Association of Governmental Labor Officials, requiring the minor to attend school for a 2-year period after the minimum age for employment is reached, unless he is legally employed. In this State the certificate requirement had already been revised to require employment certificates for children going to work up to 18 years, and this year under its revised child-labor law North Carolina set up the same requirement.

Some advance was made in protection of children from hazardous occupations. In North Carolina specific authority was given the labor commissioner to prohibit hazardous occupations for children under 18, and a number of hazardous occupations were added to the prohibited list already in the law. In other words, when the 16-year minimum age was enacted, the protection from hazardous occupations was also stepped up 2 years, so that boys and girls 16 and 17 years of age now have the same protection as those 14 and 15 had before the new law was enacted. Connecticut prohibited employment of minors under 18 in any occupation declared hazardous to health by the department of health and in any occupation declared

hazardous in other respects by the department of labor. Formerly employment deemed hazardous was prohibited for minors under 18 years of age, but there was no provision as to what authority should determine the hazard.

The minimum age for work of boys in coal mines in Indiana was raised from 16 to 18. The Massachusetts Legislature last year authorized a committee to study the problem of hazardous occupations for minors, and it is significant that the committee's report to the State legislature recommended a bill raising the minimum age from 16 to 18 in many hazardous occupations. The bill, unfortunately, failed to pass.

Another method of protecting young workers from industrial hazards, the requirement that minors injured while illegally employed shall be paid double compensation, has met with little advance during the past year, having been adopted by only one additional State, Florida.

In this past year in the United States some progress has been made in the regulation of children engaged in street trades. The movement has been toward control of employment conditions for young boys engaged as newspaper distributors, who are often held to be "little merchants" working independently, and not employees. In North Carolina the new child-labor law holds the parent responsible for compliance with its provisions regulating newspaper distribution if the child is not considered an employee of the newspaper. The minimum-age and hour standards for children in street work are also raised.

Wisconsin attempted to deal directly with the problem of the "little merchant" by amending its child-labor law so as to provide expressly that any person selling or distributing papers or magazines is an employee, and that the agency or publisher for whom he distributes or sells is his employer for the purposes of the act. Standards are raised in this act, both as to minimum age and badge requirements and as to hours and night work. The workmen's compensation law was also amended to provide that persons selling or distributing newspapers or magazines are employees under that act. Such a person is deemed an employee of the publisher whose papers he sells or distributes unless the former can prove affirmatively that at the time of the injury the employee was not employed with his actual or constructive knowledge.

In Canada, although there exists a street-trades problem, it is probably not so acute as in the United States. The laws governing children in street work are generally found in the Provincial children's protection acts or child welfare acts instead of in labor legislation as in the United States. Nearly all the municipal acts, sometimes called

city or town acts, however, contain sections giving power to municipal councils to pass bylaws regulating street trades. Municipalities in the United States commonly have such authority also.

In the regulation of hours of labor for minors, considerable advances were made in the United States. North Carolina this year passed a law establishing a 40-hour week for minors under 16, and South Carolina, in adopting a minimum age of 16 for factory work, prohibited night work for children under 16 in all other occupations except agriculture and domestic service. Regulations governing hours of labor for minors of 16 and 17 years were passed in New Hampshire, New York, North Carolina, Ohio, and Vermont.

Minimum-wage legislation in the United States has up to this year dealt only with women and minor workers, partly because of the doubtful status under our Constitution of minimum-wage legislation for men. Even minimum-wage legislation for women and minors has been held unconstitutional by the United States Supreme Court in the *Adkins case* in 1923. But an encouraging impetus was given to State control in this field by the decision of the Supreme Court in the Parrish case arising under the Washington State law, in which the Court reversed its former decision in the *Adkins case* and upheld the constitutionality of a State law fixing a minimum wage for minors and women based upon cost of living. Four States passed new laws on the subject, six revised or amended their old laws, and three jurisdictions revived their old laws which had been held unconstitutional. Minimum-wage legislation for men was considered by a few State legislatures, but only one such law was passed, that of Oklahoma.

In Canada, eight of the Provinces have had minimum-wage laws for women for some years. There has never been any doubt as to the constitutional right of the Provinces to pass minimum-wage legislation both for males and females without regard to age, and six of the nine Provinces now have such legislation although no orders have as yet been issued in two of these Provinces.

Industrial home work, which in the United States has long been recognized as presenting serious labor problems, was attacked by stringent legislation in four States (Illinois, Massachusetts, Pennsylvania, and Texas). This system of factory work done in homes affects the children, not only because they themselves are employed at home work, but also because of the effect on the welfare of the children when the home is turned into a workshop in which the mothers and older members of the family are employed for long hours. In all the new home-work laws passed this year a minimum age for employment was set—in Illinois and Pennsylvania, a 16-year minimum; in Texas, a 15-year minimum; and in Massachusetts, a 14-year minimum.

In Canada, no new industrial home-work legislation was enacted this year.

In spite of the encouraging advances that have been made in the past few years, we still find, in comparing the present status of State and Canadian legislation with the minimum standards set up by the International Association of Governmental Labor Officials, wide variations, and there still remain certain definite special needs for study and advance. These are, briefly:

1. *The establishment of a uniform minimum age of 16 years for employment.*

In the United States 38 States still have a lower minimum age than 16; four, 15 years; 33, 14 years; and one with no minimum age other than that extended indirectly through compulsory-school-attendance requirements. A number of States allow work under 14, at least outside school hours, under certain conditions, in factories or stores, or both. Some States still have exemptions applying to small establishments, or to certain types of work.

In Canada, no Province has established a 16-year minimum age for employment. In Ontario, no person under 16 may be employed during school hours without a permit and no person under 14 may be employed in a factory or shop. In New Brunswick and in the four western Provinces of Manitoba, Saskatchewan, Alberta, and British Columbia, the minimum age for employment in factories is fixed at 15 (14 for boys in Saskatchewan). In Nova Scotia and Quebec, 14 is still the limit. As regards nonindustrial employment, there is no minimum age for work in stores in Nova Scotia, New Brunswick, Saskatchewan, or British Columbia. Employment in other workplaces is governed merely by school-attendance acts.

2. *The dovetailing of compulsory-school-attendance laws and child-labor laws.*

The I. A. G. L. O. standard is a 2-year period between the minimum age for employment and the age up to which compulsory attendance at full-time school is required for children not employed, during which period employment is specifically supervised.

In the United States, there are only two States where the age up to which school attendance is required is not at least as high as the age at which children can go to work, and in most States it is at least 2 years higher. However, only 4 of the 10 States with a 16-year minimum require school attendance above that age. In view of the movement toward a general 16-year minimum for employment, it is important that the compulsory-school-attendance age should be extended to 18 years, with exemptions for employed minors over 16. Only eight States now have this standard.

In the four western Provinces of Canada, the minimum age for factory employment and the compulsory school age are usually the same, but in these Provinces exemption may be given from school attendance and the employment is usually agricultural. In Nova Scotia (cities and towns) and Ontario, attendance is required at school until 16 years of age but permits may be given at lower ages, and the factory law fixes the minimum age for employment in Nova Scotia at 14, in Ontario at 14 or in school hours without a permit at 16. In New Brunswick and Quebec, there is no compulsory school attendance except in certain towns in New Brunswick.

3. *Further protection from hazardous occupations for minors of 16 and 17 years.*

In the United States over half the States have no legislation protecting the 16- and 17-year-old minor from hazardous occupations. In certain States considerable headway has been made, but even so the regulations are often not adequate to safeguard the young worker from the hazards of the rapidly changing highly mechanized modern industry. Practically all the important mining States have a minimum age of 16 or higher.

In Canada, employment of boys under 16 and girls under 18 may be prohibited in dangerous occupations by the lieutenant-governor in council in all the Provinces but Alberta and New Brunswick. Prior to 1937, the New Brunswick Workmen's Compensation Board had power to prohibit the employment of boys under 14 and girls under 18. This section was repealed in 1937.

Girls under 18 are prohibited from working between the fixed and moving parts of machinery in motion in six Provinces and from cleaning mill-gearing in motion in seven of the nine Canadian Provinces.

In Nova Scotia, New Brunswick, Ontario, and Alberta, the minimum age for employment in mines is 16 or higher. In British Columbia, the minimum age for work below ground in mines is 15, above ground 14; metal mines above ground 15, below ground 18. In Quebec, work below ground may be begun at 15, and in Manitoba, in which mining has just recently developed, the act gives the government power to fix a minimum age but no regulations have been issued.

4. *Establishment of an 8-hour day and a 40-hour week and prohibition of night work for children under 16 in such miscellaneous occupations as they are permitted to engage in outside school hours, and extension of these standards to minors of 16 and 17.*

In the United States at the present time 20 States have limited the daily and 21 States the weekly hours of work for minors of 16 and 17 of both sexes. When the child-labor committee of the I. A. G. L. O. was appointed in 1932, only about a third of the States had such limitations. However, even today, for minors 16 and 17 years old of both sexes only 8 States have an 8-hour day and only 2 of these States have a workweek even as low as 44. Only 2 have a night-work prohibition of 9 hours or more applying to both boys and girls of these ages.

In two of the Canadian Provinces (British Columbia and Alberta) the hours of labor regulations for factories apply to all employees and therefore govern both boys and girls under 18 years of age. In British Columbia, there is an 8-hour day and 48-hour week and in Alberta, a 9-hour day and a 54-hour week for males and an 8-hour day and 48-hour week for females. In other Provinces, the maximum varies from the 48-hour week for children under 16 and all women in Saskatchewan and the 8-hour day for those under 18 in Manitoba to the 10-hour day and 50-hour week in New Brunswick (1937), 10-hour day and 55-hour week in Quebec, and 10-hour day and 60-hour week in Ontario.

5. *Further extension of legal regulation to newspaper carriers, and the raising of standards for their work.*

In the United States, the use of boys under the so-called "little merchant" system, instead of by direct employment, to deliver papers on a given route, is growing constantly, and the effort to place these boys under such contracts as will make them independent contractors instead of employees has gathered regrettable momentum. Under this method, responsibility under the workmen's compensation acts is in many cases avoided by the employer, as well as responsibility under the child-labor law. This is a problem which might well be explored further by your committee.

6. *Extension of minimum-wage laws for women and minors.*

In the United States, laws regulating minimum wages for women and minors (or minor girls) are now on the statute books of 24 jurisdictions, including many of the important industrial States.

In the field of minimum-wage legislation, the Canadian Provinces, which never were faced with a constitutional problem as to validity of such laws, have advanced further than the United States. All but one of the Canadian Provinces have minimum-wage legislation applying to all workers or to women. The New Brunswick Minimum Wage Act for women has not been proclaimed in force and

a board has only recently been appointed to administer the 1936 act applying to both men and women.

7. *Regulation of industrial home work.*

In the United States in spite of advances made this year, only 17 States have laws regulating work for factories in tenement homes, and of those only six set a minimum age applicable to such work.

In Canada, there have been provisions regarding home work in the factory laws of Ontario and British Columbia for several years. These were, however, designed for the protection of the public, as well as for the workers, from the point of view of public health. In Ontario, in 1936, the Factory, Shop, and Office Building Act was amended to repeal the old sections on home work and to provide for a stricter system of registration and permits for employers and home workers. No permit may be issued to an employer unless the factory inspector is satisfied he is likely to comply with the provisions of this act and the Minimum Wage Act. No home workers may be employed at wages less than those established by the minimum-wage boards. Similar legislation was enacted in the same year by British Columbia. No specific child-labor standards, however, are found in this legislation.

8. *Raising of administrative standards (both in the law and in its enforcement).*

Even though our child-labor laws have high standards, they are of no more value to our States and Provinces than the effectiveness with which they are administered and the care with which they are observed.

The first of the basic administrative aspects of child-labor-law administration is the requirement of employment certificates for children immediately above the minimum age for employment, preferably for 2 years, who meet the legal requirements qualifying them for employment. With respect to certificates there is need for advance, (1) in regard to evidence of age to be accepted; (2) in regard to State supervision; and (3) in the extension of certificate requirements to cover 16- and 17-year-old minors.

In the United States, though many advances have been made in the past few years, there are still some States without adequate evidence of age requirements and many States do not provide for good State supervision. Only 13 States require employment certificates for 16- and 17-year-old minors.

In Canada, the only Province that has adopted an employment-certificate system comparable with that in effect in the United States is Ontario, though in some Provinces educational certificates are necessary before exemption from school attendance may be granted, and certificates as to age must be submitted in some Provinces before employment.

The second administrative aspect is the technique of inspection of workplaces. With respect to inspection, labor department forces are still seriously undermanned in most, if not all, States and Provinces, and all too frequently, without the protection of the merit system, inspectors are not selected from the best qualified applicants available.

It is hoped that, should Federal legislation regulating child labor in the United States be enacted, an impetus to improved administrative practice as well as to legislative standards will result. Such legislation should make possible a high degree of cooperation in Federal and State administration, which will greatly strengthen the work now being done by the State labor departments. Such cooperative effort was begun under the first United States child-labor law, 20 years ago, when State labor officials were deputized by the Federal Government for the purpose of the enforcement of the law and State employment certificates, issued in accordance with Federal standards, were accepted in nearly all the States as proof of age under the Federal law.

In addition to these subjects of legislation with which the I. A. G. L. O. has been dealing over a period of years, the United States and the Canadian Federal Governments have recently entered the field of providing opportunities for young wage earners and potential wage earners to meet their needs, at least to some extent, through occupation and training. In the United States, the National Youth Administration and the Civilian Conservation Corps have carried forward programs initiated in the depression years, and in the last session of Congress the life of the latter was extended to 1940. In Canada, a million-dollar Dominion grant-in-aid program was initiated this year to provide for development in training projects for unemployed young people. In the United States a national apprenticeship law has just been passed, under which the Department of Labor is given the duty of assisting the States in developing apprenticeship plans through methods which have for several years been carried out by the Federal Committee on Apprentice Training. Progress has been made also in the extension of specialized placement services for young persons, thus making possible a more constructive and scientific approach to the adjustment of the young worker to his job.

The past few years have indeed seen real progress in the protection of children from harmful and too early employment. They have seen also the development of constructive efforts to meet the needs of the older boy and girl ready to enter gainful employment. The achievements of these past years serve to make us feel, not that our job is well done, but only that it is well begun, and to strengthen our purpose to go forward in this most important field of social legislation.

Discussion

Miss SWETT. The Wisconsin law applies not only to newspapers and magazines, but also to hauling and distributing, and house-to-house selling. Another important thing in the law, I think, is that the child is no longer issued a permit, but the permit is issued to the employer who hires the child. The administration of the law has been placed in the hands of the industrial commission, the same as the regular child-labor law, and not with separate school boards, as it has been heretofore, thus making for a unified system.

Mr. BELL (British Columbia). I should like to comment on the paragraph with regard to regulation of home work, and with particular reference to the mention that is made of this type of legislation in Canada. So far as Ontario and British Columbia are concerned, it is true that the provisions in the Factories Act—and I refer particularly to the Factories Act in British Columbia—did regulate home work to some extent, but chiefly with the idea of protecting the public. However, in 1936, we in British Columbia made a substantial amendment to that act, which was very largely, if not altogether, patterned

along the line that had been adopted in Ontario; that is, we added a second part to our Factories Act, which deals exclusively with home work and brings that type of work under very strict regulation.

Mr. McLogan (Wisconsin). I want to make a comment on that part of the report which refers to Wisconsin. The law has been amended so that the newspaper is the employer under the workmen's compensation act. That came about in this way: In most of the endeavors of the industrial commission we have an advisory committee, usually three members from labor and three members representing employers. In the case of the unemployment-compensation law we have three members of the State federation of labor and three members of the manufacturers' association, and they meet perhaps 10, 12, or 15 times during the year, especially in connection with the meeting of the legislature. The newspaper publishers came before that advisory committee and the industrial commission, and complained that if the news carriers were placed under the unemployment-compensation act, no one would gain much, and that it would entail so much clerical work that it would not be worth the effort. The committee agreed to recommend to the legislature unanimously that in the case of the unemployment-compensation act, these boys would not be considered employees, and on the other hand, in the case of workmen's compensation, they would be considered employees; to which the newspapers agreed.

Wage-Claim Collection

Wage-Claim Laws

Report of Committee on Wage-Claim Collections, by E. I. McKinley (*Arkansas Department of Labor*), *Chairman*

Your committee on wage collections feel that much progress has been made at the 1937 sessions of the legislatures of the various States, in attempts to adopt the uniform law as drafted in January 1936.

The States of Illinois, New Mexico, and Arkansas now have as part of their labor laws provisions of the model or uniform wage-collection law.

In the States of New Mexico and Illinois, practically the full provisions of the model wage-collection law were adopted by the legislatures of the two States.

In Arkansas the wage-collection law was amended according to the model wage-collection law in reference to attachment before a judgment, and the provision of the old law requiring the plaintiff to make affidavit that he was not possessed of property of a value greater than $25 was eliminated from the act. The eligibility of the plaintiff to the protection of the law was left to the discretion of the commissioner of labor.

In the State of South Carolina the law was passed by the legislature, but due to some technicality the Governor objected to its inclusion in the State laws. We are informed that this objection of the Governor has been met, and that in all probability the law will be adopted at the next session of the legislature.

The model law was presented as bills in the legislatures of the following States, but failed of passage: Missouri, Connecticut, West Virginia, New Hampshire, North Carolina, Wyoming, Kansas, Minnesota, and Nebraska.

It is difficult to get satisfaction out of defeat, but it is our opinion there is much encouragement in the fact that attempts were made in these States. The fact that the law failed of adoption should not be discouraging to us. The attention attracted to the necessity of such a law in these States, through the introduction of the bills providing for collection of unpaid wages, will be of benefit in future attempts.

From correspondence your chairman has received in connection with the subject of a wage-collection law from various sections of the Union

he is convinced that there soon will be sufficient interest to accomlish the passage of this protective legislation in a majority of the States of the Union.

We find that in practically every State in the Union where there exists a department of labor or industrial commission, regardless of the existence of a law giving authority to collect wages, the administrative officer interests himself in this work, and in many cases is reasonably successful, but handicapped as to legal force.

The amended law of the State of Arkansas will result in adding greatly to the total collections of the department.

Prior to the passage of the amendment, it was necessary for the plaintiff to give bond in cases where attachment was issued prior to judgment. We found that in attempts to enforce a laborer's lien on movable property, in many cases the property would be removed from the jurisdiction of the court before a judgment could be secured. Under the amendment this is overcome.

The other provision incorporated in the 1937 amendment to the Arkansas wage-collection law does not require a claimant for unpaid wages to qualify as a pauper before he may take advantage of the law. The claimant's right to the protection of the law now is left entirely within the discretion of the commissioner of labor. This law, together with laws requiring corporations to pay wages semimonthly, to pay discharged employees within 7 days, prohibiting the use of brass checks or other substitutes for money, and regulating commissaries as to prices and compulsory trading, in addition to giving the worker a lien on any article he creates or assists in creating, gives the worker splendid assurance that he will receive his wages.

Many of our States have laws regulating pay days, payment of discharged employees, and other measures designed to guarantee to the worker that his wages will be paid, but there is no means whereby he can secure this protection without payment or giving bond for costs and the employment of an attorney. The adoption of the model wage-collection law, or that part necessary to enforce legislation designed to protect the laborer in collecting his wages without cost, is imperative to complete the interest of such legislation.

Mr. Lubin, our secretary, has been the great influence in the progress made. He has furnished copies of the law to all States, and given much time in advancing the interest in this legislation, and to him much credit is due for the progress made.

In behalf of the committee, I thank Mr. Lubin for this splendid service.

Industrial Home Work

Industrial Home-Work Legislation

Report of the Committee on Home Work, by MORGAN R. MOONEY (*Connecticut Department of Labor*), *Chairman*

During the past year rather sensational developments in other fields of social and labor legislation have diverted attention from the problem of industrial home work. Nevertheless, since the last convention of this association real advances have been made in this field. Prominent among these are the development and enactment into law of new regulatory legislation, further experiments in organized cooperation between States to control the distribution of home work, and extensions of the work of investigation and publicity in several States.

Bills either amending existing laws or providing new enactments were introduced in 10 States: Connecticut, Delaware, Illinois, Massachusetts, Missouri, New Hampshire, New Jersey, Pennsylvania, Texas, and West Virginia. As a result, Connecticut succeeded in strengthening its existing law; Illinois enacted a measure providing for a certain regulation of industrial home work, but prohibiting home work outright in a specified list of industries, and prescribing graded fees for the issuance of annual employers' permits; and Massachusetts and Pennsylvania passed new laws prohibiting home work in certain listed industries and making prohibition possible, by action of the State labor department, whenever home work is found to be detrimental to the home workers themselves, or to jeopardize existing labor standards in the industry, whether established by law, custom, or presumably, agreement. This broad authority is not contained in the laws of Illinois or Texas, although Texas passed a law of a prohibitory type, shifting, however, the whole control of the industrial home work to a health basis and placing the administration of the measure under the State board of health. Like the Texas law, that of Illinois places greater stress upon sanitation and health than do those of the other two States.

Certification of home workers by the administering agency, and the establishment of a minimum age limit are important features of the new legislation. Illinois and Pennsylvania have set a minimum age of 16 years, below which no person may be employed as a home worker. The Massachusetts and Texas laws specify 14 years and 15 years, respectively, as their age requirements.

In addition, home-work legislation passed one house in New Hampshire, New Jersey, and West Virginia.

Except in the case of Illinois, all of the new home-work bills which were introduced in 1937 legislative sessions were adapted from the suggested language for State home-work legislation approved by this organization at its 1936 convention. No new industrial home-work legislation was enacted in Canada this year.

Legislative action in 1937 has brought the number of States which now have some regulation applying specifically to industrial home work to 17: California, Connecticut, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, and Wisconsin. In line with the growing conviction that home work as a method of industrial production must go, if its abuses are to be corrected, the following of these States now have legislation which faces home work essentially as a competitive industrial practice, rather than as a health hazard, and is aimed directly at its eventual elimination: Connecticut, Massachusetts, New York, Pennsylvania, and Rhode Island.

New York has issued two orders prohibiting industrial home work in men's and boys' outer clothing (1936) and in men's and boys' neckwear (1937). Rhode Island quite recently included a home-work prohibition in its first mandatory minimum-wage order, which applies to the manufacture of jewelry in that State.

In New York and certain other States also, the protection of the workmen's compensation and the unemployment compensation laws has been extended to home workers. The operation of the industrial home-work law in Connecticut has greatly reduced the volume of this kind of work. Under the limitations prescribed by law, the number of home workers certified in Connecticut is now 124, as opposed to the State labor department's estimate of approximately 7,000 in 1934. Under its new law, the State labor department in Rhode Island has granted licenses to 72 employers and 972 home workers have secured certificates.[1] Wisconsin, one of the few States which applies its minimum-wage law to home workers, has never permitted the growth of the home-work system and in 1936 had only 142 persons registered as doing this work in the entire State.[1]

In Canada, there have been provisions regarding home work in the factory laws of Ontario and British Columbia for several years. These were, however, designed for the protection of the public, as well as of the workers, from the point of view of public health. In Ontario, in 1936 the Factory, Shop, and Office Building Act was amended to repeal the old sections on home work and to provide for a stricter system of registration and permits for employers and home workers.

[1] From Activities Affecting Gainfully Employed Women, U. S. Women's Bureau, July 1937, p. 12.

No permit may be issued to an employer unless the factory inspector is satisfied he is likely to comply with the provisions of this act and the Minimum Wage Act. No home workers may be employed at wages less than those established by the minimum-wage boards. Similar legislation was enacted in the same year by British Columbia.

In its last report, this committee emphasized the necessity of devising methods of controlling the interstate flow of home work. State legislation does not meet adequately the problem of the passage of industrial home work across State lines. In fact, one result of the new type of prohibitory law may be to shift home work from the State in which it becomes prohibited to other States where there is no such regulation. From this point of view it is significant that 31 States still have no home-work law or regulation whatsoever, and are therefore open to the development of the home-work practice, unless steps are taken to the contrary. If industrial home work is to be effectively controlled, these States must enact such legislation, not only to protect themselves, but also to protect the more advanced States from competition which results from their lack of regulation.

During the past year certain of the States have continued to report to each other specific cases of the shipment of home-work goods across States lines and, in an effort to develop some type of control of the interstate passage of industrial home work, are making informal cooperative working agreements. Such an arrangement was announced on June 16 by the New Jersey and New York departments of labor, whereby New Jersey has refused to license the out-of-State employer to give out home work in New Jersey, unless a local distributor is named to represent him in the State.

Your home-work committee feels: (1) That efforts should be continued to explore and consider possible methods of effectively controlling the passage of home-work goods across State lines until some feasible means of such control develops. (2) That States should give serious consideration to the possibilities of applying, on a more extensive basis, such other labor laws as workmen's and unemployment compensation laws, to industrial home work. (3) That the committee should arrange to meet at periodic intervals during the coming year to consider the various aspects of the home-work problem. The committee hopes to hold such a meeting before the end of the current year.

In closing, the committee recommends the endorsement of an additional provision to the bill which this body endorsed in 1936, providing for the issuance of certificates to industrial home workers. Such an addition is in line with the recommendation made by your committee at the 1936 meeting.

Discussion

Mr. MOONEY. I should like to have the convention endorse the additional provision I have referred to requiring the certification of home workers.

[Mr. Patton moved that the recommendation be referred to the committee on resolutions. Seconded and carried.]

Mr. WALLING. In the interest of completeness I think it might be worth while to add something about Federal legislation on this subject. We now have a beginning in Federal legislation in the provisions of the Walsh-Healey Public Contracts Act, as we have construed that act to prohibit the purchase by the Federal Government of goods which have been produced in whole or in part by industrial home work. That provision is not specifically in the statute, but it has been construed administratively in that way and so far has not been challenged, and we hope it may prove to serve as a precedent.

Mr. MOONEY. On behalf of the committee I am glad to accept Mr. Walling's very important addition to the report. The committee gave rather lengthy consideration to that question—the effect of the Public Contracts Act upon home work in the various States—but we felt we were without sufficient knowledge at that time as to how it works.

Civil Service

Civil Service

Report of Committee on Civil Service, by E. B. PATTON (*New York Department of Labor*), *Chairman*

In view of the slowness with which the merit system in State service has gained ground in the past, the progress made during the past year is noteworthy. For the first time five States have adopted civil-service laws in any one year. Arkansas, Tennessee, Maine, Connecticut, and Michigan have during 1937 been added to the list of "civil service" States, bringing the total to 15. In seven other States (Alabama, Arizona, Georgia, Kansas, Florida, Minnesota, and Oklahoma) civil-service bills were passed by one house but failed of consideration in the other. In Indiana, Montana, Nebraska, New Hampshire, Rhode Island, Texas, and West Virginia bills were defeated, but the support given them by the press and civic leaders indicated an awakening to the value of the merit system which in time must be reflected in the legislatures. Greater interest in improvement of government service was evidenced also by the establishment of "career training" courses in many universities.

Among the unfavorable developments during the past year, the most outstanding occurred in Ohio. Although the legislature was unsuccessful in an effort to eliminate an appropriation for the State civil service commission from the appropriation bill, it passed a bill, which was signed by the Governor, forbidding the commission from fixing educational requirements in examinations for any but certain technical positions which have limitations specifically imposed by law. This means that the commission must spend its limited funds on examining clearly unqualified persons for such positions as psychologist, social worker, engineer, accountant, examiner, curator, and bacteriology technician.

Besides the adoption of general civil-service laws by the five States listed above, the principle of the merit system has been applied to other States through the influence of the Social Security Board. All of the States have adopted unemployment-compensation laws and appear to have recognized, or at least paid lip service to, the merit principle in selection of employees. Many of the laws, however, instead of having civil-service examinations held by a separate civil-

service commission, permit the unemployment-insurance commission itself to conduct the tests. The Social Security Board is now working on a standard classification plan for State unemployment-insurance agencies and a manual on testing procedures.

In New York State real progress toward a sound compensation classification system for all State employees was made during the 1937 legislative session, when a "civil service career law" was passed and signed by the Governor. This law established minimum and maximum salaries and annual increments for State employees, and creates a temporary salary standardization board to allocate every existing position in the State civil service to one of 11 service groups, and to salary grades within each service group.

Reports from Washington indicate that the merit system in the Federal Government may soon be materially strengthened and extended. A bill to reorganize the Civil Service and to bring within it some 305,000 Federal workers in addition to the 515,000 already classified has been reported favorably by the House Governmental Reorganization Committee studying President Roosevelt's recommendations along that line. The bill would abolish the present Civil Service Commission of three, and substitute a single administrator, who would be advised by a board of seven members.

In January of this year a director of personnel was appointed in the United States Department of Labor, making the latter the second regular Federal department to recognize the importance of supervising its employees' training, welfare, and morale and the necessity for the development of a comprehensive scientific personnel program. The only other regular Federal department to have a personnel officer is the Department of Agriculture, which established a personnel office in 1925.

Outside of the strengthening or the extension of the merit system, the outstanding development this year was the increase in activity of public-employee labor unions. These new activities have resulted in public personnel administrators and officials being called upon to make decisions on matters of policy that only a short time ago were purely academic questions.

For example, the possibility that the industrial organizing rivalry between the C. I. O. and the A. F. of L. would eventually be extended to the governmental field became a reality when the C. I. O. recently granted charters to the United Federal Workers of America (Federal employees) and to the State, County, and Municipal Workers of America. The United Federal Workers of America, as a C. I. O. affiliate, will compete for members with other organizations. In addition to unions of employees in the postal service and other special groups, the C. I. O. will compete with two other major unions of Federal employees, the National Federation of Federal Employees,

a former A. F. of L. affiliate, but now an independent group, and the American Federation of Government Employees (A. F. of L.). The C. I. O.'s State, County, and Municipal Workers of America will compete with the A. F. of L.'s American Federation of State, County, and Municipal Employees, organized in 1935. Also in the field is the National Association of Civil Service Employee Organizations, which was formed in 1936 as an association of governmental employee organizations whose members are civil servants in State and local governments that have merit-system laws.

These recent developments in governmental employee activities have led to considerable discussion about whether organizations of Government workers should be affiliated with industrial labor unions. Another question raised deals with collective bargaining. When asked to comment about the right of Government employees to demand collective bargaining, President Roosevelt declared that it was a strictly limited one. The President explained that administrative officials in Government have little or no authority to prescribe either wages or hours, and that workers would have to take their grievances to the legislative bodies whenever they desire any major change in these matters. The President, however, expressed the belief that there should be a maximum of collective bargaining between employees and the heads of governmental agencies in those matters where the administrative officials had discretion.

Recently the Governor of Oregon announced that collective bargaining between the State of Oregon and its employees will not be permitted. In a public statement the Governor declared: "The State cannot and will not enter into bargaining with labor-union organizations or their representatives regarding State employees, for the simple reason that because public money is used for payment of the services of employees it is mandatory that no person be discriminated against for not belonging to a union, nor given preference because of membership." Shortly following the Governor's statement the Oregon State Board of Control sent a notice to all State departments which read "the membership in union-labor organizations must not involve participation in union activities if such activities interfere with the duties of the employee or be in any way inimical to the interests of the State of Oregon and/or the general public whom he serves. The department executives and their accredited representatives will not bargain with union-labor organizations or their representatives regarding employees, but will, as the occasion arises, discuss all matters of wages and hours of employment with the individual employees." Against the above statements we quote from an editorial appearing in the July 1937 issue of the Wisconsin State Employee, organ of the Wisconsin State Employees Association, which is an employee union, the following:

Public employee unions in the past have not demanded the closed shop. * * * Present developments indicate, however, that unions of public employees may find it advantageous to secure closed shops in the future, since adjustments secured for public employees affect all employees within a governmental jurisdiction whether they are union members or not. This has brought about a peculiar situation of "hitch-hiking" by workers who enjoy the benefits of adjustments without contributing either financial or moral support to the organization securing the adjustments. * * * Objectives of public employee labor organizations are similar to those of all unions seeking fair wages, hours, working conditions, and adequate social security for their members.

In New York State, Industrial Commissioner Elmer F. Andrews has sent a notice to all offices of the State Labor Department, which states that employees are free to join or not to join any lawful organization they may choose to affiliate with. Commissioner Andrews has also appointed an affiliate, to discuss employee grievances and requests. Your committee believes that there should be the utmost degree of cooperation between civil-service administrators and departmental heads and any lawful employee organization.

Another problem affecting the merit system, which, due to the setting up of new governmental agencies, is becoming more and more important, concerns transfers within the civil service. In this connection, the Social Science Research Council, in a recently published report entitled "Government Statistics," urged the Federal Civil Service Commission to develop a more effective system of transfer within the Federal Government. In New York State, the division of placement and unemployment insurance, the newest division of the department, has been set up as an independent unit for promotions, thus cutting off promotions to and from this division and the rest of the State labor department. It is this committee's feeling that such restrictions on promotions should be discouraged.

Another problem is that of veterans' preference. The February 1937 News Letter of the Civil Service Assembly, in discussing the Arkansas civil-service law, states that a notable feature of the new law is the freedom from the handicaps of veterans' preference.

Of course, we always have the important problem of efficiency rating. Along this line, your civil-service committee believes that the appointment of directors in each department of the Federal and State Governments to devote full time to personnel administration and problems of civil service within his particular department may tend to make for more equitable systems or merit rating within each department. Such full-time personnel directors have, in 1937, been appointed by the New York State Insurance Fund and by the Division of Placement and Unemployment Insurance. Such a system of departmental personnel officers should also aid the adoption and extension of employee training and other constructive in-service activities.

As regards the recommendation submitted by your committee last year that the association cooperate with the various organizations which are interested in safeguarding, improving, and extending the merit system, we are pleased that the association saw fit to extend such cooperation to the extent of continuing this committee. As for the recommendation relative to the establishment of sound merit rating and compensation-classification systems for public employees, the committee is particularly gratified by the passage of laws in California and New York State setting up such systems, which have as their express purpose the development of a career service. Your committee wishes to point out that such legislation should be drafted with great care after consideration of the whole problem. We should not countenance the development of a mere pressure group for the purpose of securing salary increases, and other benefits, for public employees. The interests of the citizenry as a whole should be kept in mind, and it should be clearly understood that in seeking permanent tenure and reasonable remuneration for public employees, the motive is primarily to get the State's work done more efficiently and, in the long run, at smaller expense. If the idea takes root that the civil-service movement is one that protects public employees from the politicians but that gives no protection to the public from an intrenched group of workers, then the movement for civil service will, and should, lose the support of public opinion.

Relative to the recommendation regarding the establishment of training courses for public service, your committee is especially impressed by the action of the Massachusetts State Department of Education in announcing that it would sell home-study courses to applicants who plan to take civil-service tests in October for positions in the Massachusetts State or local police departments. The courses will be based on the material covered by tests of the Massachusetts Department of Civil Service. This announcement called attention to a whole series of courses given by the Division of University Extension of the Massachusetts Department of Education. Among the civil-service preparatory courses available are those for the positions of clerk, stenographer, social worker, railway-mail clerk, motor-vehicle examiner, and highway foreman.

In Wisconsin, the Department of Economics of the University of Wisconsin and the Wisconsin Industrial Commission are cooperating in the conduct of a training program for college graduates interested in preparing for positions in public administration of laws relating to labor. In 1937–38 the program will prepare specifically for work in the public employment service, in the administration of unemployment compensation, and in the enforcement of State or Federal laws regulating wages, hours, and child labor.

Discussion

Mr. PHELAN (Ottawa). As one who has had a good deal to do with the Federal civil service in Canada, I am particularly interested in this paper. There are some features which I should like to go into a little in detail, but due to the time limitation I will waive most of them. On one point, however, I should like to comment. In many civil-service systems—and I know it is the case in our own Federal civil service in Canada and in the Provincial civil services—young people are brought into the civil service, whether by examination or other method, and they have all the required qualifications for the positions to which they are initially appointed. It seems to me, however, that there is lacking any concerted effort on the part of the Government or of the departments to put in the way of the young person with ambition, who enters the civil service, any means whereby he may prepare himself for future advancement.

Reference is made in the report to assistance given by one of the leading colleges in the United States. In Canada in recent years some of the colleges have taken up this matter and now offer special courses. I might mention one rather interesting experiment which is still under consideration. The University of Toronto offered to carry out in the city of Ottawa, for the benefit of permanent civil servants in that city, a full course leading to the special degree of bachelor of public administration, the course to be given in the form of night lectures and during the summer season immediately following the closing of the offices.

In a general way any such move is all right and all to the good, but it strikes me that in the field of labor legislation—for example, the variety of matters we have been discussing here—the association might give some thought to this and might make inquiry of the several States and Provinces as to what documents may be available which could be worked into a practical course which could be studied under the direction of the leading officers of the different departments by the young persons who are today entering the service. After all, the future administrators of the several departments having to do with labor and social matters will be recruited in the main from those who enter at the very bottom of the ladder and who are entering today, and anything this association could do to encourage those young people to specialize in the work to which it is presumed they are going to devote their lives would be of undoubted benefit eventually in the matter of proper administration of social and labor legislation.

It seems to me that if the incoming executive board could give some thought to this subject during the coming year and present a definite report on that particular question at the next meeting, the organization would be rendering a benefit of a very material sort in furthering

proper administration of labor and social matters, and incidentally would be giving very practical assistance to the younger people entering the field of this particular phase of public administration.

Mr. LUBIN. In view of the remarks just made and in view of the reference to the situation in the State of Wisconsin as presented by Mr. Patton in his report, I think it might be worth while to bring out the fact that Harvard University has just started a school of public administration for the purpose of training people in the administration of law. Our particular interest, of course, is in the administration of labor law, and Wisconsin is the only State where the university has undertaken to train people in those fields. I think it is very significant that in most of our States it is next to impossible to get a civil-service job unless you happen to be a citizen of the State. If the standards of civil-service examinations should be raised and should become more exacting, the supply of people who will be able to meet those standards in many States will be insufficient. I think this association has a duty, particularly so far as labor law is concerned, to see to it that those States which are represented in its membership, as well as others—particularly where State universities are in existence—undertake to train people in these problems that are of particular concern to us, thereby raising the general level of State labor departments. In conformity with the preceding suggestion I should like to submit a motion that the resolutions committee give consideration to the advisability of the association, as an association, undertaking to interest the various State universities of the country in preparing people for administration of labor law.

[Motion seconded and carried.]

Mr. LUBIN. I think the first question is, What can we do as an organization to ease the rise of capable people in our respective departments? There is, no doubt, a policy in the various departments here, and I think we would all profit by knowing about them. In our own Bureau, which deals primarily with economic and statistical research bearing on labor, we have a policy of announcing every job that is open because of vacancies or new jobs, and asking anybody in the Bureau who happens to be interested to make application for the job. We state the qualifications in our announcement and invite anyone who is already in the Bureau to make application and state his qualifications. We then appoint a committee to go over the applications, and if it is possible we try to fill the job from the ranks of the Bureau. The effect on the morale has been very good. I should like very much to know what provisions are being made in the various State and Provincial labor departments to make it possible for a person to find a career, and to make him feel that if he does his work well he has a chance to get to the top.

Mr. WHITAKER. In Georgia we have the advantage of a technological school which has a system of cooperation with industry whereby students spend so many months in school and so many months in industry. If I continue in the labor department, I hope to be able to induce it to put on a similar course later on—not merely a theoretical course, but one which will take a man with the proper education and background and teach him the fundamentals of the thing from the theoretical standpoint and also, through cooperation with shops, give him practical experience in the different fields in which he is to be engaged. I think that would be a good solution. We must have some way to guarantee that the people who make inspections and enforce labor laws will have sufficient education and background, plus some practical experience, to enable them to overcome any criticism they may meet in dealing with industrial workers.

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Adjustment of Industrial Disputes

Activities of the National Labor Relations Board

By EDWIN S. SMITH, *Member, National Labor Relations Board*

The bulk of the work of the National Labor Relations Board is done by its 21 regional offices located in as many cities—industrial cities—of the United States, the nearest to this present gathering being the regional office in the city of Buffalo. These 21 offices are each under the direction of a regional director. He is assisted by a number of lawyers and a number of persons whom we call field examiners. The number of each of these classes of officials is determined, of course, by the volume of business which comes to us in the particular territory. It probably is not necessary before this particular audience to state in any great detail just what the National Labor Relations Act is. Suffice it to say that the act is designed to protect employees who desire to organize collectively for their mutual benefit from attempts by employers to interfere with such organization. In connection with that general purpose, as described by Congress in the preamble of the act, there are a number of specific unfair labor practices listed—practices which the employer may not indulge in without the expectation that he will be running into difficulties with the National Labor Relations Board.

In case there is a suspicion that one or more unfair labor practices are in the process of being executed by the particular employer, a charge may be brought by an individual or a labor organization to one of our regional offices stating that such is the situation. The Board, under the statute, has no right to intervene in any such situation, except upon a charge duly made before one of its representatives. Let us suppose that a union charges that a particular employer has been seeking to break up organization of the union in his plant by discharging certain of the key people in the union, on the pretense that they had become inefficient, insubordinate, or what not. Naturally, if an employer is free to pick out prominent officials in a union and discharge them, this operates very quickly as a depressant on union organization. Each other member of the union sees himself symbolically executed by some such means if he in turn presumes to take any active part in organizing his fellow workers. So, quite properly, the act provides that discrimination, including discharge

of anyone because of his union affiliation or activity, is an unfair labor practice; that is, a practice tending to destroy the organization of employees.

When such a charge is brought to our regional office, an investigation is at once launched by the director or by one of his subordinate field examiners. Almost the first thing which the director does after listening to the story as brought to him by the union is to call upon the employer and state the facts of the charge as they have been laid before the director. If, after talking with the employer, and if, after further following up members of the union who say that they have information on the situation complained about, the director is convinced that there is no merit to the charge which has been brought to him, he so advises the union and seeks to persuade it to withdraw the charge. If the union does not agree with the director's judgment, he will formally refuse to issue a complaint on the charge. The union has an opportunity under the rules and regulations to appeal to the Board at Washington for a reversal of this action of the director.

Contrary to the general impression that the Board and its agents are constantly straining at the leash in order to get an opportunity to drag the employer through a public hearing and to expose his villainies, I want deliberately to stress the fact that a very considerable proportion of the cases brought before our Board are disposed of in the manner which I have indicated. I can give you some figures on that subject. The Board was appointed in August 1935, but because of the many problems surrounding the building up of a new organization in a totally new administrative field, it actually did not begin to function until October 1935. During the period from October 1935 to July 1937, inclusive, the various regional offices refused to issue complaints in 526 cases that had been brought before them. In 865 cases either the union voluntarily withdrew its charge after the director had convinced it that the charge was insubstantial or the director persuaded the union to take such action. You will see, therefore, that before the Board takes any sort of formal action in connection with a charge that has been laid before it, a very careful sifting process takes place.

One of the specific criticisms made against the Board is that in most cases which are decided by the Board through formal decision the verdict, so to speak, goes against the employer. This is a true statement of fact and the reason for it, it seems to me, can very largely be attributed to this very careful process of sifting the cases which I have described. When the Board is finally ready to issue a complaint against an employer it should be in possession of a sufficient amount of factual information behind that complaint to presuppose in all probability the facts brought out at the formal hearing would substantiate the facts that have been informally gathered. Those facts are

gathered through employees who may subsequently appear at the hearing as witnesses, and they are gathered also from the employer and his officers during the course of the preliminary investigation. If any very large proportion of the cases decided by the Board failed to sustain the original complaint of the Board, it would be an indication that the Board was wasting the taxpayers' money by rushing into cases and issuing complaints without an adequate basis of fact.

Going back to the procedure followed in the regional offices, let us suppose that the director, instead of finding that there is no substantial basis for the charge, concludes that there is good reason to believe that the employer has committed the unfair labor practice alleged. He is under instructions from the Board to exhaust every reasonable effort to try to obtain from the employer substantial compliance with the act before resorting to the device of issuing a formal complaint and holding a formal hearing. There are a number of reasons for that. One reason is a saving in expenditure by the Government and by the parties to any such formal proceedings. Another is that it is the Board's very firm conviction that if these situations can be worked out by amicable arrangement between the employer and the union such an arrangement lays a basis for much more satisfactory labor relations in the future in that particular plant than if, as the result of a formal hearing and a formal order by the Board, perhaps backed by a formal order from the court, the employer is obliged to do certain things which he is very unwilling to do.

Although the Board is not a mediation body and has no specific powers of mediation and conciliation, we do attempt to settle out of court, so to speak, as many as possible of the cases which come before us, and in that regard I think we have a pretty good record. Out of 4,075 cases which were closed during the period which I have mentioned, from October 1935 to July 1937, 2,216, or 54 percent, were closed by agreement of the parties and the representative of the Government in the fashion that I have indicated. When you add to cases closed by such methods the cases that are disposed of by withdrawal of the charge or refusal of the director to issue a complaint, it follows, naturally, that a comparatively small number of cases ever come to formal hearing and ever come to the Board in Washington to be finally disposed of. As I recall the figures, out of the first 5,000 cases which were brought before the Board, only 200 ever came to the Board for final decision. That, of course, is a very small percentage, and illustrates amply, I think, the fact that the Board does make every effort to dispose of these cases in an informal fashion.

Let us take, however, the exceptional case, which, incidentally, is the only kind of case that makes news. That is for rather obvious reasons. There is not a great deal of news value in saying that a certain case has been settled informally unless a strike is involved,

or for some other reason public interest has previously been concentrated on the particular situation which the case covers. If the director is unable to dispose of the case in one of the ways I have mentioned, he may issue a formal complaint against the employer. The complaint at that stage has become the complaint of the Government. It has been transformed from a charge made by a union to an official complaint of the Government that the employer is disobeying this Federal statute. Accompanying the complaint is the notice of the date of the hearing. A trial examiner appointed by the Board in Washington is sent out to hear the case. The actual case which is tried in public proceeds somewhat along the manner of a lawsuit, except that the procedure in general is more informal and, because of the nature of the problems with which we are dealing, matter is received in evidence which sometimes would not be received in a court of law. The statute specifically recognizes that the Board does not have to be bound by strict rules of evidence in the handling of its cases.

The employer, of course, is a party to the hearing and is represented by his witnesses. The Government attorney calls his witnesses to give the picture of the Government's case. The employer's attorneys cross-examine these witnesses. The employer is then invited to produce his witnesses, who are examined by his lawyers and later cross-examined by the Board's lawyers. The trial examiner presides over the hearing but takes very little part in it, except as it may be necessary to clear up certain factual information which he believes has not been brought out but could have been brought out by either the lawyers for the Government or the lawyers for the employer. Our trial examiners, in my judgment, do an excellent judicial job, sometimes under very trying circumstances.

One of the recent angles of employer propaganda against the Board is to describe us as judge, jury, and prosecutor all in one, and to vent a good deal of feeling against the Board's trial examiners. I am convinced that in at least two or three of our recent cases lawyers for the employer have deliberately tried to provoke the trial examiner into some expression of partisanship, so that thereafter they could rush into print with a charge that the Board was acting unfairly in regard to the case. These men conduct their job in a dignified fashion, occasionally under very trying circumstances. The great majority of employers, I should add, do not attempt to pursue such tactics and the atmosphere of the average Board hearing is entirely peaceful.

After the trial examiner has conducted the hearing and received all the evidence, he prepares an intermediate report to the Board stating his findings of fact and his recommendations as to how the case should be disposed of. That finding is served upon the employer and upon the union which is a party to the case. If he finds that the employer

has not committed the unfair labor practices alleged and if the union takes no exception to his report, that disposes of the case. If he finds that the employer has committed an unfair labor practice and if the employer complies with that finding, that disposes of the case. Many cases are disposed of in that way. If the union takes exception to the finding, the entire record of the case comes before the Board in Washington. Almost always briefs are submitted by the employer, sometimes by the union. Almost invariably oral argument is requested, the Board in Washington hearing such oral argument. Finally, a decision is made by the Board, setting forth in detail its findings of fact.

If the Board finds that the employer has violated the act, it orders him to do certain things which will bring about conformity with the act. Let us say that he is ordered to return certain men to their jobs with back pay from the time they were discharged, that he must post a notice saying he will not hereafter interfere in any fashion with the organization of his employees, that he will disestablish relationships with a company union that has been found by the Board to be dominated by him, etc. If the employer complies with this order of the Board, that ends the matter. If he does not, either the Government or the employer may take the case into a circuit court of appeals. The circuit court reviews the record, and if it agrees with the Board in its interpretation of the act in its application to this particular situation, and if it finds that the Board's findings are supported by sufficient evidence, it will order the employer to do what the Board has previously said that he should do. The employer may then appeal the case to the Supreme Court. If he does not do this and does not comply with the order of the circuit court, he would be in contempt of court and subject to whatever punishment the circuit court might choose to visit upon him. I think it is of considerable interest to know that of the 16 cases so far decided by the Federal courts, in only one instance has a Board order been set aside. This was a case in which the events occurring subsequent to the hearing and decision had so altered the picture of labor relations in the company's plant that the court held the order was inapplicable.

The circuit courts of appeals, which is true of Federal courts in general, are certainly not considered to be radical bodies or bodies partisan to labor, so that the Board derives a great deal of reassurance as to the fairness of its procedure and the manner in which the cases are handled by this almost 100 percent record of support by the Federal courts. As a matter of fact, the Supreme Court, in deciding one of the Board's cases last April, went somewhat out of its way to commend the procedure defined in the act, as assuring fairness to all parties in the administration of the act.

As to the results of the Board's work, I think they may be very briefly summarized. Something like a thousand cases which had

already developed into strike situations have been disposed of through the Board's procedures and the strikes terminated. Here I must mention what is perhaps almost the most important function of the Board, and that is the holding of elections to determine by what agencies the workers wish to be represented. The strike in the Jones & Laughlin Corporation in Pennsylvania, involving 27,000 employees, which had gone on for 3 days, was settled by an election held under the Board to determine whether or not the workers wished to be represented by the Steel Workers Organizing Committee of the C. I. O. We figured at that time that if the strike had gone on for a couple of weeks, which it might easily have done, that the cost in pay rolls alone would have been something like twice the then annual appropriation of the Board. What might have been a strike situation in the Packard Motor Co., since strikes were taking place pretty much all over Detroit at that time, was similarly disposed of by an election.

The United States Bureau of Labor Statistics, studying the figures on causes of strikes over a recent period of years, finds something like 47 percent of the strikes have been caused primarily by actions of the employer which are described in our act as unfair labor practices. It was largely on the basis of such a showing of the causes of strikes that Congress enacted this legislation. It felt that such unnecessary strikes could be avoided if the employer were obliged to do the things which the act now requires him to do. I believe the judgment of Congress and the support of the Supreme Court of that judgment have been amply demonstrated in the results of the work of the Board. In addition, all of these cases which have been settled by the Board or disposed of by Board order might have developed into strike cases if the Board had not been in a position to check the labor disturbance, or rather, to prevent the labor disturbance at its source.

I wish to say a few words on the criticisms recently raised against the Board by some of the officials of the American Federation of Labor. It is not a new thing for legislation to produce results unforeseen at the time of its enactment. Certain developments in the labor movement in the United States illustrate this truism in the case of the National Labor Relations Act.

Among other things, the act was designed to give the majority of employees in an appropriate bargaining unit the exclusive right to represent all employees in that unit. The typical situation assumed to be covered by this provision was one in which rival unions were wholeheartedly contending for membership. The act provided for a peaceful determination of such controversies, which might otherwise result in strikes, by empowering the National Labor Relations Board to hold an election, or by other appropriate means, to determine which group should be certified as the proper and exclusive bargaining agency of the employees under the democratic doctrine of the majority rule.

It is a well-known fact that much so-called organization of labor in the past has not proceeded on the basis of a prior enrollment of a majority membership of the employees in the union before an attempt was made by union officials to negotiate with the employer. It was not uncommon for a labor union to make an agreement with an employer, sometimes even a closed-shop agreement, before more than a minority of the employees had been organized, perhaps before any employee had signified his desire to be so represented and contractually dealt with.

Such arrangements were not of necessity disadvantageous to the workers. Many times employers, whose low wages were an unfair competitive threat to organized concerns in the same industry, have by argument, or a threat of strike or boycott, signed agreements with unions which have redounded substantially to the good of their employees. Thereafter the union has proceeded to organize the workers to support the union which had gained them these advantages. The labor movement was not held to be prejudiced by such organizing techniques, nor could anyone lament an evil done to the employees whose wages, hours, and working conditions had thereby been benefited.

Such activities by a labor union might still go uncensored under the National Labor Relations Act, where there is no individual or another union to protest that the interests of its members have been violated by the fact that the employer has executed an exclusive-bargaining contract or a closed-shop contract with an organization which does not enjoy the majority support of the employees.

Since the split between the A. F. of L. and the C. I. O. has become an ever-widening and apparently impassable gulf, at least for the present, both bodies have undertaken extensive organization campaigns. This frequently results in both trying simultaneously to secure a position of dominance among the employees of the same employer. Had such a rivalry been present in the era before the Wagner Act was passed, one union or the other might have carried off the palm, or more specifically the contract, regardless of the number of its employee adherents in the plant. The defeated organization would customarily retire from the field to seek its laurels elsewhere.

Under the terms of the National Labor Relations Act and, in particular, under the conditions of bitter factionalism, which frequently, though by no means always, marks the present rivalry between the A. F. of L. and the C. I. O., this picture has undergone a considerable change. It appears that a considerable number of employers have concluded, for one reason or another, that it is to their interest to deal with the A. F. of L. rather than the C. I. O.

Let us see what may result in an extreme case, such as has been charged in several instances to our Board. A representative of the

A. F. of L. has succeeded in persuading the employer to sign a closed-shop contract with his union. In the meantime it is alleged that a majority of the employees had already joined a C. I. O. union and that only a minority had joined the A. F. of L. It is further claimed that the employer has attempted to discourage alliance of his employees with the C. I. O. and has encouraged their joining the A. F. of L. After the closed-shop contract is signed, the employees who still retain their C. I. O. allegiance are, under the terms of the contract, discharged. Their representative thereupon brings a charge to the Labor Board that the employer, by entering into a contract under such circumstances, by discharge of these men, and by other ways favoring the A. F. of L. and discouraging the C. I. O. has violated sections 8 (1) and 8 (3) of the act. This is a proper charge, and the Board has no other duty under the act than to investigate and see if the facts are as alleged. If upon careful examination the evidence indicates strongly that the charge was well-founded, the Board must issue a complaint and proceed to a hearing for a final determination of the question.

The result of the Board's inevitable entry into a number of such cases has brought on its head a copious flow of criticism from the American Federation of Labor. This we greatly regret. The Board is not partisan to the C. I. O., and no proof of such alleged partisanship has ever been produced. If an employer were to enter into arrangements with the C. I. O. which violated the rights under the act of A. F. of L. members, we would be just as prompt to proceed against him.

This raises the question of whether the act, insofar as it deals with situations of this sort, is a good or a bad thing for the labor movement. My conviction is that it is all to the good.

The more that labor unions are forced to obtain the good will and allegiance of employees before they conclude agreements with employers, the sounder is the prospect for the union in the future. Unions which are the fruit of an unwilling or half-hearted membership can never attain the solidarity of permanence of those which advance step by step in harmony with the enthusiasm and the ideas of an educated and faithful membership. To the extent that the Wagner Act has resulted in an increased democratization of unions, the rank and file of labor owe it a debt of gratitude.

By discussing methods of organization in reference to the divergence of point of view which has sometimes occurred between the A. F. of L. and the Board, I do not wish to be understood as characterizing unfavorably the organization effort of the A. F. of L. as a whole. The A. F. of L. has an honorable tradition behind it and throughout the country A. F. of L. officials are organizing patiently from day to day on the sound basis of appeal to the workers and are obtaining satisfactory results by so doing.

As it happens, the Board, even since the split, has handled many more A. F. of L. cases than C. I. O. cases through its regional offices. Not all employers are anxious to deal with the A. F. of L. and their animosity to the union organizing in their plants leads them into unfair labor practices, upon proof of which the Board, of course, takes action.

Naturally, every well-wisher for American labor hopes that sooner or later these two great factions will be reunited. In the meantime, let us also hope that the disposition on both sides will continue to be predominantly that of genuine organization of the workers and not of first selling the employer on the idea of dealing with the union and then seeing if the workers are willing to come along.

State Labor Relations Boards

By Rt. Rev. Msgr. FRANCIS J. HAAS, *Wisconsin Labor Relations Board*

Since April 12, 1937, when the United States Supreme Court upheld the constitutionality of the National Labor Relations Act, five States—Massachusetts, New York, Pennsylvania, Utah, and Wisconsin—have either enacted or made effective State labor relations laws, popularly known as "little Wagner laws." The central purpose of these statutes is the same as that of their Federal counterpart, furtherance of public policy by permitting workers to organize for the purposes of collective bargaining, in such manner as they choose, free from employer influence, interference, or coercion.

To this end, the statutes define certain acts of employers as unlawful and confer on a board of three persons the power of prosecuting employers found to be engaging in such conduct. The acts, commonly called "unfair labor practices," and generally following the Federal statute, are five in number. It is an unfair labor practice for an employer: (1) To interfere with or coerce employees with respect to self-organization; (2) to initiate, foster, or aid financially a labor organization; (3) to discriminate among employees for the purpose of undermining legitimate organization; (4) to penalize an employee for testifying in support of the act; (5) to refuse to bargain collectively with the representatives chosen by the majority, and to engage in collective bargaining with any agency other than such majority representatives.

The Wisconsin and New York statutes add to these practices two others—espionage and blacklisting; and that of New York, which is the most detailed, includes the individual or "yellow-dog" contract. The Massachusetts statute, in somewhat ambiguous language, referring to the "sit-down" strike, declares that it is an unfair labor practice "for any person or labor organization to seize or occupy

unlawfully private property as a means of forcing settlement of a labor dispute." There are many variations between the State statutes as to the powers of the administering agency and as to procedures, but the broad purpose of all is to protect workers in the exercise of the right of self-organization for "the purpose of collective bargaining or other mutual aid and protection, free from interference, restraint, or coercion of employers."

It would probably serve no useful purpose here to analyze the national act and the five State acts. This paper is rather confined to the provisions and operation of the Wisconsin law and to the major points on which it agrees with or diverges from the Federal and the four other State laws.

The Wisconsin Labor Relations Act was signed by Governor La Follette on April 14, 1937. It provided for a three-man board, which was immediately appointed by the Governor, confirmed by the State senate, and organized on April 27. The original members were Mr. Voyta Wrabetz, chairman of the State industrial commission; Prof. Edwin E. Witte, chairman of the Department of Economics of the University of Wisconsin; and the writer, Rev. Francis J. Haas, at that time rector of St. Francis Seminary, Milwaukee.

The new law, like those of the other four States, is modeled upon the basic plan of the National Labor Relations Act, in that it specifies a list of unfair labor practices from which, under statutory powers vested in the Board, employers are obliged to refrain.

The outlawry of these practices is assumed to be necessary in order roughly to equate the bargaining position of employer and employee. To achieve this result the act (*a*) makes unlawful any employer coercion or restraint upon employees in organizing, and (*b*) imposes the duty on employers to bargain collectively with the freely chosen representatives of the majority of their workers when such representatives request collective bargaining. In the second place, the Board is empowered to conduct elections to determine the representation desired by the majority of workers in a unit appropriate for collective-bargaining purposes. The unit is to be defined by the Board, and the individuals or organization duly chosen to be certified by it becomes the exclusive representative of the workers in that unit. These are the conditions which experience under the old section 7 (a) of N. R. A., all the successive labor boards, and finally the Supreme Court have affirmed as necessary to minimize the number and severity of labor disputes. But this is nothing new, and it may be more interesting to indicate how the Wisconsin act deviates from and adds to this general pattern of government intervention in industrial relations.

The old National Labor Board, the Wagner Act, and the Railway Labor Act all assumed the right of employees in elections to choose company unions to represent them if the company union could obtain a majority vote. This was a sacrifice of logic to the difficulties of absolute proof of the "simon pure" character of any given company union, and also it demonstrated the determination to maintain a certain democracy or freedom of choice which underlies the principle of election. The Wisconsin act, however, on the theory that company unionism and collective bargaining are contradictions, provides that "no company union or officer thereof shall appear upon any ballot taken by the Board." This is in addition to the provisions, common to the national and existing State laws, definitely making it an unfair practice for an employer "to encourage membership in any company union," or "to initiate, create, dominate, or interfere with the formation or administration of any organization of employees or contribute financial or other support to it."

From the standpoint of industrial peace, the legislative intent of the act against company unions is amply justified by the figures compiled by the Bureau of Labor Statistics, which show that almost half, or much more than any other one cause, of all labor disputes recorded in 1935–36 were due to the issues of self-organization and union recognition, not infrequently complicated by the existence of a company-dominated union. (Quoted in First Annual Report of the National Labor Relations Board, p. 137.)

A novel mechanism, unique in the Wisconsin act, which is designed to instrument the practical outlawry of company unions is the function of "listing" labor organizations, imposed upon the Wisconsin board. "Listing" is not required of, but may be requested by, all labor organizations. To be placed upon the board's "list" of labor organizations, the act provides that the organization must "persuade the board that it is not a company union." At present the significance of "listing" seems to consist in the possible prestige of official "recognition" by the board; and in the provision of the act, which, by exclusion restricts to bona fide labor organizations the privileges of making "all union" or "closed shop" agreements, filing charges under the act of unfair labor practices, and complaining of breach of collective agreements by employers. However, although the act authorizes "all union" or "closed shop" agreements if made by labor organizations, it does not compel employers to enter into them. The "all union" or "closed shop" requirement remains a subject for collective bargaining.

The Wisconsin statute provides for annual appointment of both a State employers' committee and a State employees' committee, to which complaints other than those specifically listed by the act as

under the board's jurisdiction may be referred by the board. Complaints against employers are to be referred for investigation and report to the employers' committee; complaints against labor organizations are to be investigated and reported back to the board by the labor committee. In addition to these more or less "standing" committees, the board is empowered to appoint either a standing or an ad hoc bipartisan committee at any time, which may be consulted about any question having to do with the operation of the law.

As a final point of contrast with the National Labor Relations Act the Wisconsin act expressly empowers the board to appoint conciliators, or boards of conciliation, and to act as or to appoint arbitrators whenever the parties agree to submit the whole or any part of a dispute to arbitration by the board or its appointees. Thus, while the Federal law is framed on the assumption that the National Board shall be almost entirely a law-enforcement agency, proceeding against those found guilty of unfair labor practices, the Wisconsin act expressly places at least three distinct functions upon its board: (1) Proceeding against violators of the law; (2) conciliation; (3) voluntary arbitration.

As to the other State laws, the Massachusetts statute makes no mention of mediation or arbitration; that of New York expressly forbids its board to perform these functions; and those of Pennsylvania and Utah permit their boards to appoint persons for this work only if such services cannot be provided by the department of labor of the respective State.

In view of the shorter experience of the Massachusetts, New York, Pennsylvania, and Utah boards, perhaps a comparison of the Federal and the Wisconsin boards with respect to mediation may be of interest. We may set arbitration to one side as an optional and not a compulsory duty of either the Federal or the Wisconsin board. According to the Federal Board's first annual report (pp. 30–31), it appears that that agency resorts to a type of conciliation, locally through its regional offices, in the administrative process of investigating charges and complaints of unfair practices. No less than 331 cases, or 31 percent of all cases received, were disposed of by bringing the parties to an agreement. In Wisconsin by way of comparison, from the date of its organization, April 27, 1937, down to the present (September 15, 1937), the State board has acted in a mediation capacity in 81 strikes, involving between 16,000 and 17,000 employees, and of these it has successfully adjusted 75, 6 remaining unsettled as of this date. In addition to this number, it has acted as mediator in 23 controversies, involving approximately 5,000 employees, in which a strike was threatened. It has rendered formal decisions in only two cases.

A summary report of the Wisconsin board's activities from April 27 to September 15, 1937, follows:

Strikes mediated by the board	75
Impending strikes mediated by the board	23
Strikes now in progress	6
Disputes mediated during course of hearings and board complaint dismissed	2
Rulings in voluntary arbitration	1
Hearings held on formal complaint issued by the board	12
Elections conducted (including those in which the State board cooperated with the National Labor Relations Board)	38
Charges filed with board (formal and informal)	112
Charges satisfactorily adjusted	60
Charges pending	52
Formal decisions rendered	2
Formal rulings on petitions for "listing" (5 admitted, 8 denied)	13

This report shows that the board performs two distinct functions—one redressing law violations, and the other mediating differences in which the negotiating parties are deadlocked, either during a strike or otherwise. Admittedly, there are advantages and disadvantages in this arrangement. Before indicating what they are, it should be emphasized that mediation applies only to matters which can be traded across the table—wages, hours, and most of the terms of employment—but in no sense to the right of representation or union recognition. The latter is not something that can be compromised or bargained away. In fact were the board to attempt anything of the kind, it would be acting unlawfully.

One advantage in having a single board which acts both as a law-enforcement agency and a mediating body is that there is need to support only one board instead of two, a consideration carrying no little weight with appropriations committees. More important, delay, which is always to the benefit of the employer, is avoided if a single agency, through its mediation staff subject to the board, handles all cases rather than if two agencies, one doing nothing but mediation and the other nothing but law enforcement, were functioning.

Against these advantages is the very real objection that a quasi-judicial body, any one of whose members has acted as a mediator, and unsuccessfully, in a given labor controversy, may well be less than judicial when called upon to discharge the duties of an impartial judge in issuing a complaint against an employer and in passing upon the lawfulness of his conduct.

It is too early to say which of the two arrangements is better—one board acting as enforcement agency and as mediator, or two boards each limited to one of these functions. The Wisconsin experience

may throw some light on the question. The actual work of mediation in the 81 strikes and 23 disputes in which a strike was threatened was performed in the far greater number of these 104 cases by the mediation staff of the board acting under its supervision.

These figures should not be interpreted as conclusive proof of the ease to which industrial disputes submit to mediation or that mediation, pure and simple, is a cure-all for industrial disputes. After all, the board's position is not purely mediatory if at the conference table, even acting through a staff member, it holds in reserve a power such as the Wisconsin board possesses of proceeding against one of the parties for failure to do something which may be one of the points at issue. As to the larger question under discussion, the opinion may be hazarded that, all things considered, in the smaller States and in those with relatively small industrial populations, the single-board plan is the more desirable and effective.

Something should be said here regarding the question of the jurisdiction of the State board insofar as it involves that of the Federal Board. Practically speaking, until the matter is decided in the courts, so long as the same policies and decisions are followed by both Federal and State boards, the problem of jurisdiction, always inherent in our Federal form of government, need not be one of great concern. The Wisconsin Labor Relations Board and Mr. Nathaniel Clark, regional director of the National Labor Relations Board office in Milwaukee, have worked in the closest cooperation, and so long as this mutual confidence continues, the objectives of either Federal or State law cannot be frustrated by charging either board with defect of jurisdiction.

The Wisconsin board in the Rueping Leather Co. decision has taken the position that, under the police power reserved to the State, the Wisconsin act gives the State board concurrent jurisdiction with the Federal Board, and the Wisconsin board has already been enjoined tentatively from enforcing its decision on the ground that the company in question is engaged in interstate commerce. Obviously, the question of concurrent jurisdiction is one that must be ultimately settled by the courts. Whatever the judicial determination may be, short of a positive declaration of unconstitutionality, from an administrative standpoint the only problem is one of delay. The identical ends of the Federal and State statutes can be achieved by transfer of cases and loan of personnel. Inasmuch as the same principles underlie the laws covering both jurisdictions, it is only the disingenuous law violator who will question either law by trying to distinguish between interstate and intrastate commerce.

A final question may be asked. If the individual States are at some later date declared by the courts to have concurrent jurisdiction with the Federal Congress in the matter under discussion, what

need will there be for the National Labor Relations Board to continue its work? In my opinion, this question should be answered, not in terms of theoretical law, or of administration, but of social policy—the necessity of maintaining the free exercise of collective bargaining in order to enable men and women to be free in industry. To achieve this result, the National Labor Relations Board is, and will continue to be, a necessary instrument to preserve proper collective bargaining standards horizontally across State lines and to abolish standard-corroding competition between States and between each State and the Federal Government. Obviously, only on the assumption that such action is desirable and necessary can the proponent of concurrent jurisdiction urge his claim in any way consistent with sound social policy.

The objection that when and if concurrent jurisdiction is admitted, the employer intent on evading the law will seek out the board with lower standards, does not seem to carry much substance. If the complainant fears lower standards, for example, under his State law, he will be free to choose the Federal Board to protect his rights. Perhaps the question of concurrent jurisdiction will remain one of speculation for some time to come, but it may not be lost sight of in any planning for the future of State labor relations boards.

State Labor Relations Boards

By PAUL M. HERZOG, *Member, New York State Labor Relations Board*

My colleagues on the New York board, Father Boland, the chairman, and Commissioner Moore, have asked me to bring two messages: First, to thank you for the invitation to the New York board to present its problems at this conference; and second, to tell you that all of us consider ourselves particularly fortunate in that we had experience for several years under the two previous speakers. All of us were associated with the old National Labor Board and the National Labor Relations Board for several years. I think that the training we received under them will prove of great value to us, and I think you should know it.

There is no need here to discuss the larger problems which face the New York State Labor Relations Board. They are in substance identical with the problems with which the Wisconsin board and the National Board are faced. Our statute is very similar to the Federal Wagner Act. There are a few variations, and I want to mention those. Our task, however, is practically identical to that of the National Board, covering industries which are intrastate in character. Father Haas' statement leads me to speak of another agency which was created by the New York Legislature when the State labor relations board was created, namely, the New York State Mediation

Board. It was appointed by Governor Lehman on July 1 of this year. That board is composed of five members. Its task is the task of mediation. The jurisdictions have been divided in New York. The mediation board and ourselves naturally are dealing with similar problems, although our jurisdictions are distinct. We are going to share quarters. We will be on the same floor in New York City, Albany, and Buffalo. I think that will lead to tremendously better cooperation than could be achieved if we had to deal over the telephone and shunt our customers from one board to another, because naturally the unions and the employers are never clear at first as to the jurisdiction in which their cases fall. The mediation board will deal primarily in New York with disputes over wages and hours, where no question as to the representation of employees is involved, where there is no need for an election, where no allegation of unfair labor practices has arisen.

The unfair labor practices mentioned by both the previous speakers are practically identical in the New York statute. There are some variations—espionage is outlawed and blacklisting is outlawed—in New York. I think, however, that our putting it in statutory language has not added much in substance to what the Federal law, as interpreted and administered, has meant. In New York we have been functioning a little less than 2½ months. We are setting up three offices. The principal office is in Albany; the office where most of the work is to be done, however, is in New York City; and there is an office covering the western part of the State in Buffalo. The members of the board have found an even larger proportion of their work in the New York City area than they anticipated. However, we have men stationed permanently in Albany and Buffalo and they are busy also. We have handled, in all, some 250 to 275 cases. Our staff is growing slowly; if it were growing more rapidly I could have given you precise statistics. The cases have been divided about equally between petitions for elections on the one hand, and charges of unfair practices on the other.

We have a very novel clause in our act. It does not appear, so far as I know, in any other State act, and it does not appear in the Federal statute. This is a provision expressly giving an employer the right to petition for an election among his employees. The other statutes do not forbid an employer from so petitioning, but as I understand it, as a matter of practice, no other board has ever accepted such a petition. I think I understand the very sound reasons why the National Board has not accepted such petitions and acted upon them, although I do not think it proper for me, rather than Mr. Smith, to give them. The New York Legislature evidently felt that there might be occasional injustices in that situation, and that the employers

should be given the right to petition for elections. The statute is different, however, as between employer petitions and employee petitions. It says:

> Whenever it is alleged by an employer or his representative that there is a question or controversy concerning the representation of employees, the board may investigate such question or controversy after a public hearing held upon due notice. In any such investigation the board shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under section 706 or otherwise, and may conduct an election by secret ballot of employees, or use any other suitable method to ascertain such representatives (either before or after the aforesaid hearing): *Provided, however*, That the board shall not have authority to investigate any question or controversy between individuals or groups within the same labor organization or between labor organizations affiliated with the same parent labor organization.

Where it refers to an employer, it says that the board may investigate the question. It gives us clear discretion not to enter into such elections where we think some ulterior motive is involved. To date we have had about 15 petitions from employers for elections. So far as I know, all of them have arisen in cases where there is a controversy between the Committee for Industrial Organization and the American Federation of Labor. I imagine that the existence of that controversy partly accounts for the New York Legislature's having made this difference in the law. We have already seen cases where the labor organizations just mentioned are both competing to organize the employees in a plant. Each of them thinks that it represents a majority, but neither dares take a chance by petitioning for an election. Meanwhile there is serious turmoil, and the employer in such cases sometimes feels that he is in the middle and is entitled to some relief. I think the State board will use its power under these circumstances extremely sparingly, because it realizes the dangers that may be involved. While we feel that it creates a particularly difficult and occasionally embarrassing administrative task for us, we also feel that in the light of public opinion it is fortunate to have that provision in the law. I think we have gotten a little more employer confidence as a result of having that provision than we would otherwise have had.

Speaking of elections, there is one trend we have noticed. That is the increasing tendency of employers, however hostile their reactions to charges of unfair practices may be, to consent to elections. We are finding it far less necessary to order elections than any of us found it to be when we were working for the National Board some years ago. Apparently the educational task in this regard has been well done by the National Board already. Such consent, of course, means as a matter of practice an earlier election. It means we do not have to hold a hearing, but just have the parties enter into a stipulation as to who should go on the ballot and things of that kind. Thus it

is very much to the interest of employees to have consent elections. I think it is a trend that is worth calling to your attention.

The New York State Board has issued only three formal decisions to date. A good share of its work has been the conduct of elections and the holding of preliminary conferences, and the mere task of getting the Board organized. The three decisions have been: (1) A formal order of election in an instance where the employer consented to the election, but there was considerable dispute as to the conditions under which the election was to be held; (2) a decision, without an election being necessary, certifying a particular labor organization as the representative of the majority, and therefore of all the employees—I will come back to it; and (3) a decision certifying an election which we ourselves held in the Horn & Hardart Automat case. In this case the union which lost the election claimed that the election was unfairly influenced by employer interference during the 24 hours preceding and surrounding the election. We found it necessary to hold hearings and reach a decision as to whether the alleged interference had occurred, and whether, insofar as it had occurred, it could possibly have influenced the final result. The Board found, after hearing exhaustive testimony, that the result should stand.

I think I should speak for a moment about the question of jurisdiction. We too have been puzzled, as Father Haas has been, as to what our jurisdiction is and what the National Board's jurisdiction is. The degree of that puzzlement has been delightfully diminished by the sort of cooperation we have had from the National Board. Both the National Board officials in Washington and the regional directors in New York and Buffalo have cooperated with us 100 percent and we are very grateful for that. The problems, of course, are largely legal ones and not the interesting problems of industrial relationships. It is simply a matter of trying to determine to what extent interstate commerce is affected. We feel, as Father Haas feels, that there may well be concurrent jurisdiction between the State boards and the National Board, at least as to a limited field. We do not know yet. We expect, meanwhile, to work constantly on this basis of comity with the National Board and discuss with the regional directors in the first instances which cases we should take and which they should take. Naturally, this discussion is not necessary in 90 percent of the cases; there is simply a borderline series of 10 percent where we think it is always advisable for the two boards to clear with one another. Unions often file petitions with both boards at one time, and we have had to develop a system of card clearance.

Cases which are clearly within the jurisdiction of the New York State Board—and I think no one will dispute it—are practically all retail-store operations, service trades, practically all public utilities, including transit lines, employees working in the building-service in-

dustry—which of course is a tremendous industry in New York City—actual building construction, and a number of other things which I will not bother to mention.

The difficult questions arise as to jurisdiction where we have manufacturing plants. We do not know yet, after analyzing the April decisions of the Supreme Court, just how much interstate commerce it takes to be interstate commerce; how much has to come in from outside the State in the nature of raw materials before the manufacturing process, and how much of the finished product has to go out of the State after the job is done. As a working rule for the present, we are simply not attempting to assume jurisdiction in cases where over 15 or 20 percent of the finished product is shipped outside the State after the manufacturing process. It may be that we will want to ask for more later, but I am sure we can work it out very well. The courts may decide that the Federal Board's jurisdiction goes lower than 15 percent. If so, perhaps we can work concurrently, or perhaps we will withdraw. Obviously, all of us feel the job is a job that should be done if possible on a national scale, and no one on the New York State Board desires to assert that board's jurisdiction to the prejudice of the National Board, because we know that there are only five State boards, and 43 States in which the employees not engaged in interstate commerce remain entirely unprotected.

There have been some very interesting problems of jurisdiction that have been suggested to us. Suppose that a retail-store employer, having been brought before our board, claims that he is engaged in interstate commerce. There is a provision in the New York statute as follows—which someone apparently thought would prove helpful, but which has caused us some embarrassment already:

> The provisions of this article shall not apply to the employees of any employer who concedes to and agrees with the Board that such employees are subject to and protected by the provisions of the National Labor Relations Act or the Federal Railway Labor Act or to employees of the State or of any political or civil subdivision or other agency thereof, or to employees of charitable, educational, or religious associations or corporations.

Now, suppose somebody in retail trade decides to make such a concession. He is in a very good position, of course, if he wants to delay matters. If he makes the concession and we accept it and say, "All right, you don't come to us. Go to the National Board." He goes to the National Board, and the hearings proceed there. Then, a few months later, he claims in the courts that he is not engaged in interstate commerce and the National Board has no power over him. It seems quite clear to us that in cases of that character his concession cannot bestow jurisdiction under our constitutional system on the Federal Government. He cannot simply consent himself into the National Board's jurisdiction. The courts will not let him stay

there. That problem is coming up, and so far we have made a very literal and strict interpretation of that section. We have insisted that the words "agrees with the board" mean that there must be mutuality, and that the board has to agree with the employer too. We cannot let employers fall, deliberately, between two stools.

One of the problems which we have heard a good deal about is the length of time for which the results of an election are to be effective. Employers ask it and unions ask it. For purposes of argument, suppose an election was held last month, and that the A. F. of L. was victorious. When is another election to be held? The C. I. O. is organizing the plant. Will another election have to be held next month? What attitude shall we take? Lawyers on our staff may say for "a reasonable time." The next question is obvious, What is a reasonable time? and to that, of course, we do not know the answer. We are going to have to decide it, unfortunately. The other two boards can go on saying "a reasonable time," but we are going to have to do something about it, because the New York statute authorizes us, and I think in practice directs us, in the power given us to issue rules and regulations, to determine "the life of the selected representatives."

That seems to imply a very arbitrary power, but I think you know what is really meant. Some day we are going to have to issue a regulation governing the period of the duration of a choice of representatives, and it will have to be reasonably uniform. Frankly, we do not know what period we are going to adopt. Perhaps some suggestions will come from the floor later. I know of nobody who suggests a period of less than 6 months. I think most people talk in terms of a year. Some say the best length of time is the term of the contract entered into as a result of the last election. That is a reasonable way to look at it, since obviously the purpose of an election is to initiate collective bargaining and, at some stage, the entering into of a contract. I think one possible objection to that is this: It might be that knowing that such was the rule—assuming we made it that—the victorious union and the employer would freeze the situation completely by entering into a contract for what we might all agree was an unreasonably long period of time, say 5 or 10 years. Clearly, that would be a type of interpretation of the law which would frustrate its very purpose, because it would prevent the employees from having some sort of flexibility in their choice of representatives. Yet, if the period were too short, there would be no stability. We must, I believe, find the usual middle course.

Another problem is this: The statute says that if a majority of the employees selects a given organization as their representative, the employer must deal with that representative and may not, for purposes of collective bargaining, deal with any minority representatives.

But what are the obligations of an employer under this set of circumstances? An election is held. There are not two competing labor organizations, and the ballot therefore reads, "Are you in favor of the A union? Yes or No." The "noes" prevail, but one-third of the total number of employees vote "yes." Under what obligation is the employer to deal with the organization selected by this minority? I have heard one labor lawyer claim that the employer is under an obligation to deal with that minority as representing everybody, in spite of the fact that it is only one-third of the total, on the theory that there is no other collective-bargaining agency on the premises. Without wishing to bind ourselves as to any future decision, I think I could safely say that that construction of the law would hardly be sustained by our board. What would be the purpose of a "Yes and No" election if that were to be the answer? But is the employer under any obligation to deal with this losing organization for its own members only? Unfortunately, the question is largely one of statutory construction, and we will have to decide it on a legal basis. Yet I know that when our board has to decide the question, we are going to get as much expert testimony as we can. It is a question for experts in the field of industrial relations. The National Board, so far as I can determine, rendered a rather cursory decision on this subject in a case decided about 2 months ago. It ruled that it would not be an unfair labor practice for the employer to refuse to bargain with the representatives of a minority group, in the absence of a majority.

I wish to discuss one more problem, which, while it is not strictly before our board, is of tremendous significance to people interested in labor relations and probably of great importance to the ultimate effectiveness of State labor relations boards, and conceivably the National Board as well. One of the three decisions which we rendered was a certification of a C. I. O. union as the representative of all the employees of a retail clothing store in New York City. There was a serious controversy before we held our hearing as to whether a majority of these employees desired to be represented by the A. F. of L. union in the retail sales field or the C. I. O. The employer told us—and I know in entire good faith—that he did not care. He merely wanted to know which, because the contract was expiring and he wanted to enter into a new contract on September 1. However, the petition did not come up as an employer petition for election. The petition was filed with us by the C. I. O. We held a hearing, evidence was produced, and an election was found unnecessary on the basis of that evidence—it showed over 95 percent of the present employees desired C. I. O. representation.

The employer was prepared the following day to enter into negotiations with that organization. That night, however, the defeated

A. F. of L. union called a strike. It turned out to be a strike of only a few of the actual employees of this company, but the union started a very vigorous, although I think peaceful, picketing campaign outside of the 36 retail stores. The employer said, "What good to me is this certification that the C. I. O. represents my men? I have to deal with them, and if I don't, I am committing an unfair labor practice; yet the people who lose can raise just as much of a fuss as if no election had been held, and can in their picketing accuse me of being unfair to organized labor." We told him there was nothing we could do, so he said he was going into court to get an injunction against this picketing. However, the State Norris-La Guardia Act says that an injunction cannot be issued against peaceful picketing. We did not participate in the court proceedings. The employer's attorney made the argument that this clause in the Norris-LaGuardia Act did not apply in this instance, and maintained that he could get an injunction under these circumstances for the following reasons:

The Norris-LaGuardia Act says no injunction can be issued in the case of a labor dispute. The little Wagner Act says:

> Whenever it is alleged by an employee or his representative that there is a question or controversy concerning the representation of employees, the board shall investigate such question or controversy and certify in writing to all persons concerned the name or names of the representatives who have been designated or selected.

The attorney argued that "question" or "controversy" is synonymous with "dispute," on a set of facts like this. He said: "The controversy has been settled. It is over with and it has been decided that a certain organization represents the company's men. There is no longer a dispute and therefore the court can enjoin this picketing." It is a very interesting argument and it is likewise a very interesting problem. The injunction was denied, and the case may go up to the appellate court. It would be a tragedy to have these Norris-LaGuardia acts cut down in their effectiveness by judicial construction, and yet you will be interested to know that several labor leaders in New York City told us off the record that they would not be sorry to see that particular injunction granted. They were not sure but that it might not redound ultimately to the great advantage of labor to have labor-board elections sustained; that it might not make employers much more willing to consent to elections and to enter into collective-bargaining negotiations with the victorious union. Others, however, feel that even in a situation of this kind the right to peaceful picketing should not under any circumstances be cut down.

This problem will call for a great deal of industrial statesmanship. If the courts do not handle it, legislatures are going to start looking at it. The members of our own board have discussed this, and we do not yet know how we feel about it. We all like Norris-LaGuardia

acts, but at the same time we feel that board elections may lose prestige if elections do not settle problems. I should like very much to hear what the attitude of some of the people here, and perhaps the other speakers, is on this subject.

Discussion

Mr. BELL (British Columbia). I have listened with keen interest to the excellent exposition of this subject of more than passing interest. There is one particular point that I am anxious to find out more about, however. I would be much obliged if Mr. Smith would tell us how these elections are conducted. Is it by some representative of the board? Are the ballots printed by the Board, and how are they worded, and what is the majority necessary to establish the position of a particular union? And perhaps Father Haas would tell me, with reference to the listing, does it carry any weight or significance, and does a union have to go through the process of an election before it can be listed?

Mr. SMITH. As far as the elections are concerned, they are conducted entirely by the officials of the Board. The ballots are printed by the Board, and the wording of the ballot is defined in the Board's order which prescribes that an election shall be held. If there are two or more unions involved, each union is entitled to a representative at the polling place—a watcher, that is—and the employer is also entitled to have a representative at the polling place. The list of eligible voters is defined in the terms of the Board's order for an election, and the pay roll containing those names which fall within the provisions of the election is submitted by the employer. Under the terms of the election, anyone may challenge the validity of a particular name, and the challenged ballots are segregated and subsequently passed upon by the Board. Many times the result of the election is so definitely on one side or the other that the challenged ballots are disregarded, because they could not have any result on the final outcome of the election. We make a general practice of not holding the elections on the company property. For obvious reasons, we try to pick some place like the town hall or some other public building where the election should be conducted, and every provision is made, of course, to ensure secrecy in the voting. So far there has been no criticism by any employer of the board's elections. On the contrary, a number of employers have, without being requested to do so, gone out of their way to write to the Board and express their satisfaction with the impartiality of the whole procedure.

If there is only one union involved the ballot usually reads, "Do you desire to have as your exclusive bargaining representative under the terms of the National Labor Relations Act" a union, naming the

union. Then there is a provision for voting either "Yes" or "No." If there are two or more unions involved, the name of each union appears on the ballot. The Board has held, following the doctrine enunciated by the Supreme Court in the *Virginia Railway case*, that the act is to be understood as meaning that, if a majority of those eligible voters who appear to vote cast their votes for a particular union, that is determining the choice of the employees as a whole.

Father HAAS. As to the listing practice under the Wisconsin law, I may say that the statute requires the board to maintain a list of labor organizations. The words are something like this: "The board shall maintain a list of labor organizations. To be recognized and listed by the board the organization shall (*a*) file the name of its principal officer and address, and (*b*) persuade the board that it is not a company union. No other qualification shall be required." As a practical matter, the affiliated organizations of the C. I. O. or the A. F. of L. file the necessary data and are automatically listed. It is only the unaffiliated organizations, commonly called independent organizations, that petition for listing, and the procedure there is not one of election, but one of hearing. This organization is given the opportunity to persuade the board that it is not a company union. A hearing is held either by the board or by a trial examiner. The organization asking for listing presents such arguments as it can with the hope and purpose of persuading the board it is not a company union, and if either the A. F. of L. or the C. I. O. challenges the position or petition of the independent union it is given an opportunity to present its argument, but no election is held to decide listing with reference to independent unions.

Mr. WRABETZ (Wisconsin). I think attention might be called to one instance in which a union was denied listing. The membership was not limited to employees of one public-utility company, but included employees of other public-utility companies. We thought there was sufficient company dominance to refuse listing.

Mr. LUBIN. I wonder if anyone in the audience could tell us whether any of the five labor boards are independent agencies in the sense that they are absolutely divorced from the State departments of labor?

Mr. WRABETZ. The Wisconsin board is supposed to be wholly independent, but it just happens that I am chairman of the board as well as of the industrial commission.

Mr. BASHORE. In Pennsylvania it is in the department of labor.

Mrs. BEYER (Washington, D. C.). In Utah it is in the department of labor. The industrial commission is designated as the labor relations board.

Mr. HERZOG. In New York it is in the department of labor only for administrative purposes.

Chairman TONE. In most States does the department of labor do the investigating, etc., for the board? I presume that most of the labor boards are appointed in the department of labor but independent of the commissioner. Do you use the department or do you have your own investigators?

Mr. HERZOG. In New York we have to date received very generous assistance from the State department of labor in that matter. I think ultimately we will not have to call on it and probably should not when our own staff is prepared. The State mediation board will call on the labor department a great deal more than we will have to do. The members of the board are paid on a per diem basis and all are people who spend only part of their time in that work.

Chairman TONE. In Connecticut we have a board of three public employers and employees. The board is in the department of labor but the members are appointed by the governor. The deputy commissioner, however, acts as the secretary of the board, and within his division of the department he does all the investigation and the mediating if possible before a case comes before the board.

Mr. MOONEY (Connecticut). What do you think of the advisability of consolidating the powers of enforcement and mediation in one board or whether it is better to separate the functions?

Mr. HERZOG. I cannot speak from practice and experience as yet. We have been running only 2½ months, and we do not know. On theoretical grounds I should prefer the New York arrangement for divided boards. I doubt whether it would be satisfactory for a judicial body, acting through the same people, to take evidence in testimony, and then at a later stage have to base the decision on that record, knowing that the information was disclosed to them confidentially at an earlier stage for mediation purposes. Having our two boards on the same floor of the same office building, we can avoid a great deal of red tape in shunting people from one board to the other. I think I prefer it that way, but cannot tell yet.

Mr. DURKIN (Illinois). Mr. Smith, if a company is engaged in interstate commerce and the truck drivers and chauffeurs carried on an organization campaign of the truck drivers and officers of that company, would it be necessary when the vote is taken to take the vote of the entire number of employees of the company or just of that union?

Mr. SMITH. The act provides that in any controversy regarding representation which is brought before the board the board shall decide, on the basis of evidence presented to it at a hearing, what will be the appropriate union—whether it shall be the employer unit,

meaning all the employees of that employer, whether it shall be all the employees in a particular plant, or whether it shall be merely the employees in a particular craft or some other division of the plant. We may not name a unit any bigger than the individual employer unit. Incidentially, that raises an interesting question as to whether the act is somewhat too narrow in that respect. In a great many cases contractual relations have been entered into by unions with a group of employers. The board has no authority, however, to declare in connection with an election that such a group of employers is an appropriate unit.

Getting back to the specific question, if the controversy regarding representation revolves solely around the teamsters or chauffeurs, and there is no other union contending that the teamsters and chauffeurs ought to be lumped in with all the employees in a more general unit, I think it is safe to say that the board would conclude that the teamsters were an appropriate unit and that the election should be held solely within the ranks of the teamsters to decide by whom they wish to be represented. In fact, the board has so held in a number of cases in which the only contention made is on behalf of a particular craft.

Mr. DURKIN (Illinois). If the complaint is made against this company by the teamsters, no doubt you would have a number of complaints ahead of it, and probably theirs would be fifty-third or so on the list. As you know, it is the common practice that wherever an A. F. of L. local goes in, there is a C. I. O. too. Before this matter could be taken up by a regional director the C. I. O. has engaged in organization of the workers and it also, after 3 or 4 months, wishes to hold this election. If the C. I. O. has 51 percent of the entire employees, and the teamsters have 90 percent of the group which originated the case, what would be the decision of the board?

Mr. SMITH. I am afraid that I cannot answer that question as to disposition—not that I do not wish to be frank, but simply because the Board has to make it a practice not to answer theoretical questions or hypothetical questions in regard to representation, because actual cases of the sort which I might attempt to answer for you now may come before the Board for formal decision. I will point out this: In two recent cases before the Board the unions involved were C. I. O. unions claiming jurisdiction over the entire plant—that is, let us say, with the exception of the clerical workers—and in one case I believe one craft union, and in the second case three craft unions, claimed jurisdiction over craft groups in the same plants. The question was before the Board as to whether there should be this large single unit claimed by the C. I. O. or the separate craft unions claimed by the A. F. of L., which should be carved out of this general unit. In those cases, for the reasons set forth in the

decision—principally the fact that all of these unions had started organizing at approximately the same period—the Board held it would be appropriate to let the men themselves decide by their vote, not only which organization they wished to be affiliated with for representation purposes, but also what should be the proper bargaining unit. In other words, in these particular cases we permitted the employees in these crafts to vote whether they wished to be represented by the A. F. of L. craft union or the C. I. O. industrial union.

Incidentally, these were rather recent decisions and I do not believe the elections have been held. Under the terms of the order, if the employees in the three crafts should vote for the A. F. of L. craft union, the Board would certify that union as the representative of those employees, but it was also held that by so voting the employees themselves could determine whether or not these would be separate craft units. If the employees engaged in these crafts should vote to affiliate with the C. I. O. union, we would then say that the complete industrial union, including all these employees, would be the appropriate unit. That was the decision in that particular case, made on the basis of the facts presented to us in that case. Whether in some other case where craft and industrial units were involved we might decide in some other fashion I cannot state, for the reasons I have already given, but in general the Board lays a great deal of stress in determining the appropriate bargaining unit on the situation in the particular plant, the history of collective bargaining being an important factor in arriving at that decision.

The Board also wants it understood, and I presume it is becoming understood that the determination of a particular bargaining unit in a particular case does not mean that that has to be the appropriate bargaining unit for all time in that plant. As the circumstances themselves change, the Board's determination as to the appropriate unit might also change.

Mr. DURKIN. Mr. Herzog, could you answer these same questions relative to your State law?

Mr. HERZOG. It is very difficult to answer completely with reference to the New York State law, partly for Mr. Smith's reason—the difficulty of anticipating decisions—and also because, in our case, there is very little backlog of experience to fall back on. But in response to your prior question, a special provision in the New York statute relates to the craft-union problem. It gives the board full authority to determine what the appropriate bargaining unit shall be, with the one important exception that, in any case where the majority of the employees of a particular craft shall so desire, the board shall designate such craft as the unit appropriate for the purposes of collective bargaining. So far no cases have come before the board

in which that particular provision has been called into question. I suppose they will come soon. We may have to run off an election within the crafts where such a request is put before us, the first question having to be, "Does a majority of the employees in this particular craft desire to be dealt with separately?" If they say "Yes," it is simple; if they say "No," I presume they will be thrown in with all the other employees.

Mr. KROGSTAD. In Michigan we now have what I consider one of the best reasons for a State labor relations law. In Detroit, about a month ago, the employees of the Detroit City Gas Co. began organizing in the C. I. O., and shortly thereafter a committee from the C. I. O. appeared before the governor asking for an election. The matter was referred to me, and after investigating I learned that two other unions had sprung up at the Detroit City Gas Co. One was called the American Labor League, and seemed to be national in scope. It is my understanding that it has unions in six other States. The other one was the employees' association. Both of these organizations have downtown attorneys as business managers. After going into the matter a little further I learned that the A. F. of L. was sitting in the background watching the picture, and that the A. F. of L. unions, especially on the construction job, would permit nobody but their own members to work in those particular jobs. So the problem was whether or not the State should encourage an election under those circumstances.

While the negotiations or the conferences were being carried on in this case to determine whether an election should be held, the mayor appointed a so-called fact-finding committee. The committee got together and it has recommended an election. Just what will be the outcome of a situation of that kind I should hate to predict, in view of the fact that there are 1,500 employees and the three unions are claiming a joint membership in excess of 2,500. As far as the State of Michigan is concerned, we gracefully stepped out of the picture. I should like to know just what Wisconsin or New York or the National Board would do under those circumstances.

Mr. DAVIE (New Hampshire). Mr. Smith, do any of the States have laws providing that if an employer is discriminating against an employee on account of his membership in a trade-union of his own choosing the employer shall be fined.

Mr. SMITH. I am sure that the answer is no. None of the statutes—either Federal or State—impose criminal penalties in the sense of fines or imprisonment for violating provisions. The intent of all of them is to make the employer undo the damage to self-organization which he has done by various means and thus restore the situation to what it was before he started the unfair labor practice.

Mr. MOONEY. Mr. Smith, is it possible that the decision of the Board in the *National Electrical Products case* may establish the right of the Board to review the validity of all labor contracts?

Mr. SMITH. You have touched there on a very serious problem, one that cannot be adequately answered in a short time and which probably will have to be answered finally by the courts themselves. There has been considerable law built up through court decisions on this matter of labor contracts. A great deal of it, as I understand it, assumes that the union as well as the employer is an entity contracting in its own right, regardless of the status of membership in that union in the particular plant where the contract is in force. Along comes the Wagner Act and says that the majority of persons in the plant or in the appropriate unit in the particular situation is entitled to sole contractual rights. How does that bear on the question of existing contracts made with an organization that by this time is a minority, whatever its previous status was? How does it bear on the question of contracts which it is alleged, as you have stated, have been arrived at with a union by virtue of the employer's exercising one or more of the unfair labor practices in the act; that is, by coercing or intimidating his employees to join the particular union which has the contract?

The Board, in the National Electrical Products decision, advanced the arguments with which you are familiar, in holding that a contract could not stand if there was evidence that that contract had been arrived at by undue influence exerted on the part of the employer, particularly in the face of a demand for representation put forth by a union which it was alleged was in the majority. In that particular case we so held, and so ordered that an election be conducted to determine which of the two rival unions really represented the employees. It so happens that the A. F. of L. union, which was the one which it was alleged the employer had favored unfairly, won the election. The vote, as I recall it, was 680 for the C. I. O. and 785 for the A. F. of L. union.

As to the theory of the thing, in a general way the *National Electrical Products case* develops, at least in part, the Board's attitude as to what the entrance of the Wagner Act, so to speak, does to this question of contracts. We believe that contracts made with a labor organization must, under the act, be made with that organization by virtue of its representation of the employees in the plant, rather than with that labor organization as an entity independent of representation within the plant. How that theory of the act, which is pretty clearly set forth, is going to be reconciled to the rights of trade-unions under the previously developed law of labor-union contracts is something, as I say, that can be determined finally only by the courts.

Mr. KROGSTAD. We had a rather peculiar situation in an automobile-parts stamping plant in Detroit. In this plant there were 25 tool makers who were members of the Mechanics Educational Society of America—an interstate union. In the stamping division the C. I. O. claimed approximately 250 people, or practically all of those people. Then there was what they called the nut division—some 200 employees. The Mechanics Educational Society claimed jurisdiction over these punch-press operators, claiming in their national convention that they had the right to do so because these boys were operating punch presses and consequently handling dies, and might be used against them in strikes as tool makers. The C. I. O. claimed this same group of about 200 because they were production workers.

After going into the matter some, I thought that we had arranged a happy solution, which was to leave the C. I. O. group in control of the stamping division and the Mechanics Educational Society in control of the tool-making division. There was no question as to these two divisions, they did have the membership in both departments. We recommended an election in the nut division. This met with a flat refusal on the part of the Mechanics Educational Society. The employer, who was also interviewed, stated that his work was principally interstate and therefore he desired only one contract and did not care who the bargaining agency was; that he preferred to bargain with only one group, in spite of the fact that he did have an agreement with the Mechanics Educational Society. I wonder, Mr. Smith, just what your Board would do under those circumstances?

Mr. SMITH. Under those circumstances, the Board would try to arrange, as we always try to arrange in a controversy over representation, for a consent election—try to get the employer and the unions to agree on what the appropriate units are—and then go ahead and ballot the employees within those units. If such an agreement cannot be had, the matter has to come before the Board in the form of a formal hearing, with all sides presenting their evidence as to what they think the appropriate unit should be. You raise an interesting point in connection with this matter of jurisdictional claims. Before the A. F. of L. and the C. I. O. parted company, we had several cases brought before us in which the essential controversy related to whether this union or the other union within the A. F. of L. should have jurisdiction over certain employees. The Board simply declined to take any action in those cases, on the ground that there existed a mechanism within the A. F. of L. for determining those problems in jurisdiction, and that it was an unwise policy for the Government to enter into the picture when the labor movement was capable of solving those jurisdictional problems.

I should like to call to your attention a situation which is before the Board now. It touches on the very interesting case which Mr.

Herzog raised, where a union had by a vote won the adherence—the support—of 95 percent of the employees, and another union came along and picketed the plant. The San Francisco waterfront is now tied up by a situation quite similar to that which is before the board for determination. I cannot tell you what we are going to do, but I will state the problem because it is the sort of thing that may come up again.

Before the longshoremen's union on the Pacific coast voted itself out of the A. F. of L. and voted affiliation with the C. I. O., it had engaged in organizing the employees in a number of so-called inland warehouses; that is, warehouses back from the waterfront. It was very successful in that organization, obtaining the adherence of more than a majority of the employees in each of those warehouses, and in fact entered into contractual relations with the employer. The teamsters' union of the A. F. of L. claimed jurisdiction over these men in the inland warehouses. They were not contesting the right of the longshoremen to organize the men in the waterfront warehouses, but were protesting only as regards the men in the inland warehouses. Mr. Green, president of the A. F. of L., upheld the stand of the teamsters.

Up to that point—and I am speaking of a period before the longshoremen went into the C. I. O.—that was purely a jurisdictional matter within the A. F. of L. and the Board would not undertake to enter into the picture. But now you have the International Longshoremen's Association, including these warehousemen's locals, split off from the A. F. of L. and in the C. I. O. The teamsters have no members—at least that is our present information—in any of these warehouses, but they claim jurisdiction over them by virtue of President Green's ruling and on these other grounds. Because they will not concede jurisdiction to the C. I. O. over these people and the C. I. O. will not concede jurisdiction to them, the teamsters have refused to handle goods unloaded by the C. I. O. longshoremen, and the result is this serious tie-up on the waterfront.

That presents a very interesting problem for the Board to consider under the act, because the claim for contractual rights is made by a union which has no membership within these warehouses, as against the claim of the unions which have majority memberships and have contracts. The question is what should the Board do under those circumstances? Should we hold an election to determine what is already pretty obviously the fact—that the warehousemen have all the members and the teamsters have none, and that therefore the warehousemen are entitled to these collective-bargaining relationships which they have already established? If we did that, what would be the attitude of the teamsters?

Older Worker in Industry

Discrimination Against Older Workers in Massachusetts

By ROSWELL F. PHELPS, *Director of Statistics, Massachusetts Department of Labor and Industries*

"Discrimination in employment on account of age," or "age discrimination"—a shorter term now coming into use—is one of the present-day labor problems in which a rapidly increasing interest is being manifested. The subject is one concerning which much has been written, but regarding which authoritative statistical data are very fragmentary and inconclusive.

Seven years ago (on September 9, 1930, to be exact), at a meeting of the International Association of Public Employment Services in Toronto, and in this same hotel, I discussed the subject, The Problem of the Older Wage Earners, and presented the results of a tabulation, by ages, of persons registered and placed by the four State public employment offices in Massachusetts during the year 1928. I had previously presented these records at a meeting of the eastern Massachusetts section of the Taylor Society, held in Boston on April 5, 1929, at which the subject Employment Age Limitations was discussed by several speakers. These records were published in detail in the Bulletin of the Taylor Society, October 1929, and they indicated that, at that time, there was no marked discrimination on account of age in the placement of male applicants for employment until the age group 54–59 was reached, but in the case of females, discrimination began with the group 35–39.

In California in 1930 the department of industrial relations published in two bulletins the results of its inquiries into the matter of age discrimination. The first of these bulletins, entitled "Middle-Aged and Older Workers," "summarized the views and opinions of leaders in business and industry and of thinkers in the field of economics and sociology on the folly of eliminating mature and experienced persons from gainful employments." It "dealt with the subject in a general study of conditions in California which was then begun by the department of industrial relations." The second bulletin, entitled "Middle-Aged and Older Workers in California," presented the results of the department's survey of the question in California, and included detailed data "showing the kinds of establishments which do and do not maintain maximum hiring-age limits," and also included a

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Register of California Employers Openly Opposed to Maximum Hiring-Age Limits. This register included 1,287 employers "who expressed their willingness that their names be used in stating their position."

In the limited time at my disposal, I shall not attempt to review the literature on the subject. I may say, however, that so far as I can ascertain, the investigation in California and that recently completed in Massachusetts are the only investigations, at least in the United States, which have involved any considerable amount of statistical research, or furnished a definite measurement of the extent to which age discrimination exists and the classes of employment in which it is most prevalent.

When the investigation in Massachusetts was first undertaken, it was hoped that definite and comprehensive information could be obtained, principally through public hearings, but the evidence thus secured was not sufficiently specific to justify conclusions as to the extent and nature of the discrimination which, it was claimed, was being practiced by employers. Accordingly, the scope of the investigation was extended to include the securing of statistical evidence from the records of employers, in order to measure the extent to which alleged discrimination exists in the various industries and classes of employment.

The investigation in Massachusetts was made in compliance with the provisions of chapter 33 of the Resolves of 1935, which provided, in brief, that the department of labor and industries should "inquire into the causes of the tendency toward discrimination by industry and business against persons in employment, who have reached a certain age in early middle life, and to make such studies as shall be helpful in abolishing such discrimination, and in eventually placing this class of persons again in employment in industry and business, to the end that they may be self-supporting, thereby preventing the possibility of their becoming public charges, with the consequent problem of providing additional taxation." The department was directed to hold hearings, and was granted power to examine witnesses, require the production of books, records, contracts, and papers, and require the giving of testimony under oath.

Fourteen public hearings and two conferences were held in the principal cities of the Commonwealth. Stenographic notes of the testimony at each of these hearings and conferences were taken and transcribed, and abstracts and summaries were made for use in the preparation of the report.

The attendance at these hearings, except at the first hearing held in Boston, consisted largely of representatives of labor organizations, although notices were sent to the press, to organizations of employers, representatives of the principal labor organizations, and to many other

persons interested. At these hearings the testimony, for the most part, consisted of expressions of opinions, but some specific cases of discrimination against older wage earners by employers were disclosed. Some of those who testified declined to furnish in public the names of individuals who had been discriminated against on account of their age, or the names of employers who were believed to have discriminated because of the possible effect which such disclosures might have on the retention, or securing of employment by the individuals concerned. All persons who desired to do so were requested to communicate by mail directly with the department, and some additional information was thus obtained.

A questionnaire was also sent to officials of labor organizations, and some additional cases of discrimination were reported in answer to these questionnaires. Each case which definitely appeared to be one of discrimination on account of age was investigated by representatives of the department.

In making the investigation the department found that there were four principal phases of the problem of discrimination which required investigation, as follows: (*a*) Age classification of persons employed; (*b*) discrimination in hiring new employees; (*c*) discrimination in rehiring former employees; (*d*) discrimination in dismissal of older employees.

It is not my purpose to weary you with statistical data, but there are certain outstanding results of the investigation which are of special significance, and these I shall endeavor to present. A questionnaire was sent to all employers in the Commonwealth who were known to employ 10 or more persons. This questionnaire called for information in answer to the following inquiries:

Industry or business.
Approximate number of employees.
Has your company a fixed age limit for new employees, and, if so, what is the specified age limit for men and women?
Does your company displace older workers, and, if so, at what age for men and for women?
Does your company transfer older workers to lighter tasks?
Does your company carry group insurance for employees?
Does your company have a pension or retirement system for employees?

The questionnaire also called for a classification by 5-year age groups of: (*a*) Number of persons employed (as of October 1935); (*b*) number of new employees and former employees rehired during the period January 1934 to October 1935; (*c*) number of persons who left employment during the same period.

The total number of tabulatable reports returned by employers was 3,781 and covered 608,511 persons employed in October 1935, or nearly one-third (31.8 percent) of the total number of employable persons 15 years of age and over in the State.

In most instances the information furnished appears to have been prepared with much care. In a large number of cases the employers had no personnel records showing ages of their employees, but were able to secure such information for persons employed in October 1935. In some cases this information was obtained from individual employees on slips which were placed in the pay envelopes and returned to the employer, and the department, in such cases, tabulated the information from the original slips. These records enabled the department to determine whether or not the age distribution of persons employed by individual employers and in the various industries conforms with

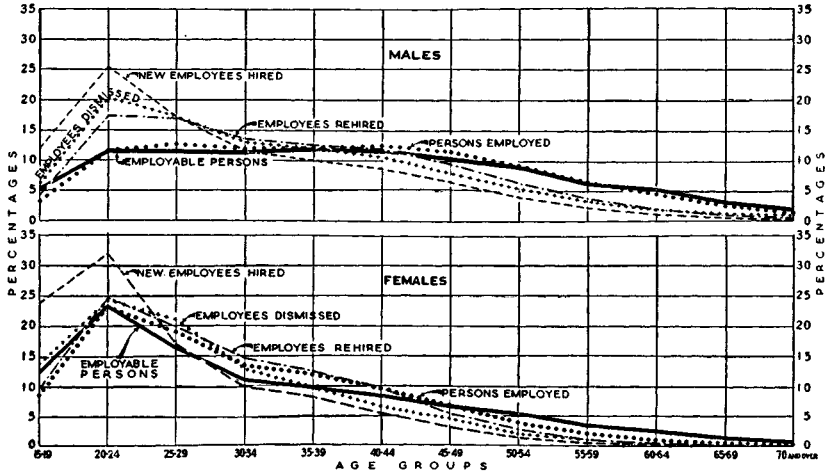

CHART 1.—DISTRIBUTION BY AGE GROUPS OF ALL EMPLOYABLE PERSONS IN THE POPULATION OF MASSACHUSETTS AND PERSONS EMPLOYED, NEW EMPLOYEES HIRED, EMPLOYEES REHIRED, AND EMPLOYEES DISMISSED IN 3,781 ESTABLISHMENTS IN MASSACHUSETTS, BY SEX

the general distribution of employable persons in the Commonwealth, and to measure the extent to which discrimination on account of age exists in the various industries and classes of employment.

The estimated number of persons 45 years of age and over who were discriminated against on account of their age in the 3,781 establishments which employed 10 or more persons was 13,657, of whom 2,905 were males and 10,752 were females. If it is assumed that these 3,781 establishments, in which about one-third of the total number of employable persons in the State were employed, were fairly representative of all establishments in the States, then the total number of persons 45 years of age and over in the State who were discriminated against on account of their age was approximately 36,800, of whom about 9,000 were males and 27,800 were females. The discrimination against females was much more pronounced than the discrimination against males.

In order to illustrate the extent to which age discrimination exists in Massachusetts, I shall present seven charts, to which I shall refer as I discuss the several phases of the investigation.

Chart 1 is a composite chart and shows the distribution by age groups of all employable persons in the population of Massachusetts,[1] persons employed, new employees hired, employees rehired, and employees dismissed for 3,781 establishments in Massachusetts, by sex of employees. The heavy black line shows the distribution by age groups of all employable persons in the State, and departure from this trend line indicates for the 5-year age groups, beginning with 45 to 49, the extent to which there was discrimination in the hiring, rehiring, and dismissal of employees. Each of these several phases will be discussed later.

Age Classification of Persons Employed

Of the 608,511 persons covered by the investigation, 175,942, or 28.9 percent, were 45 years of age and over, which percentage was less than the corresponding percentage (31.8) for all employable persons in the State. Of the 411,497 males employed, 147,291, or 35.8 percent, were 45 years of age and over, as compared with the corresponding percentage (36.5) for all employable males, and of the 197,014 females employed, 28,651, or 14.5 percent, were 45 years of age and over, as compared with the corresponding percentage (20.0) for all employable females.

While most of the employers reporting claimed that they did not have any definite policy with reference to the employment or dismissal of older employees, yet the records show that in 1,056 of the 3,781 establishments reporting, less than 20 percent of all males employed were 45 years of age and over, and of these, 310 employed no males who were 45 years of age and over, and in 2,406 of the 3,446 establishments in which females were employed, less than 20 percent of all females employed were 45 years of age and over, and in 1,283 of these establishments no females 45 years of age and over were employed.

Chart 2 shows, graphically, the distribution of persons employed by age groups and sex.

Age at Which Discrimination Began

In order to show the age at which discrimination on account of age began in the establishments investigated, the data with reference to persons employed in the 3,781 establishments covered by the investigation were tabulated by 5-year age groups and by sex. According to the records, discrimination on account of age of persons actually employed in the establishments investigated was first evident in the age group 50–54, in the case of males, and in the age group 45–49,

[1] According to the census of unemployment in Massachusetts, taken as of January 2, 1934.

in the case of females, but in the matter of hiring and rehiring, both in the case of males and females, discrimination began at an earlier age. In fact, it was evident as early as 40 years of age in the case of males, and 30 years in the case of females, and became increasingly more evident in the higher age groups.

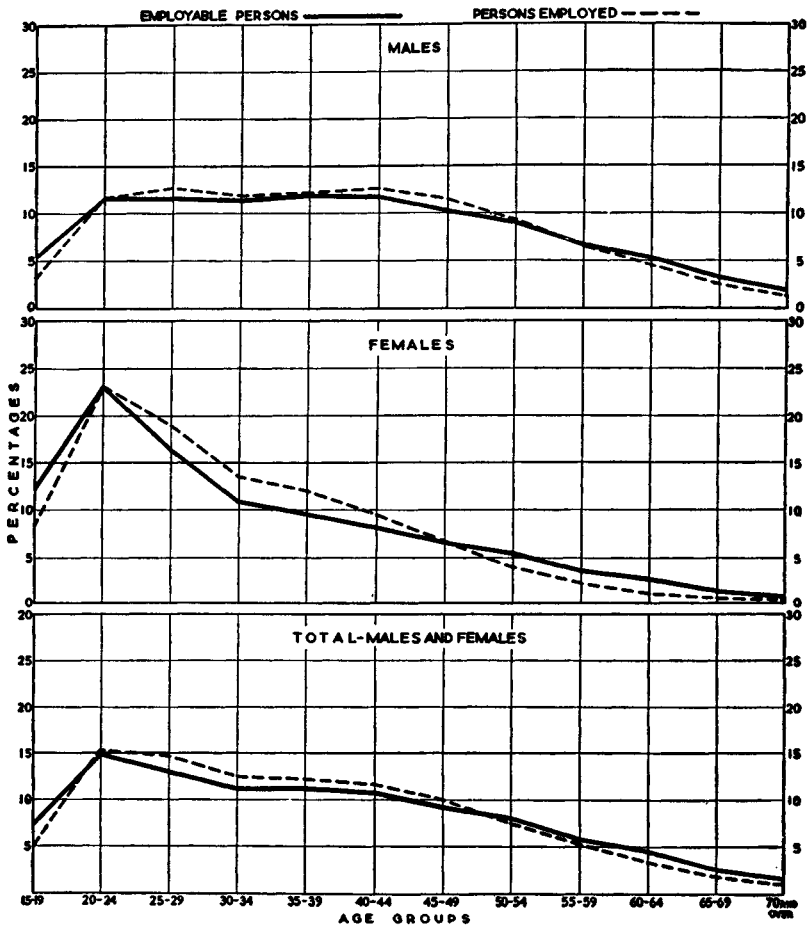

CHART 2.—DISTRIBUTION OF ALL EMPLOYABLE PERSONS IN THE POPULATION OF MASSACHUSETTS AND PERSONS EMPLOYED IN 3,781 ESTABLISHMENTS IN MASSACHUSETTS, BY SEX AND AGE GROUPS.

Discrimination in Hiring New Employees

The principal discrimination in employment on account of age was found to be in the hiring of new employees. Some employers reported that they had established maximum age limits for new employees, while others, who had not adopted a definite policy, in actual practice rarely selected older employees for appointment, except those who had special qualifications.

Of the 142,465 persons hired in 2,501 establishments reporting persons hired, only 16,162, or 11.3 percent, were 45 years of age and over. Of the 91,114 males hired, only 13,503, or 14.8 percent, were 45 years of age and over, and of the 51,351 females hired, only 2,659, or 5.2 percent, were in this age group.

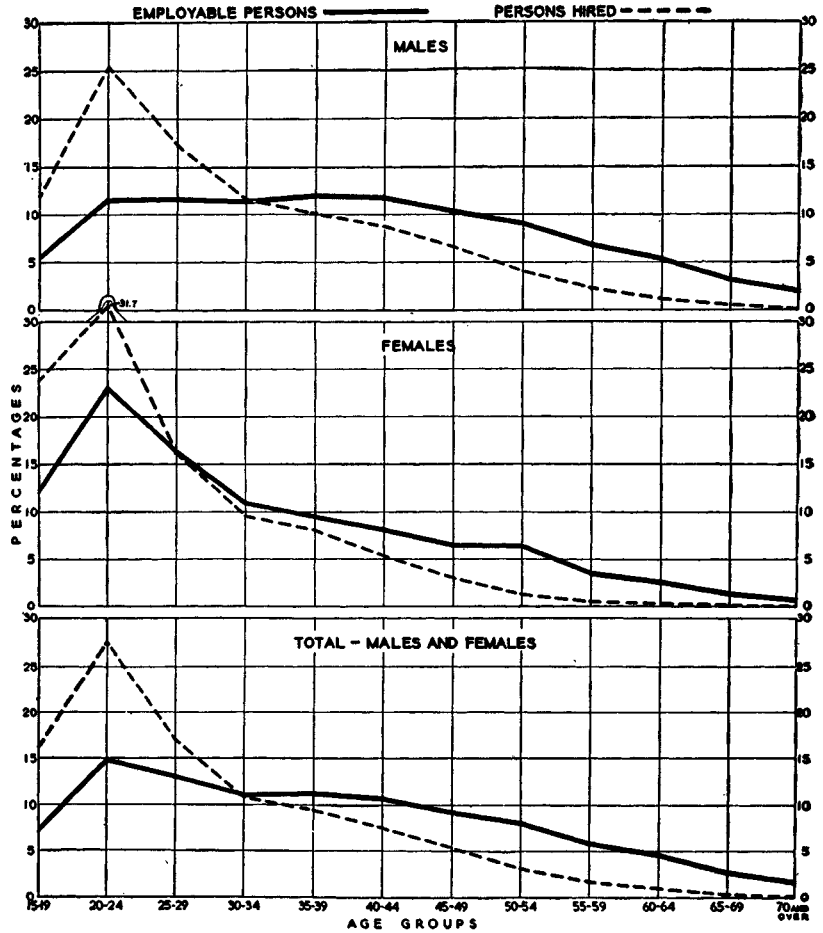

CHART 3.—DISTRIBUTION OF ALL EMPLOYABLE PERSONS IN THE POPULATION OF MASSACHUSETTS AND PERSONS HIRED IN 3,781 ESTABLISHMENTS IN MASSACHUSETTS, BY SEX AND AGE GROUPS.

The total number of establishments in which new male employees were hired was 2,501, and in 1,767 of these establishments less than 20 percent of all the males hired were 45 years of age and over, and in 968 of these establishments no males 45 years of age and over were hired. In 1,708 of the 1,907 establishments in which females were hired, less than 20 percent of the females hired were 45 years of age and over, and in 1,277 of these establishments, no females 45 years of age and over were hired.

In chart 3 the distribution by 5-year age groups and sex of persons hired is graphically shown. It will be observed that in the case of males the line representing persons hired was continuously below the line representing employable persons, beginning with the age group

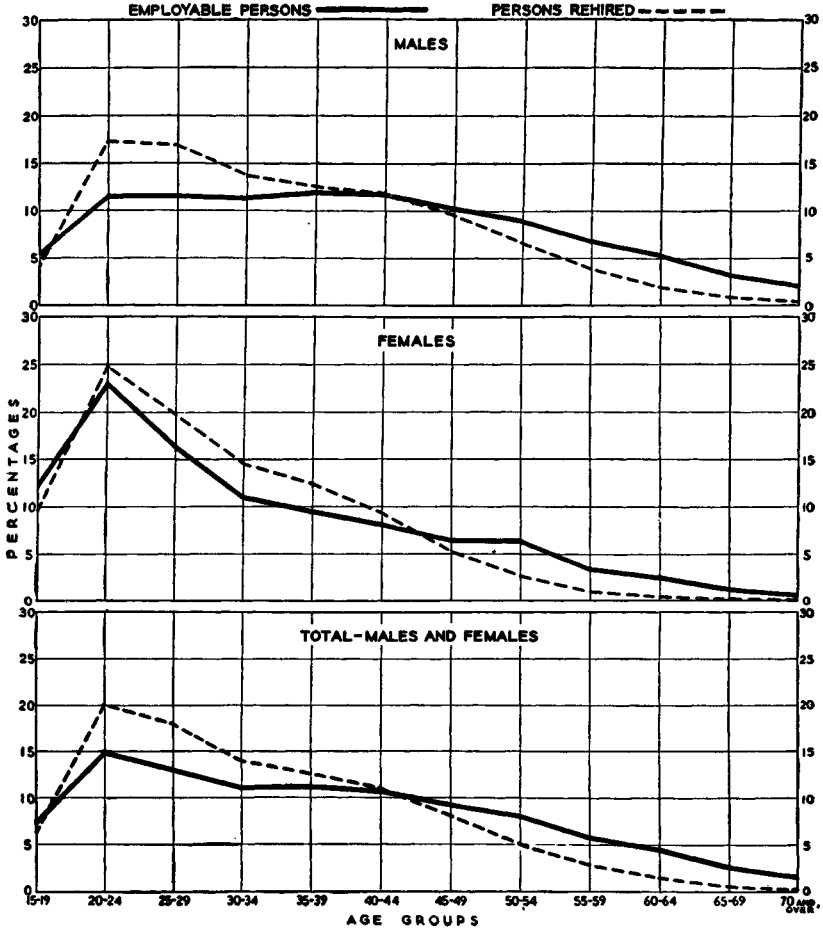

CHART 4.—DISTRIBUTION OF ALL EMPLOYABLE PERSONS IN THE POPULATION OF MASSACHUSETTS AND PERSONS REHIRED IN 3,781 ESTABLISHMENTS IN MASSACHUSETTS, BY SEX AND AGE GROUPS.

30–34, and in the case of females hired, the discrimination began with the age group 25–29.

During the depression millions of employees in the United States—variously estimated as between 11,000,000 and 15,000,000 persons—were dismissed from employment, and it is probable that at least 30 percent of those dismissed were in the upper age brackets. As employment increased, the proportion of older workers hired or rehired was much smaller than the proportion of younger workers who were

added to the pay rolls. Consequently, as one result of the depression, the problem of the older wage earner has become much more serious than it was prior to the depression. There is no definite evidence that the older workers were dismissed from employment during the depression in greater proportion than the younger workers, but the results of the investigation in Massachusetts show rather conclusively that in Massachusetts at least, and presumably this would be true throughout the entire United States, the proportion of older workers who were hired or rehired was decidedly smaller than the proportion of younger workers who were employed for the first time or remployed.

There was found to be less discrimination in the matter of rehiring former employees than in hiring new employees.

Of the 61,547 persons rehired in 1,234 establishments reporting persons rehired, 11,182, or 18.2 percent, were 45 years of age and over. Of the 38,411 males rehired, 9,007, or 23.4 percent, were 45 years of age and over, and of the 23,136 females rehired, only 2,175, or 9.4 percent, were in this age group.

The total number of establishments in which male employees were rehired was 1,234, and in 640 of these establishments less than 20 percent of all the males rehired were 45 years of age and over, and in 437 of these establishments, no males 45 years of age and over were rehired. In 716 of the 876 establishments, in which females were rehired, less than 20 percent of the females rehired were 45 years of age and over, and in 543 of these establishments no females in this age group were rehired.

In chart 4 the distribution of persons rehired is shown by age groups and sex, and it will be observed that in the case of both males and females rehired, the discrimination began shortly after the age group 40–44.

Discrimination in the Dismissal of Older Employees

The total number of separations [2] from service in 2,012 establishments for which separations were reported was 136,204, and of this number, 21,737, or 16.0 percent, were persons 45 years of age and over. Of the total number of employable persons in the State in 1934, 31.8 percent were 45 years of age and over. According to these returns, it appears that there was, in general, no disposition on the part of employers to dismiss their older employees on account of age.

In 2,012 establishments reporting separations of male employees, 1,398 reported that less than 30 percent of all males separated from service were 45 years of age and over, and in 698 of these no males in this age group were separated from service. In 1,464 establishments reporting separations of female employees, 1,331 reported that less than 30 percent were 45 years of age and over, and in 960 of these

[2] Includes resignations, dismissals, retirements on pension, and deaths.

establishments no females in this age group were separated from the service.

In chart 5 the distribution of persons separated from employment is shown by age groups and sex, and it will be observed that the lines representing separations, both in the case of males and females, after the age group 35–39, were continuously below the corresponding lines

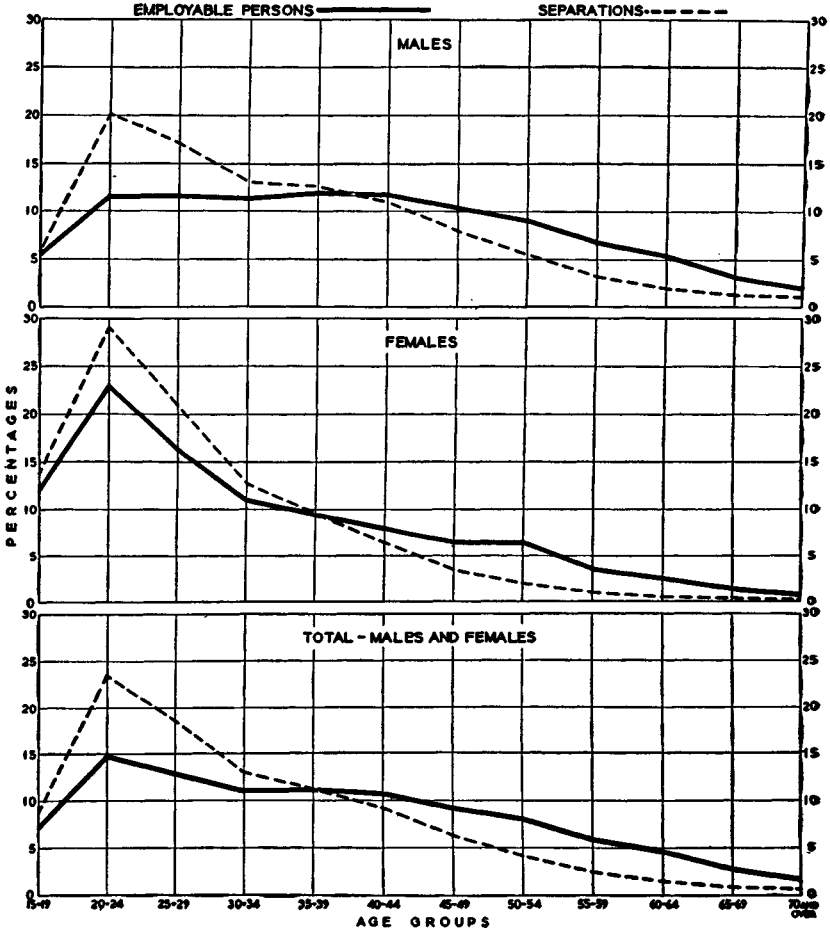

CHART 5.—DISTRIBUTION OF ALL EMPLOYABLE PERSONS IN THE POPULATION OF MASSACHUSETTS AND SEPARATIONS FROM THE SERVICE IN 3,781 ESTABLISHMENTS IN MASSACHUSETTS, BY SEX AND AGE GROUPS.

representing employable persons, showing a disposition, in general, on the part of employers to retain in employment a larger proportion of older wage-earners than the corresponding proportion of older employable persons in the general population. In fact, the results of the investigation showed that, except in a relatively small number of places of employment, the employers were disposed to retain their older wage earners rather than to dismiss them.

Discrimination by Industries and Classes of Employment

The statistical returns secured from employers were tabulated by industries and classes of employment and by age groups, in order to determine in what industries and classes of employment discrimination was most pronounced. The principal classes of employment in which there was discrimination in the matter of hiring males 45 years of age and over, and the percentages hired who were 45 years of age and over, were insurance companies, 1.1; bus transportation, 2.7; retail chain stores, 3.3; dairy and stock farms, 4.9; telegraph and telephone companies, 5.5; laundries, 7.4; retail stores, not including chain stores, 10.3; private hospitals, 10.4; dyeing and cleaning establishments, 10.8; gas and electric companies, 13.5; restaurants, including hotel dining rooms, 14.3; contractors, 14.4.

In the case of females, the principal classes of employment in which there was discrimination in the matter of hiring female employees who were 45 years of age and over, and the percentages hired, were telephone and telegraph companies, 0.2; insurance companies, 0.5; restaurants, including hotel dining rooms, 1.2; gas and electric companies, 2.3; retail chain stores, 5.0; retail stores, not including chain stores, 5.6; laundries, 6.0; private hospitals, 8.3. In certain branches of manufacturing also, there was considerable discrimination in the hiring of older employees, both males and females.

Effect of Workmen's Compensation, Group Insurance, and Pensions

Workmen's compensation.—At the public hearings it was claimed that in order to reduce the cost of workmen's compensation insurance, group insurance, and pensions, many employers were averse to hiring older workers, and, in some cases, dismissed their older workers before they reached a pensionable age. These matters were inquired into very carefully. In the case of workmen's compensation, the evidence was not conclusive. In order to determine whether or not the cost of workmen's compensation insurance had any effect on the disposition of employers to employ, hire, rehire, or dismiss persons over 45 years of age, the premium rates for workmen's compensation insurance in the manufacturing industries and other classes of employment were very carefully studied, and arranged in the order, from the highest to the lowest, of net loss cost per $100 of pay roll. A comparison of these rates as thus arranged was then made with the percentages representing the proportion of persons 45 years of age and over employed in the respective classes of employment. It might reasonably be expected that in those classes of employment where the net loss cost was such that higher insurance rates were in effect, the percentage of persons 45 years of age and over employed, hired, or rehired would vary inversely with the premium rate; that is, where the premium rate is high, the percentage employed, hired, or rehired

would be correspondingly low, if the employer discriminated in order to reduce the cost. As a matter of fact, there was not found to be any relationship whatsoever between the cost of workmen's compensation insurance and the percentage of persons 45 years of age and over employed, hired, or rehired.

Group insurance.—In order to determine whether or not employers carrying group insurance have discriminated against older employees in order to reduce the cost of such insurance, a comparison was made of the percentage distribution, by age groups, of persons employed by companies carrying group insurance with the corresponding distribution of persons employed by companies which did not carry such insurance.

Of the male employees in 1,028 establishments, having group insurance, 37.0 percent were 45 years of age and over, as compared with 34.8 percent in 2,753 establishments not having group insurance, showing that in establishments having group insurance, a larger proportion of the male employees is retained in employment after reaching the age of 45 years than in establishments not having group insurance. In the case of females the reverse was true, and the corresponding percentages were 13.9 and 14.8, respectively.

With reference to new employees hired, the records show that in 770 establishments having group insurance, 12.3 percent of the males were 45 years of age and over, as compared with 16.3 percent in establishments not having group insurance. In establishments having group insurance, 19.9 percent of the male employees rehired were 45 years of age and over, as compared with 26.1 percent in establishments not having group insurance. These comparisons indicate that in the matter of both hiring new male employees and rehiring former male employees, the employers in establishments having group insurance were inclined to discriminate somewhat. In the case of females, the records indicate that there was also some discrimination, in the matter of both hiring new employees and rehiring former employees in establishments having group insurance. In this connection it should be stated that the cost of group insurance is based on the ages of employees, and the rates increase by relatively large differences after 45 years of age. For example, rates were quoted as follows:

Age	*Rates per $100 insurance*	*Increase*
40 years	$0. 67	-----
45 years	. 86	$0. 19
50 years	1. 18	. 32
55 years	1. 71	. 53
60 years	2. 52	. 81

Pensions.—A comparison of the age distribution of employees in establishments having pension systems and in those not having pen-

sion systems did not indicate that there was any considerable amount of discrimination, in order to reduce the pension costs. In some establishments it was apparent that the existence of the pension system resulted in a disposition on the part of employers to retain their older wage earners, rather than to dismiss them, for the reason that the fund was available from which to pay benefits when due.

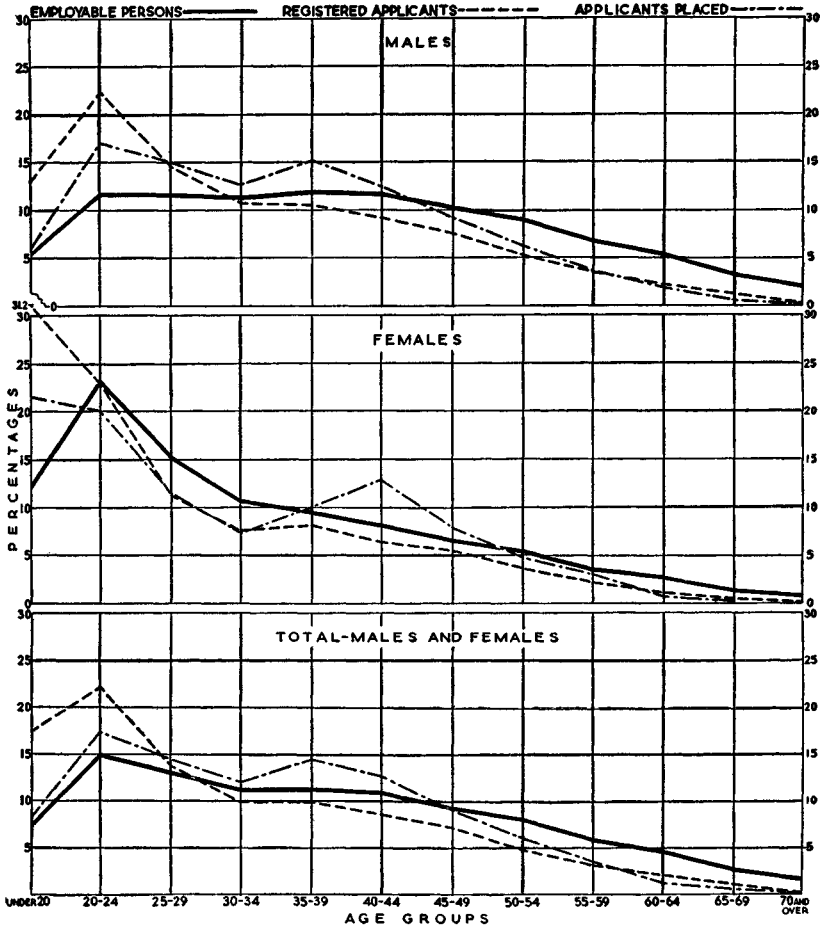

CHART 6.—DISTRIBUTION OF REGISTERED APPLICANTS FOR EMPLOYMENT AND APPLICANTS PLACED BY THIRTY-SEVEN PUBLIC EMPLOYMENT OFFICES AND DISTRIBUTION OF ALL EMPLOYABLE PERSONS IN MASSACHUSETTS, BY SEX AND AGE GROUPS

Discrimination as Indicated by State Public Employment Office Records

In order to determine whether or not employers who secured help through the Federal and State public employment offices were inclined to discriminate against older wage earners, the records of applicants for employment and persons placed were secured, and were classified by age groups. From these records it was evident that, beginning

with the age group 45–49, in the case of males, and with the age group 30–34, in the case of females, there was considerable discrimination on the part of employers, although the members of the staffs of the various offices endeavored, wherever possible, to place the older wage earners in employment.

In chart 6 the distribution, by age groups, of applicants for employment and of persons who secured positions is graphically represented.

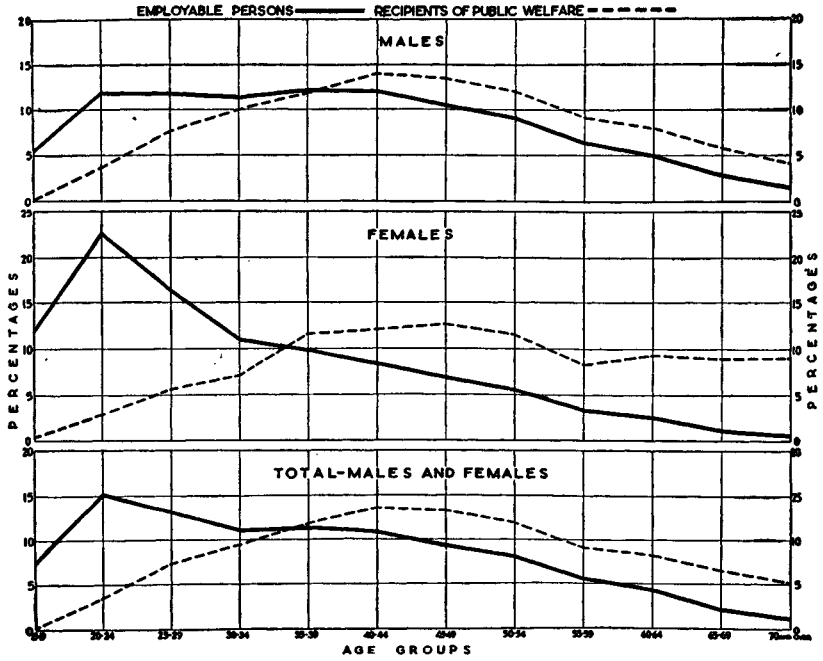

CHART 7.—DISTRIBUTION OF EMPLOYABLE PERSONS AND OF RECIPIENTS OF PUBLIC WELFARE IN 12 CITIES IN MASSACHUSETTS, BY SEX AND AGE GROUPS.

Distribution by Ages of Persons on Relief

In 12 of the principal cities in Massachusetts, the records of persons on relief were examined by statistical investigators, in order to determine the distribution, by age groups, of persons on relief. In each of the cities it was found that the proportion of persons on relief who were 45 years of age and over, both in the case of males and females, was higher than the corresponding proportion of persons 45 years of age and over in the general population. The results of this phase of the investigation for all of the 12 cities combined are graphically presented in chart 7.

Legislation in Massachusetts

Extracts of the report, together with an accompanying bill, were filed with the Massachusetts Legislature in December 1936, and were published as house bill No. 33. Hearings were held before the legisla-

tive committee on labor and industries, and the bill submitted by the department, after some revision, was finally passed as chapter 367 of the acts of 1937. The provisions of this act may be briefly summarized as follows:

1. Defines discrimination against older wage earners as "dismissal from employment of, or refusal to employ, any person between the ages of 45 and 65 because of his age."

2. Declares it to be against public policy to dismiss from employment any person between the ages of 45 and 65 or to refuse to employ him, because of his age.

3. Provides that in any contract, agreement, or understanding entered into on or after October 1, 1937, which shall prevent or tend to prevent the employment of any person between the ages of 45 and 65 because of his age shall be null and void.

4. Requires the department to investigate all complaints of discrimination, and grants power and authority to investigate and ascertain the age of each person employed within the Commonwealth and to enter any place of business or employment within the Commonwealth for the purpose of examination and making a transcript of records in any way appertaining to or having a bearing upon the question of the age of any person so employed.

5. Provides that employers shall keep true and accurate records of all persons employed by them, and furnish such records to the commissioner of the department when required. A penalty of $100 is provided for failure to furnish such records.

6. Provides that no employee shall be discharged for having furnished evidence in connection with a complaint under any provision of this chapter, and provides for a penalty for violation of this provision of the law.

7. Provides for the publication of the name of any employer who, after investigation, has been found to have dismissed from employment, or refused to employ, any person between the ages of 45 and 65 because of his age.

8. Provides that any person aggrieved by any decision of the commissioner under the provisions of this chapter may appeal to the superior court for a review thereof within 30 days after the recommendation of such decision.

9. Provides that this act shall not apply to persons employed in private domestic service or service as a farm laborer.

10. Provides that if any part or subdivision of any sections of this chapter shall be held invalid, unconstitutional, or inoperative as to any particular person, condition, or circumstance, the remainder thereof, or the application of any such part or subdivision to any other person, condition, or circumstance, shall not be affected thereby.

Review of Report by Dr. Lucile Eaves

A rather comprehensive review of the report, written by Dr. Lucile Eaves, professor emerita, Simmons College, was published in the Monthly Labor Review, June 1937, by the United States Bureau of Labor Statistics. It is the first article in the Review (pp. 1359 to 1386), and contains a number of tables and charts which will appear in the final report.

NOTE.—This act is the first act of its kind passed by any State in the United States. In New York State an appropriation of $25,000 was appropriated for the use of a committee to investigate the subject, and in several other States bills

providing for similar investigations are being prepared for submission to the next sessions of their respective legislatures.

Copies of the Massachusetts act, chapter 367, and of the reprint of the review by Dr. Eaves of the Massachusetts report will be supplied on request.

Discussion

Chairman MOORE. I am sure Mr. Phelps has raised sufficient points for questioning and discussion. The commission of which I am a member has made a survey of nearly 8,000 industries employing 15 or more persons from which a considerable amount of information is obtainable similar to that which has been dealt with this afternoon. It is not yet complete. Investigations are still continuing, but even preliminary examinations show that many of the same conditions exist as in the survey undertaken in Massachusetts. One point I think perhaps, in your attempt to be brief, you overlooked was with regard to pension plans. Our information appears to show that while it does not restrict the keeping on of older workers, it does seriously affect the hiring of workers beyond a certain age. Many of the firms that have pension plans have coincident with it an upward age limit beyond which they will not hire employees. In order to keep the plans sound, they hire people around the age of 25 years or so.

Mr. PHELPS. We found that there were cases of that kind, but more generally the employer had the older employees he hired waive their rights to pensions.

Chairman MOORE. Of course, our own civil service here is the leader in that, because 35 is the limit at which it will accept any new employee in the civil service in Canada.

Mr. PHELPS. We inquired into that in our State and also as to Federal examinations held in Massachusetts, and found that the worst violaters are governmental departments.

Mr. ZIMMER. The Secretary of Labor devoted a considerable part of her speech on Monday to this specific question. As a result of that speech we received a deluge of letters from all over the country. Among them was a clipping from a Boston newspaper—an editorial which pointed out the absurdity of the Massachusetts law and the obvious impossibility of ever getting any conviction under it. I want to ask you whether, in your opinion, you will ever be able to get a conviction unless the employer lists with the public employment office an opening for a job and specifies an age limit, or unless he puts an ad in the paper and says the limit is 45 years. In other words, an employer can refuse to hire a person for any other of a hundred reasons, can he not? He must ascertain the age—the law says so—and the social-security regulations require that. He has to ask that question. He can ask a lot of other questions and still refuse to hire a person.

With respect to compensation discrimination, that is something about which I know a little. It seems to me that your investigation in that phase, at least as it appears in the report, was lacking a little in any real evidence in that respect. You seem to have accepted at face value the statement of the insurance companies that the age of the person did not make any difference to them. They collect premiums on the pay roll. We all know that, but I know from actual experience in compensation administration in the State that they actually do, in canvassing and recanvassing our risks, recommend that men above 50, and even above 45, be fired, not because they are more likely to have an accident—they are less likely to—but because when they do have an accident the effects of the accident are much greater and more serious than in the case of younger men.

In New York some years ago Dr. Patton made an extensive survey of the compensation cases there to determine whether there was any additional monetary liability in the injuries of an older man, and perhaps he would tell us about it. I do not believe all of those findings were published, but there was some indication that an injury to an older man is more severe than one to a younger man. We noticed it particularly in heart cases. Of course, nothing was said by the insurance companies to the effect that the old man of 60 rarely leaves any dependents under the age of 18. He usually leaves a wife nearly his own age, with a much smaller liability. These companies did not tell that to the employer. It seems to me impossible to go into the actual policy of these companies closer than was done. This whole survey is perhaps one of the best that has ever been done—in fact, the only other one I know of was done by Mr. Barkin for the legislative committee in New York several years ago. But with both of those surveys, it seems to me we are still lacking what was pointed out by Mr. Phelps—the causes of this increased tendency toward age discrimination.

After listening to what was said by implication as to causes due to old-age pensions, workmen's compensation, retirement benefits, etc., I am still of the opinion that we need to inquire more as to the real reason, which everybody in this room probably knows is unquestionable—the productivity of the younger man as compared to the older one. It is perhaps unfair to ask you this question, but would you recommend that type of a law as a possibility for reducing to an appreciable extent this discriminatory tendency?

Mr. PHELPS. I welcome all of these criticisms and admit that in certain phases of the investigation we could not go so far as we would like. We were granted $1,000 to conduct the investigation. I think $25,000 has been granted to conduct a similar investigation in New York State. We had to use some of our regular people for this purpose, and we had to find ways and means to publish the report.

That is not by way of excuse. We went as far as we could within the financial limitations. However, we did not disregard the questions, and I think you will recall that I said the information we had with reference to workmen's compensation insurance was inconclusive. We did, however, go very thoroughly into the liability to accident and the cost of accident by age groups. So far as we could discover, the lesser frequency of accidents to the older person almost counterbalanced the increased cost of the prolonged injury in the case of the older worker.

Mr. TONE (Connecticut). Did you observe whether there was discrimination, we will say, in a plant as against a tool maker and a machinist, as compared with the man operating an automatic machine—a production worker?

Mr. PHELPS. We did not attempt to secure a classification of crafts within a plant, but we did secure information by individual industries—as fine a classification as it was possible to give there.

Mr. Zimmer spoke with reference to the policy of the department in administration, and what apparently will be the possibility of doing something about such discrimination with this weak law we have. The investigation determined the incidence of discrimination—in other words, the extent to which it occurred—not only in industry as a whole but also in the individual industries, not being confined to manufacturing, but including all kinds of employment in which there were establishments employing 10 or more persons. Consequently, we have a voluminous array of data by individual industries. We find many industries in which discrimination is much more apparent than in others.

In some industries—for example, the railroads—where they have definite provisions for seniority in their agreements, we found no discrimination whatsoever in the matter of the people employed at the time and the people who were dismissed from the service. We did find, however, that there was an absolute age limit at which people were taken in. We have that information, showing by industries and classes of employment the facts as of the present time with reference to discrimination. I discussed this specific question with the commissioner and with Mr. Meade, the director of the division of industrial safety, who will have the administration of this law. I told them that someone would throw this question at me, and that I should like to take with me an expression from them as to how they plan to administer this law. The law lays emphasis on individuals, and I suggested to the commissioner that whereas we know that one industry, because of the nature of the employment, cannot observe the same standards as other industries, yet we can say whether any establishment in any specific industry for which we have the facts does not measure up fairly to the standard already in effect in the

industry. That is not conclusive evidence, but it is indicative as to whether there is some policy of discrimination there, justifying the department in investigating the whole matter.

With reference to hiring, we can ascertain from the personnel records over a period of time at what age the persons were taken in. If we find that without exception almost all the employees are considerably under 45 years of age, that is very good evidence, justifying the commissioner in publishing the name of the concern. And it has the right of appeal to the court before the report is made public. That is the attitude of the commissioner, but of course it has not been tried out. It is unwise, of course, to say what you will do until you have had some opportunity to try it out and get a backlog of experience.

This law is not mandatory; it simply authorizes the publication of the name of a concern violating these provisions. You all know that for a long time you felt that the minimum-wage law was not effective because it had no teeth to it, and all you could do was to publish the names of the people, but I can show you from my records since this act became effective a large number of concerns, and particularly an organization of employers, who have definitely stated that they will conform with this standard set up in the act. While the investigation was under way, some of the very largest concerns came out definitely in the newspapers and called attention to the fact that they were taking back their older workers. In any legislation you build up by degrees; you cannot accomplish the whole thing at one time.

Mr. ZIMMER. But do you not think something more will have to be done to ascertain whether there is any actual justification, in the sense of production, on the part of management for this discrimination?

Mr. PHELPS. In winding motors—a job on which young girls and young women are employed—workers must be deft and quick. An older person probably could not do that kind of work. Consequently, there is full justification for the selection of people who are qualified for that particular job, and that might be considered a discrimination in the case of women. But if we have a number of those concerns and we find that one concern is far out of line with the rest, then we say that it can at least come up to the standards maintained by others in the same industry. The same holds good in the garment industry.

Mr. TONE. It will turn the spotlight on the employer as to what, we would say, is his responsibility to the community, will it not? Then again, it will educate the worker that the best way for him to secure protection is through some form of organization.

Mr. PHELPS. I should like at this time to make it clear that as a statistician I am supposed to be unbiased, and I am. I am interested in the legislation, but I was not responsible for it. I simply tried to do

my duty in getting the facts. I should prefer to refer you to Mr. Meade for answers to such questions as relate to administration and opinions.

Mr. MEADE (Massachusetts). I think Mr. Zimmer has practically laid bare what the situation is. After a year or two we will know more about it than we know now. You know a great deal more about minimum-wage legislation now than you did some years ago when it was first introduced. We must go through this experience in order to know the difficulties we will have to solve and how to solve them. There is in this legislation an object that I think is apparent to everybody. This matter of discharging people because of their age limitations has become a most cruel condition in many respects. Of course, some of the gentlemen involved are greater agitators or more aggravating than others. There are those who are ruthless about it. The purpose of this legislation will bring that out, and with those major performers we have at least a chance to talk with them and to find out how to meet this situation squarely within the law. Until that time we have no record of performance to bring you here. Knowing the commissioner as I do, I know he will meet the challenge. He will investigate and he will be able to tell you in a year what the story is, and he will do it squarely. That is the best way to start this sort of legislation.

There are some indirect conditions involved. In some concerns little, if any, attention is given to the question of complying with statutes. For the benefit of the employees, there is a certain amount of pressure that is necessary under the law at all times. Prosecution is essential and necessary. A concern that has a consistent record of discharging employees between the ages of 45 and 65, regardless of their ability to do their work, certainly deserves to be asked some questions about it. On the other hand, it is an entirely proper thing to appeal to the public good will for support along that line. Essentially that is what is in this law. The commissioner may bring these people to his office and find out what their attitudes are. Once an employer responds to a message of that kind, he ought to come with a pair of white gloves in his hands and be clear of the violation of any other labor laws that can be brought under prosecution. I offer that as a worth-while condition. In a year or two we ought to know something about what is going on in a wholesale manner, from month to month, in the discharge of employees who have spent a lifetime with the firm.

Some arrangement ought to be made by a firm to take care of those people, and we ought to be able to say that in many cases they are taken care of. Therefore, we ought to put the crown on the employer who realizes that he is dealing with human beings and whose policies are humane. I can assure you that, so far as the intensity of administration is concerned, we have a man who will stride up to the line and fight it out. I do not find any fault with others, who not knowing

the situation, look askance at it. On the face of it, it appears to be a very difficult thing, hardly productive of much of anything, but who knows what the end will be in negotiations of this kind?

We listened yesterday to an eloquent plea as to the rights of the unemployed. In that discussion it seemed to me that the author had simply put into the whole thing a spirit of humanity. This law calls for an exercise of the same principle and the same power, and we will have to say that an appeal to the public good will is not of much importance if the law does not succeed in doing something. We cannot afford to disregard it altogether. We ought to get as much out of it in the interests of the people who are employed as we possibly can. In a year or two we can tell you whether it has worked well, or the other way, and if it has worked the other way, we will be courageous enough to tell you that too.

Mr. PHELAN (Ottawa). You made reference, Mr. Chairman, to some efforts which the National Employment Commission made after its formation a year ago to collect data which might have a bearing on the alleged discrimination in employment against workers over, say, 45 years of age. In part what the National Employment Commission attempted to secure is parallel to what the State of Massachusetts secured, and in part there is a difference. I might say, also, that through a national registration of persons receiving public aid in Canada, which was carried out in September of 1936 and kept up to date each month, it appears that in the month of April of this year, out of the total employable persons who were in receipt of public aid in Canada, 25.8 percent were over 45 years of age. In the 1931 census, taken some 6 years earlier and at a time when unemployment was not yet so severe as it was 2 or 3 years later, the percentage of those 45 years and over among the wage-earning population of Canada was 23.7 percent. Those two figures are not strictly comparable. In the first place, the census figure was 45 years of age and over and the figure from the national registration was over 45 years of age. You will observe, however, that the difference there does indicate that there is a somewhat larger group represented by total employable workers over 45 years of age who were in receipt of public aid in April than was the case a few years earlier in the case of all wage earners throughout the country. That is an indication that insofar as recovery has taken place in employment, there has been a hesitancy on the part of the employers to hire back the older workers.

In a special inquiry which was sent out to several thousands of employers throughout Canada, employers were asked to tell us whether or not they had a fixed age above which they would not hire new employees. Only 12 percent of approximately 8,000 firms answering that inquiry stated that they did have a fixed age above

which they would not hire employees. On the average, those firms were larger than those of the total group, because their employees represented 29.4 percent of all employees covered in the inquiry, and I might say that 128,000 employees were covered in the inquiry.

Mr. PHELPS. In our investigation we asked categorical questions of that kind, but when we got the distribution by ages I felt that the answers to the categorical questions did not correspond with the actual facts as to the distribution of the people.

Mr. PHELAN. We did not ask for ages of employees. We asked just for numbers. We also asked as to whether the firm had a fixed retirement age, and 18.7 percent of the firms reported that they had a fixed retirement age. We asked that the fixed entry age be specified, and the firms gave us the distribution in that connection. Of the 12 percent which had a fixed entry age, approximately half had an age below 50 years. The remaining half had an age between 50 and 60. On the subject of the retirement age, no firm reported a retirement age of less than 50 years and only about 1 percent of the reporting firms stated that they had a retirement age below 60 years.

It appears to us, so far as we have gone into the question, that the problem arises almost entirely through policies of firms in hiring or rehiring employees. Forty-six percent of the firms which reported to us on this inquiry, having 42 percent of the total employees, stated that their operations are of a seasonal character. A great many firms in Canada operating on a seasonal basis have a more or less day-to-day contract with their employees. When the season opens they hire workers and when the season is finished they release them. That would appear to be one fertile source of difficulty on this question of those over 45 years of age. As to corrections which might be considered without resorting to positive legislation, they appear chiefly to be two in number. One would be short training courses in order to rehabilitate older employees whose former skills might have been lost, and the alternative, or further, assistance would appear to be to induce industry to stabilize the nature of its operations so that firms would not be constantly hiring and discharging, and so that employees would become part and parcel of the establishment. In that way the tendency would be much greater for firms to retain on their pay rolls regularly and indefinitely the older workers, and not to release them at 45 or 50 years of age.

Labor Legislation and Its Administration

Role of State Labor Commissioners in the Improvement of Labor Legislation

By RALPH M. BASHORE, *Secretary of Labor and Industry of Pennsylvania*

I know of no simple formula or standard that may be given or established in determining the role a labor commissioner may take to improve labor legislation. Each State or legislative division has its peculiarities in its legislative machinery and the procedure to follow in the introduction of its proposed legislation. What was effective in Pennsylvania may be totally ineffective in other States.

That it is essential for the administrative department which is made responsible for the enforcing of laws that are adopted to have an active part in their enactment is now a recognized procedure in legislative matters. What part a labor commissioner should take cannot definitely be defined, for I find that what was successful procedure in one case may have been just as unsuccessful in another.

Legislators are elected to prepare and enact legislation. They have usually general ideas covering laws which will benefit their constituents, and they will draft such legislation in accordance with their ideas. They will resent any interference by the departments directly or indirectly in many of these laws. I found, however, a great willingness on the part of all legislators to welcome a discussion of legislation affecting all the people of the State. Particularly is this true of that type of legislation concerning which they have not had an opportunity of studying nor the means of having available the results of the best research on the subject.

I also found that if the department had available a study of the proposed legislation and presented it in a courteous and proper manner the legislator welcomed the opportunity for discussion, and confidence in the work of the department was soon established. When once this was established, whatever difference of opinion existed between the department and the legislator soon faded, and we found that he was anxious to work with the department and usually followed closely the progress of the legislation and of his own motion kept the department informed on any material changes in the course of its enactment.

The department in any and all steps it takes should be careful to present its thought in an advisory capacity, basing its presentation

on the facts revealed from inquiry, research, and investigation. We found that material carefully prepared was very helpful when properly distributed, either by means of news releases or by pamphlets. In many cases it laid the groundwork for proposed legislation. Care was taken to give everyone, be they of industry, labor, or the public, an opportunity to present their findings to the department, which was done either by public hearing or in confidence upon special invitation. We found that the result of this type of research was very helpful, since even though much learned in this way was deemed confidential, yet we were able to use it as background in the suggestions that we would make to the legislator handling the legislation.

With this view in mind let us see what happened in our State—

Pennsylvania stands out today among progressive liberal States that have written into their history effective legislation to help the weak against the strong, and to curb the greed of a few at the expense of many. Once it was an industrial barony controlled by a few men, who listened neither to counsel nor advice but followed blindly their own selfish interests.

But today Pennsylvania has on its statute books many new laws. A short review of some of them will, I am sure, attest to the splendid advance we have made. All of these laws are administered by the department of labor and industry.

1. An unemployment-compensation law applicable to one or more employees, with contributions being collected for 1936 and 1937 from employers only. The benefit payments to start January 1, 1938—the minimum payment being $7.50 and the maximum payment $15 per week.

2. An accident-reporting law now requires all industrial accidents to be reported within 15 days and deaths within 48 hours to the department.

3. A workmen's compensation law, providing benefits with a minimum of $12, which is an actual minimum, and a maximum of $18, with payments over a period of 500 weeks at an established schedule, and for the payment for life in the case of widows and permanently disabled.

4. An occupational-disease law as a supplement to the workmen's compensation law which provides for the regular scheduled benefits of accident compensation with the exception of the dust diseases—silicosis, asbestosis, and anthracosilicosis. In the case of these dust diseases the maximum liability upon the employer is fixed at $3,600, with his liability varying over a period of 10 years, from a maximum of one-tenth of $3,600 in the first year, until the tenth year, when the total liability up to $3,600 is placed upon the employer. Further additional compensation not paid by the employer is provided by the Commonwealth under a special general fund from which is paid in the

first year nine-tenths of the award, eight-tenths in the second year, and so on until the tenth year when the employer assumes full responsibility.

5. The mediation service has been strengthened by a new act whereby either the employer or the employee may call upon the department for assistance when the department through this service has the right to arrange for conferences to bring employer and employee together. It may also of its own motion proffer its service to the parties. In addition, the department is authorized to designate arbitrators when requested by the employer and employee.

6. A State labor relations act, setting up a board of three, which is an administrative board in the department. Its responsibilities are similar to those placed upon the National Labor Relations Board.

7. The department was responsible for the enactment of an anti-injunction law, prohibiting injunctions or restraining orders in any case involving or growing out of a labor dispute until after hearing the testimony of witnesses in open court. When an injunction is issued, it must be specific in application, and must show that the employer will suffer substantial and irreparable injuries if the injunction is not granted. Temporary injunctions are limited in effectiveness to 10 days and permanent injunctions to 180 days.

8. A deputy sheriff act which prohibits private individuals or corporations from employing sheriffs, constables, detectives, police, or any other type of public police officer. Deputy sheriffs who may be named in cases of public emergency must be American citizens and residing in that particular county at least 2 years prior to the appointment. A man who has been convicted of a crime or served a corporation as a deputy, detective, or strike-breaking policeman cannot be appointed a deputy sheriff. The names of persons who may be appointed deputy sheriffs must be posted in a public place for examination so that the list may be examined.

9. A 44-hour 5½-day week, 8-hour day, has been established by law for women in Pennsylvania, which act is a supplement to our previous women's act, which limited hours of work to 54 hours.

10. A general 44-hour law governing men and women, effective December 1, 1937. The department, as to both the hour bills, is given authority, with the approval of the industrial board, to vary the hours of work where unusual hardship is shown.

11. A minimum-wage act for women, providing for the appointment by the department of minimum-wage boards representing employers, employees, and the public. Their recommendations are advisory and may be accepted or rejected by the department.

12. An industrial home-work law, specifically prohibiting certain types of home work and giving authority to the department to prohibit other types of home work deemed detrimental to the health

and welfare of the home worker or where existing factory wage levels, hours, and conditions of employment are being jeopardized.

13. A private employment agency act strengthens Pennsylvania's previous employment agency laws.

14. A strengthened fire and panic act subjects to the jurisdiction of the department all buildings in Pennsylvania where one or more employees are engaged.

15. A new factory act materially strengthens our previous laws by giving the department broad powers to protect adequately the life, limb, health, safety, and morals of employees. The act specifies that all belts, pulleys, gears, chains, and other types of mechanical equipment shall be adequately guarded. Under this act all points of operation, such as saws, must be protected and all lifting and hoisting equipment must be designed in accordance with department regulations. The act further provides that all noxious or toxic dusts must be removed at the point of origin.

The act also authorizes the department of labor and industry to prohibit the use of machines in dangerous condition and makes it a misdemeanor for any person to remove guards and not replace them. Not less than 250 cubic feet of air space for each person in an industrial establishment is required by the act.

This new factory act gives to the department unquestionable legal authority to inspect all types of establishments where persons are employed, and to draft rules and regulations to protect these persons from industrial accidents and occupational diseases.

16. The new boiler and elevator act extends the present inspection service of the department to the entire State. The cities of Philadelphia, Pittsburgh, and Erie are now all subject to the jurisdiction of the department.

17. The new bedding and upholstery act further prohibits the use of second-hand materials.

To understand this program in Pennsylvania one should know something of the recent history of legislation in the State. It would not be true to say that this legislation was suddenly enacted. Its enactment reflected a mandate from the people of Pennsylvania.

While evidence of the progress of liberal thought in Pennsylvania has been apparent for quite a number of years, it is fair to say that it did not start to crystallize from a legislative point of view until 1933, when the child-labor amendment was passed after prolonged debate.

Although no further advance steps were made at that session, sufficient groundwork was laid in the legislature and throughout the State by the liberal group to guarantee the fulfillment of the present program.

A specific program for liberal legislation was adopted as the platform of the Democratic Party of Pennsylvania in 1934, and a campaign

was waged under the leadership of the present Governor, George H. Earle. A clear line was drawn between the liberal forces and the opposition in that campaign, and the result was the election of a Governor pledged to the liberal platform, the election of a majority of the members of the house of representatives favorable to the platform, and the election of more than a majority in the senate of those senators up for election that year. However, the liberal element remained in the minority in the senate.

In the 1935 session of the legislature some progress was made in the adoption of the program, but no real progress was made until 1936, when the people of Pennsylvania again expressed themselves in favor of the liberal program by the election of an additional majority in the house of representatives and two-thirds majority in the State senate.

With a legislature committed to a program of labor legislation, a special session of the legislature called in December of 1936 passed the unemployment-compensation law, in order that the State might be in a position to pay benefits by the first of January 1938, and the administration of the act was placed in the department of labor and industry.

For the 2 years of 1935 and 1936 the department made plans for the submission to the legislature of a program in conformity with the platform approved by the electorate. A definite plan in conformity with this platform was laid out. Each bureau in the department was assigned a particular subject, with directions to make as complete a survey as possible covering all phases of the proper legislation and to draft tentatively pieces of legislation in conformity with those surveys.

The United States Department of Labor and other departments of labor were consulted and information gained from them concerning legislation similar to that prepared for adoption in Pennsylvania. Splendid cooperation was received from officials of the United States Department of Labor and other departmental labor officials in the United States.

A committee in the department consisting of bureau heads, together with other experts in the labor field from without the department, was designated to work up the results of the survey and to prepare the suggested legislation. When the 1937 legislature was called into session, the department was prepared to suggest legislation to conform with the platform upon which many of the legislators campaigned for election.

In all of this groundwork the department received the complete cooperation of Governor Earle and his entire cabinet. All legislation suggested by the department was first approved specifically by the Governor.

A special committee was formed in the department to follow the legislation after its introduction. The function and duties of the committee were to select a representative to sponsor the bill and to provide that representative with a complete report covering the survey and findings in connection with the specific piece of legislation. After the bill was introduced, the chairman of the committee to which the bill was referred was also provided with all information available on the subject. A contact was made with all members of the legislative committee, so that they might have at their disposal all possible information. The department committee carefully followed all meetings of the legislative committee, and at all times followed every step in the legislative procedure taken by a bill prior to its adoption.

The department was ever alert in examining the daily calender of both branches of the legislature. Not only that, but the department maintained a daily calendar, so as to keep a constant check on the movements of the various bills going through the legislative channels. The department also checked daily with the speaker of the house and the president of the senate on the many bills which were scheduled for consideration from day to day. The value of this double-check system proved indispensable in the final enactment of the laws sponsored by the department.

Where public hearings were deemed necessary, it was the department committee's function to see that proper representatives of the department were present and ready to answer any questions in reference to its legislation, and in certain cases, at the request of the legislative committee, the departmental representative took charge of arranging the legislative hearings.

You can readily see, I believe, how such a follow-up system and constant availability of complete technical information were a decided advantage to the legislative committee as well as the department.

The various bills were introduced in some instances in one house and others in the other. In some cases the same bill was introduced in the two houses simultaneously in order to speed action.

It was further the department committee's function, after the adoption of a bill by one house, to follow it through the other. In many cases public hearings had to be held in both houses. Such was the case of the compensation bill and the 44-hour bill.

One of the most important functions of the department committee was to read carefully and check each piece of legislation as it was reported to either house for a reading, and I am frank to state that in some instances after getting a bill reported from committee it was so amended as to be scarcely recognizable.

This necessitated further interviewing with members and the leaders of both the house and the senate. It should be kept in mind

that prior to the introduction of any of the legislation both the speaker of the house and the president of the senate and the leaders on the floor were made aware of the thought of the department concerning the legislation it has worked in, and after its introduction, complete cooperation was had from them in following through the various legislative steps.

It must be understood that the department did not frame legislation finally and demand its strict adoption. Many very helpful suggestions and additions were made during the consideration of this legislation by members of the house and senate. After the final adoption of a bill it was the function of the department committee to see to it that there was prepared for the governor's office and the attorney general's office a summary review of the legislation and the recommendation of the department as to approval.

As an example of the type of work which was done in connection with the preparation of this legislation, I might refer to the labor relations act. The department, through meetings with chambers of commerce, with organized labor boards in open meetings, and in private conferences, received suggestions and advice of those interested. In the case of the compensation bill, such opportunity was given to employers generally throughout the State as well as to labor organizations, and an attempt was made in all cases to get an agreement on the general type of legislation, if not on its specific provisions.

This, in brief, covers the activities of the department for the enactment of the labor program in Pennsylvania. We, of course, are proud of Governor Earle's legislative achievements. As an example of the attitude of labor towards our program, I might quote from John A. Phillips, president of the Pennsylvania Federation of Labor, who, in speaking of this program of legislation, said: "It is the most comprehensive ever enacted in any single session of any legislature in the entire history of the United States."

We are now faced with the responsibility of the administration and the enforcement of these laws. Our task is not an easy one. We need full cooperation of industry and labor in Pennsylvania. I am glad to say that up to this time we have received this cooperation.

Most helpful to us also has been the assistance of the United States Department of Labor, which has spared neither time nor expense in giving to us the best experts at its command in attacking the tremendous task presented to us. Pennsylvania today is not the Pennsylvania of yesterday. Pennsylvania is forward-looking and progressive. It has adopted a program in the interest and welfare, not of labor, or industry, but for all of its people.

Discussion

Mr. WRABETZ (Wisconsin). Did you state that silicosis and asbestosis, and so forth, were excluded from the operation of the occupational-disease provisions of your workmen's compensation law?

Mr. BASHORE. No, they are specially treated, in that the regular schedule of benefits are not paid as to those diseases. The limit is $3,600. The employer pays one-tenth of whatever amount is ordered the first year and the Commonwealth pays the balance, and down the scale, until the tenth year, when the employer must assume the full responsibility.

Mr. KROGSTAD (Michigan). May I ask to what extent your department lobbied for these measures?

Mr. BASHORE. Speaking very frankly, we were accused of being the chief lobbyist on the floor. As a matter of fact, the administration contemplated the introduction of a lobbying bill and one was introduced, although I do not think it was specifically sponsored by the administration, and some of the opposition newspapers said that the secretary of labor and industry would be the first one caught under the bill. The legislature was in session from January until June, and there was not a day that I was not in both houses of the legislature. With the tremendous program we had, I had probably 15 or 20 people very active in the department all over the legislative halls—not on the floor itself, but particularly watching the calendar, getting the chairmen of committees for meetings, and rounding up the members of the committees to get bills reported. That is the way we operated. Some resentment, of course, was brought about, because some people felt that we were interfering too much, but on the whole, the chairmen of the committees welcomed our help in getting the members to committee meetings and our explaining what the bills were about.

Mrs. BEYER (Washington, D. C.). How about the rules and regulations you have issued under your hours act?

Mr. BASHORE. You understand, of course, that we have two—one for women and one general. The general one does not go into effect until December 1. There was a great furor, of course, during July and August as to just what regulations we would issue under this bill. Many requests were made by all types of business, particularly the service industries and retail trade, asking for more than they were allowed, as a matter of fact, under the prior women's bill in Pennsylvania. The more conferences and hearings we held on the subject the more we came to the conclusion that the closer we stuck to the exact provisions of the bill, limiting the variations very little, the better off we would be. I felt that we made one mistake in permitting a 10-hour day on Saturday and the day before a holiday. Copies of all our regulations are available, and I shall be happy to see that they are

sent to anyone who wishes them, if you will just drop me a note at Harrisburg.

In short, excepting in retail trade, where we have granted a 10-hour day, we are sticking strictly to the act. In the case of hospitals, for the present fiscal year we are allowing them 48 hours. It is the only exception beyond the 44 hours that we have made. In the case of banking institutions, who insisted that they could not stick to the schedule, we are permitting them to average their hours over a period of 13 weeks, provided that the average is 40 a week or less. Where we have granted an exception we have demanded from the employer some penalty, as it were, so as to be able to better enforce the act. The banks represented to us that they could not possibly comply, so we granted what they asked for, but we will make a special investigation, and if we find that their representations are not correct, we will then insist that they stick to the letter of the law, because we do not believe in averaging, and it is the only case where we have permitted averaging. In the case of the telephone companies, we permitted them a spread of 12 hours. The general spread by regulation is 10 hours, but in the case of the telephone companies we have granted 12 hours. They wanted 13. We are making an investigation to determine whether that is enough or whether they could also operate on a 10-hour spread.

Mr. GRAM (Oregon). I should like to ask what concession was made to firms engaged in interstate commerce. The reason I ask is that in Oregon we have just passed new regulations limiting the employment of women to 44 hours a week, and we received a protest from a number of officials of international labor unions, protesting the reduction from 48 hours to 44 hours for office employees. They requested that we give them the same privilege that Pennsylvania had given them. As I understand the telegram, the regulations in Pennsylvania do not apply to any firm engaged in interstate commerce. This protest was signed by George M. Harrison, president, Brotherhood of Railway Clerks; E. J. Manion, president, Order of Railroad Telegraphers; B. M. Jewell, president, Railway Employees Department, American Federation of Labor; A. O. Wharton, president, International Association of Machinists; J. A. Franklin, president, International Brotherhood of Boilermakers, Iron Ship Builders, and Helpers of America; Roy Horn, president, International Brotherhood of Blacksmiths, Drop Forgers, and Helpers; L. M. Wicklein, general vice president, Sheet Metal Workers International Association; C. J. McGlogan, vice president, International Brotherhood of Electrical Workers; F. H. Knight, president, Brotherhood of Railway Carmen of America; and George Wright, vice president, International Brotherhood of Firemen and Oilers. The protest came from Cleveland, and they want our commission to retract partially and to permit them 48 hours for office

employees. Just before I left I sent them an airmail letter, telling them that we were not prepared to do that at this time but that we would give them a hearing after I returned.

Mr. BASHORE. We have avoided the question of interstate commerce. I think it is a rather touchy question, and I do not want to get involved in it until we have to. We did adopt a regulation providing that existing contracts involving hours of work in excess of those provided in the law would be effective until the date of their expiration. I recall some gentleman from Cincinnati, I think, phoning me concerning the act, and I read him this regulation and he was satisfied, but we had no formal protest, as I recall. As I recall it, the phone call was something concerning clerks in offices, and I told the gentleman their hours would continue under their present contract. He did raise the question as to whether their contract was a continuing one. I said that at the termination of the contract they must revert to the 44 hours.

Mrs. BEYER. It seemed to me, as I listened to Mr. Gram read the list, that those unions are all railway labor unions. What they are concerned about, undoubtedly, are the national agreements they enter into with the railroads of the whole country, and what they apparently want is an exception for those employees that are covered by the National Railway Labor Act. That has gone into quite a few State laws. I think it could be very easily handled by regulation and it would apply to comparatively few workers.

Miss ANDERSON (Washington, D. C.). I have always understood that the railroads did not come under any State laws, that they were governed by the national railway labor law. I am not quite sure from that list whether those unions refer to the workers on the railroads or whether it is a question of their own employees in their own offices.

Mr. BASHORE. We took the position that the people employed in their offices in the State came under our law. We may have to change it, but we have taken that position.

Mr. GRAM. In Oregon we have always taken the position that our regulations apply to railroad employees as well as to all others. The railroad companies have recognized those orders, from the fact that we have given them special permits under certain conditions. One railroad has had in the past special permits for two women, and two other railroads have had permits for one woman, each to work in excess of the hours stipulated in the order, on the condition that they pay them time and a half for that overtime and make reports. That would indicate that the railroad companies themselves recognize that we have jurisdiction. I might also say that our new orders go into effect today, and before I left the office two of the railroads came and said they had already made application for special permits, one

for three women and the other for two. In the past, under their special permits they were privileged to work a woman not in excess of 56 hours a week. In the request they are making now they request only to be permitted to work a woman for 48 hours a week.

Mr. McKINLEY (Arkansas). In our State we have always regarded that we have jurisdiction over female employees of railroads, with the exception of telegraph operators. The Federal Government has fixed the hours of telegraph operators and we do have some woman operators. I think the Government fixed 8 hours, and they may work 7 days a week. It seems to me that unless there is definite Federal legislation fixing definite hours, the States would have jurisdiction, but in the cases where Federal legislation covers the situation they would not have.

Mr. WALLING (Washington, D. C.). I listened with great interest to Mr. Bashore. I was wondering whether he had the usual opposition from the hotels and restaurants.

Mr. BASHORE. The hotels and restaurants in Pennsylvania had probably the hardest lobby to overcome of any in the State. They attempted by every means to defeat our purposes. As a matter of fact, when the bill came out of the senate we did not recognize it. Everybody was excepted, so that nobody could tell whether it was a 70-hour bill or a 30-hour bill, and who was in it and who was out, and that was due entirely to the hotel lobby. After the passage of the act, that group came before the public hearing and admitted finally to our examiner, who was conducting the hearing, that the application they made to the department under this act would have granted them more leeway than they had under our old 54-hour bill. So when we came to write their regulation we wrote it strictly, 44 hours a week and 8 a day, with a maximum spread of 10 hours. They wanted, of course, a 16-hour spread.

Enforcement Through Inspection

By GEORGE C. DANIELS, *Chief Inspector, New York Department of Labor*

On March 25, 1911, the Triangle Waist fire occurred in New York City, due in all probability to someone dropping a cigarette in a pile of light cotton material. Secondary causes of deaths were locked doors, and the failure of the old-fashioned type of fire escapes prevalent at that time. The legislature was in session at the time of the fire and immediately enacted a law providing for a factory investigating commission, with Robert F. Wagner, United States Senator, and A. E. Smith, Governor of the State for a long period, chairman and vice chairman respectively. That commission, during 1911–12, made an extensive study of industrial conditions in the State and submitted

to the legislature recommendations for an entire recodification, bringing up to modern practice the labor law and the organization of the department. Most of these recommendations were enacted into law during the 3 years 1911, 1912, and 1913, with the result that we had at that time probably the most complete factory law in any of the States. I think that is admitted generally. The entire department was reorganized, but so far as enforcement is concerned, of course, the power of inspection was the one in which we are particularly interested.

The law provided for the continuance of the bureau of inspection, which had been provided for in the law for some time, on a reorganized basis, with divisions of factory, home work, mercantile inspection, and industrial hygiene, and also provided for supervising inspectors in eight districts throughout the State. That is, in the main, the same organization which we have at the present time, except that we are now under commission units, and the division of industrial hygiene is entirely separate from the division of inspection. We now have in the entire division a personnel of approximately 275 people, of whom 90 are factory inspectors. Each year they inspect approximately 65,000 factories, or, on the average, 722 per inspector.

There are three or four things which I think are essential for any unit or division which is adequately to enforce the labor law in industry. The first thing which I think is essential in real enforcement—and I do not like the word enforcement, although I do not just know what word to use in place of it—is that the inspection unit shall be a service organization rather than a police force. It is true, of course, that a large part of our time as inspectors must be spent in saying to the employer, "You must do this because it is the law." Unfortunately, down across the border there are a lot of people whose answer to that is apt to be, "So what?" In other words, they have not so much respect for law as law as they should have.

I believe that the best results can be obtained by selling an idea rather than by enforcing an arbitrary statute. The best inspector is the inspector who has to use force the least or relies upon the arbitrary provision of law, the least. The inspector who can go into a plant and get compliance with the law—in other words, get safe and sanitary conditions as a matter of principle rather than because of the law—is in my opinion much the best inspector. We find that the better type of inspector can actually do that. I have in mind certain inspectors in our own force who never have the least friction or trouble in any plant. There are others who are always more or less in trouble with this plant or that plant, who find employers very hard to deal with, and who find it very hard work to get compliance. The first group is superior to the second group, because on the whole the type of employer with whom they deal is exactly the same as that with whom the other deals. In other words, it is purely a mat-

ter of personality, tact, or lack of tact, on the part of the inspector who makes inspections.

Then, in order adequately to enforce the law, or to carry out what I have tried to suggest as the service which our departments owe to the employer as well as to the employee, we must have a trained personnel. I think that everyone here will agree that any factory-inspection force should be selected as the result of careful, practical, competitive examination, which means civil service; that is, that a man should not be appointed a factory inspector simply because he has been able to deliver a block of votes at the last election. The factory inspector who owes his appointment to a political organization will serve that organization first. Later, if he has the time, he will serve the department and the people for whom the department is maintained.

There is a great difference of opinion as to who should examine a factory inspector. In some jurisdictions there are almost no requirements. I think a fair minimum requirement is a high-school education or its equivalent, and 5 years of practical experience in a factory or workshop. These are all very well. The written competitive examination is fine, and weeds out many who should not be appointed. By and large, it is the best scheme we have yet developed for the selection of civil-service personnel, and yet we all know that there is something lacking in it. One of the poorest inspectors we ever had as a member of the department was, or at least claimed to be, a graduate of Harvard University. Some of those who have been in the department for many years and have risen to executive positions in the department are not even high-school graduates, so that the educational requirement does not seem so important. The thing that is almost impossible to show or to determine by a competitive examination of any kind is the thing which, after all, is the most important; that is, the personality or tact, or lack of tact, of which I spoke a few moments ago.

We are agreed that there must be a trained personnel. We must also have, in order to keep such personnel, a salary which is high enough to maintain the type of men we must have in order to have anything like a satisfactory labor department organization. There should be an incentive on the part of every person who enters the service as a factory inspector to spend his life at that particular work. That imposes a reasonable entrance salary, commensurate with what the same man could earn in another field, and a gradual and sure increase through the years, so that he knows that if he does his job he may earn more money from year to year and will be assured of a job. I know that in some of the States—how many I do not know—the labor departments are still under political dispensation; that is, a change in administration may mean, and in some States I under-

stand it does actually mean, a complete turn-over of personnel. I do not know how any person at the head of a labor department can carry on under those circumstances.

We find that even the best inspector is of very little value for a year after his appointment; that after 2 or 3 years he begins to be fairly good; and that he is better year after year as long as he is mentally alert and physically fit. It seems to me that the only possible way to have a factory-inspection force which is at all adequate is by a system of civil service, or whatever you may desire to call it, which will guarantee to the inspector when he comes into the department a tenure of office which will continue as long as he does his job as it should be done. Another thing which I think is entirely necessary if we are to have the right type of trained personnel is the encouragement of the field inspector to consider himself a sort of assistant to the commissioner. What I mean is, that every man in the field should feel that it is his job to see that the labor law in enforced in his district, wherever he is assigned, as it should be, and to feel perfectly free to go to his commissioner or to his division head and suggest changes, both in the law and method of enforcement, so that he will keep always before him the notion that he has a responsible worth-while position, which is worth while because of the service he is rendering, rather than a mere job because of the salary. Everyone knows that there is all the difference in the world between a man who is merely digging a ditch and the one who is digging a ditch and feels that he is having a part in the great project.

We have, as I said a moment ago, a number of supervisory districts, each supervisor having a staff under him. We have, of course, a director at the head of the entire work. We have also a chief inspector in charge of mercantile inspection and a chief factory inspector, and to me that is extremely important. It gives a local head to whom industry may go with its troubles. It places at the disposition of the inspector himself a superior who has been longer in the service and who has had more experience—a man, perhaps, of more ability in the beginning but who through his years, if he is any good, has learned more about the job than the ordinary man in the field. We think that is essential.

Then of course, in conclusion, the thing that is primarily necessary is for every last man to keep at it. I do not know how many of you have operators sufficient to inspect all your factories every year. In New York State we have done that for many years. There is a difference of opinion, perhaps, as to whether or not that is necessary. Some people, I know, feel that inspection once in 3 or 4 years is all that is required. Personally, I feel that a complete annual inspection of every plant subject to your jurisdiction is the absolute minimum for anything like adequate enforcement. That, of course, must be supple-

mented by numerous revisits during the year to each plant where violations exist, or the conditions are such that the man in charge feels they may exist. I do not know how it is in your jurisdictions, but we find in New York State that most of the manufacturers get just a little bit slipshod if we are not around once in a while. I think that it should be the aim of every department head not to stop until he has a force large enough to do the work for which we are responsible at least once a year, if not oftener.

Let me emphasize one point that I made. Once more, then, I think of enforcement through direction and cooperation rather than through police work. Probably you all have provisions in your laws for prosecuting violators. Some of you probably have provisions for taking stringent measures where necessary, and these have to be used at certain times. We have, in addition to those, a provision that we can close up a big shop any time we see fit. These are all things which should be used more or less as necessity arises. In other words, all the other methods available should be used first, and then I do not think that we will have much difficulty in getting the cooperation of the great majority of employers. Of course here and there is an employer who will not do anything until he is made to do it, but that type represents so small a minority of our employers that they are hardly worth consideration. We have to deal stringently with them, of course, but in the main we can secure very much better compliance with the law through cooperation and direction, both with employers and with employees, than we can through police methods.

Round-Table Discussion

Mr. PRAIN. Speaking for Ontario, I think that the better policy would be to raise one important point and have a general discussion. I also feel that some time should be spent in discussing the question of enforcing the hours in shops and factories. One point I should like to hear an opinion on is that of specializing in factory inspection. Several years ago in Ontario it was decided because of pressure from organized labor bodies, to adopt that system, particularly in foundries and polishing and buffing rooms, and special, competent men in these lines were appointed. The scheme worked very well, particularly in foundries, and I will say that conditions in the foundries of Ontario are 100 percent better than they were before the adoption of this system. Difficulties began, however, as applications came in from bakers, elevator workers, and others for specialists in those lines of inspection. Further difficulties were occasioned by manufacturers who began to feel there was too much duplication. The general factory inspector would visit a factory, probably taking up the better part of a day, and then, through some misunderstanding, the foundry inspector might appear in the same plant the next day, thus creating

an annoying situation owing to the fact that the same official's time had again to be given up to the inspector. Through experience, therefore, specializing has been discontinued except in foundries. I should like to have an expression of opinion as to whether a system of this kind prevails in any of the States.

Mr. TONE (Connecticut). Would not the geographical position of the State make a difference? In our State we use two men on elevators, and one man on boilers. We use two men as what we term "g-men" on all complaints; they really do the investigating and detective work. We can specialize because our State is a little over 100 miles long by 60 miles wide. Although we have 600,000 workers in the State and every other worker is employed in industry, it does not take any time to move from one end of the State to the other. In the case of a factory inspector in Montana it would be quite a different thing to specialize, and so many of these States have very few inspectors. I am for it if it can be done.

Mr. GRAM (Oregon). It is important to know how these things work out in a practical way. Every time I put on a new man he is told that employers have to comply with our instructions, but he is also told that it is not up to him to prosecute. If he cannot sell safety to the employer he will not have a job very long. Our State is divided into territories, and each man is responsible for his territory. By that I mean that the boiler inspector and safety inspector, which is the same man in the same district, have to render a report on everything they do every day. These reports are kept, a copy being mailed to the employer. Each employer has his own file. The next time an inspection comes in, we check to find out whether the same recommendation appears in the second report as in the first. When the inspector has made three trips to a plant, two a year and some every 90 days, and it is evident that he is not getting cooperation, I either go out on the job or send a chief inspector. Our major industry is lumber and changes are frequent. If the employer has not complied with the recommendation of the inspector, his plant is shut down pending discussion of the matter. I am not sure if that is lawful. Let him prosecute me for shutting down his plant. We have spent 3 days in one plant to help rebuild.

My boiler inspectors and factory inspectors are not permitted to handle the women's end of it. They are to get the information and report it to the office. Woman inspectors are then sent out, because the boiler inspector or factory inspector, if he goes into the other matters, builds up a wall between the employer and himself and his efforts are nil, so someone else is sent to investigate regarding violations of minimum wage. It is hard to get evidence without exposing the girls, which we do not want to do. When we cannot get evidence, we approach the district attorney and the central labor council. We

advise them we have heard rumors of violations. We ask for one person to sit in on a hearing and then put the girls under oath. Two other people sit in and take testimony. We then go out to the employer and give him his chance. He is told, "You pay these girls time and a half for this overtime or we shall be compelled to prosecute." The girls usually get the money.

If an inspector becomes a policeman he is lost. He must be able to sell the safety idea to the employer before he gets anywhere.

Mr. STARKEY (Minnesota). We feel there are reasons why an inspector should not be assigned to a district. The first inspector is going to do a thorough job because he does not know what conditions actually exist at that time. We feel that if the inspector calls back on the same places, sometimes too great a friendship grows between employer and inspector, and so the inspector is shifted around. He does not know whether or not another inspector is going in soon after him, and will do his job well, in case the next inspector finds something he has overlooked.

Mr. DANIELS. Do you not think, Mr. Starkey, that the question of whether or not an inspector should remain in a district a considerable length of time depends altogether on the personality of the man?

Mr. STARKEY. No, I would not say that. They are all human.

Mr. DANIELS. I do not want to appear to disagree with you, but my experience differs. I have in mind just now two inspectors—both dead, by the way. One of them inspected the same district in the State of New York, which included his home town, for many years—probably 20 years at least. That inspector could go into a plant and find any violation which it was necessary to prosecute. He could put the employer into police court today and go fishing with him the next day, with the finest friendship possible existing. The other man worked in his home town for a time. He was in hot water all the time. He was either being accused of prosecuting people he did not like or of being too lenient with those he did like. Each of those men was a good inspector. The second man was transferred away from his home town. It was purely a difference between the personalities of the men. I have always felt that it is a mistake to leave a man in a district too long. On the other hand, my personal opinion is that it is also a mistake to transfer them too frequently. I think a capable inspector, who is a service chief rather than a policeman, can sell service better after the people in his district become acquainted with him and know he is on the square and that he is there to serve them, than he can the first year he goes in there.

Mr. PRAIN. Would not this gentleman's idea have a tendency to cause one inspector to feel that the other one was playing detective and thus raise dissent in the ranks of the personnel? It is my ex-

perience that it is physically impossible for an inspector to go into a plant and see everything in a short time, but by repeated visits and contact with employees he eventually has the plant in a safe condition, and the office staff has then only one set of inspection reports to contend with instead of those from two or three inspectors. The repeated changing of inspectors might have a tendency to raise a conflict of opinion as to the best method of safeguarding machines that would create a somewhat impossible situation.

Mr. BURNS (Ontario). You would have the whole staff at loggerheads if you had them following one another around.

Mr. DANIELS. What Mr. Starkey had in mind was leaving one man in a district for a certain time, then transferring him to another, and so on. Is that not so, Mr. Starkey?

Mr. STARKEY. No, that is not the idea. The inspector does not know from one week to another to what district he will be assigned next. Any answer to the two questions here depends upon the capabilities of inspectors. In relation to one inspector playing detective on the other, that is not true, because they all play detective on each other. We consider that they try to do the best job each time they go in because they do not want the next report to show they do not see violations. Every time one inspector shows up something another misses, the first inspector is not called on the carpet, but if this continues over a period of time, continually bringing up important things he has missed, then he is called on the carpet.

Mr. PENDER-WEST (Ontario). Do you not get better results in following up their own recommendations?

Mr. STARKEY. The chief inspector follows up.

Mr. PENDER-WEST. He holds the inspector responsible for that being remedied?

Mr. STARKEY. The report of the inspector is taken in to the chief inspector. He issues an order. Our inspectors do not issue any written orders. For minor things the chief inspector issues an order to the employer and in 30 days writes a letter to see that he has complied. A check-up is made if no reply is received. The same inspector will drop in.

Mr. BURNS. The chief inspector does not know whether the inspector has done a good job or a bad job.

Mr. PRAIN. I do not know how it works out in the States, but in Ontario if a bad accident occurs there is an inquest and the inspector for that district is the star witness. If the evidence can make him the goat, it does. He is subpenaed, and if it can be shown that he has missed something he should have seen, they do not hesitate to put the blame partly on his shoulders. If you have two or three

inspectors covering a period of a year, you have three goats instead of one.

Mr. STARKEY. Our inspectors are not called in at inquests. We cannot assume responsibility for any accidents.

Mr. TONE. May I ask this question? What percentage of the States uses the district system and what percentage shifts the inspectors at will? Are there any other States using the same system as Minnesota?

Mr. VIA. Yes, South Carolina.

Mr. DANIELS. Mr. Starkey, you say that no inspector knows in advance where he will be sent. Over how long a period do the inspectors know where they are going next?

Mr. STARKEY. A week. All work from the same center, with one exception—one man in Duluth.

Mr. DANIELS. But other inspectors work from the head office and may be sent anywhere in the State?

Mr. STARKEY. Yes.

Mr. PENDER-WEST. In the Province of Ontario that might mean that one inspector is spending all his time traveling, getting to and from the place, perhaps 400 miles from headquarters.

Mr. DANIELS. How many inspections are made in a year, approximately?

Mr. STARKEY. About 7,000.

Mr. DANIELS. We have 65,000 in New York. I should hate the job of having to assign someone every week. Our inspections are divided into nine supervisory districts. In four of the districts the instructions are that each inspector working in that district must live there. Then he is assigned to a particular subdistrict of the supervisory district, where he remains sometimes 2 or 3 years, and sometimes much longer.

Mr. VIA. The size of the State has to be considered. In South Carolina one of our inspectors can leave the office and be at the other side of the State in not more than 4 hours. Where it is a large State or Province, it is different.

Mr. PRAIN. Where the Province or State extends for probably 2,000 miles, you have to have districts.

Mrs. FERGUSON (Ontario). I should like to ask the gentleman from Oregon regarding the agreement to pay time and one-half for all hours worked overtime. Has it discouraged violators or have you repeaters?

Mr. GRAM. No, it discourages them.

Mrs. FERGUSON. Do you not think that the fear of publicity works on the part of the employer?

Mr. GRAM. Well, in some instances it might; in others not. I have one case in mind where a complaint came in against a confectioner. I made a personal investigation and talked to both employer and employee. The employer admitted the violation. Next week the same complaint came. I again investigated and warned the employer. Then the third complaint came. We got the evidence and laid 12 charges, then went back next morning to bring him to trial. When I got back the justice said the defendant was going to plead guilty, and assumed that we would be satisfied if he pleaded guilty to one charge and held the others in abeyance. We agreed, but in place of Mr. Confectioner pleading guilty he demanded jury trial. The justice of the peace had to get a jury of six business men. The girls were there. The proprietor pleaded guilty, but stated that the girls stayed down of their own free will and were not on duty. The jury said, "Not guilty." Newspapers are uncertainties in local communities. Some employers do not care anything about publicity, but we feel the girls get the benefit, and the penalty is much greater if you can get the evidence.

Mr. TONE. Different States and Provinces have different problems. Commissioner Gram speaks about shutting down a factory. Some factories have 12 to 15 thousand workers and the repercussions come to the people in that city. He probably has a different type of employer. We have A, B, and C. In C's and some B's we have about 300 convictions—not $10 fines but $700 and $800 ones. We fine sweatshops $500 and costs, and the next time impose a fine above $700. We protect the person who makes the complaint. Speaking of conviction and cooperation, I am a great believer in it, but some employers can be contacted only through their pockets. We have tried it out time after time. For 2 years inspectors acted as cooperators and advisers, but you cannot advise some types of employers. We have had employers who would open up a shop, work 2 or 3 weeks, and then open another one in a few days in another city. That type of employer does not mind the law. There is only one thing to cure him—a larger penalty for the second offense and two or three sent to jail. That is the only way to get results from certain people. If the inspector cannot get cooperation, call upon the courts.

Mr. BURNS. I should like to know what would happen if I tagged a key machine and closed it up? I would have the employer hollering to the Government, if on special production, although I believe that immediate action should be taken. The inspector would be hounded with a gun if he tagged that key machine. I should like to know how tagging the machine works out for him.

Mr. GRAM. I should like to say to Mr. Tone that perhaps where you are there are no sweatshops. One question asked me about tag-

ging machinery is should the inspector do that? No; if machinery is to be tagged, it is up to the chief to do it.

Mr. DANIELS. In my opinion the time to tag a machine is a momentary proposition. We tag very little. For instance, suppose an inspector finds a circular saw with a crack running two-thirds in the radius, ready to burst and fly across the workroom. Should not the inspector be allowed to tag? My point is this, that the inspector should have no trouble in convincing the management he must remove it immediately.

Mr. BURNS. Suppose a large rubber mill found the emergency brake did not work. To fix the brakes would cause the ruin of hundreds and hundreds of dollars' worth of rubber. Would you have the rubber mill tagged so as to safeguard the operators' hands from danger of mutilation?

Mr. GRAM. It depends on the circumstances. If this is a condition which has been called to the manufacturer's attention and an order has been issued to correct the machine but the order has been neglected, who is responsible? Who is to blame for his lack of cooperation?

Mr. BURNS. Recommendations by the inspector relieve him of a certain amount of responsibility, and the employer, by neglecting to comply, is in line for prosecution.

Mr. DANIELS. Power to tag should be used with very great discretion. I remember some years ago being sent by the supervisor under whom I was working to a paper mill. A man had been killed on a paper machine, which was entirely bare of the chief guards. I tied a tag on the paper machine, but it took only 2½ or 3 hours to fix it. Then we took off the tag.

Mr. MOONEY. How diversified is the task of your inspectors—do they cover health and safety as well as pay rolls, and check on hours?

Mr. DANIELS. They cover everything except boilers. We have a specialized boiler unit.

Mr. MOONEY. Does that include mattress inspection?

Mr. DANIELS. Our factory inspector enforces the entire labor law, including hours of women, minors, and child labor. When inspecting a building in which 100 women are employed, he checks everything. The mattress law in the State of New York is not part of the labor law, but is part of the business law. The State health department did practically nothing about it, and authority to enforce it was transferred to the labor department. We assigned it to factory inspectors, but it did not work out.

Mr. MOONEY. What about minimum wage?

Mr. DANIELS. Minimum wage is an entirely separate division. There are two sets of inspectors.

Mr. ZIMMER. You were supervisor. How much time did you spend inspecting the factories in your district? My recollection goes back 20 years. I appreciate the arguments of Minnesota, but am not in favor on the whole. You job as supervisor in the New York district has been recognized. You are the man who wants to determine the efficiency of your factory inspector's job. I do not think my district supervisor knew 1 or 2 of the 400 plants.

Mr. DANIELS. That is not true of all supervisors.

Mr. ZIMMER. I wondered if you had changed your policy and require more field work on the part of the supervisor.

Mr. DANIELS. The work done in the field by our supervisor is of two types—going with the inspector and pointing out ways in which he can improve, and investigation of violation of orders, all of which is done either by the supervisor personally, or by an assistant under his supervision.

Administration of Labor Legislation in Canada

By ADAM BELL, *Deputy Minister of Labor of British Columbia*

My subject, The Administration of Labor Legislation in Canada, is one of some magnitude and of no little difficulty. Due to the constitutional construction of the Dominion of Canada and its component Provinces with their respective legislative jurisdiction, we have a variety of labor laws, and as the laws vary so also do their manner and method of administration. Under the British North America Act, the Constitution of Canada, the legislative power of the Parliament of Canada is limited to certain things, while the Provinces have exclusive legislative jurisdiction in other matters. As a result, in the progressive development of labor legislation occasions have arisen when certain constitutional points have been at issue, which in some instances have been carried to the highest judicial court in the Empire for decision.

Our United States members will see, therefore, that our problems in Canada are in some respects similar to their own. Nevertheless, the Dominion and the Provinces, within their respective fields, have enacted much sound and beneficial labor legislation and in a spirit of cooperation; jurisdictional friction has not been a serious deterring factor. One difficulty, however, remains, and that is the anomaly of diverse labor standards within one economic unit. The greatest purpose that a conference such as this can serve is to help in overcoming that condition.

It is not my intention to lay before you a résumé of all the labor legislation in Canada. That would take too long. Nor do I presume

to attempt to discuss the methods and means of administering these laws in all the Provinces of Canada. To do so, one would really need to examine at first hand the operation of all the departments of labor. That has not been my privilege. I have been too busy trying to run our own show. I have, however, at every spare moment, followed as closely as possible what was being done elsewhere, for we can all learn from the experience of others. Many of you, I am sure, have followed this same plan and will agree that it is not easy to do. Legislation changes very rapidly in these times. I have watched the enactment of statutes in other places, and thought that I discerned in them something that we might well adopt to our own advantage in our own Province at our next legislative sitting. But I have frequently found that when our next session came around the pattern that looked so promising had been amended beyond recognition and in some instances had been discarded altogether.

It seems to me that the first essential to the successful administration of any law is that the administering authority should fully understand its import and its purpose. The tremendous impetus that has been given to labor legislation within the last few years cannot be without a reason, and here I pause to mention the striking swing in public opinion so noticeable during recent times. We have watched and we have seen laws enacted with amazing facility and without opposition which only a short time before would not have received sufficient support to bring them before a legislative body. Why is this? Simply because the public mind has been aroused to a consciousness that to effect our economic salvation, wrongs must be righted, evils must be eradicated, conditions must be changed, a greater sense of social security must be created, and a better economic balance must be established.

As we are gathered here today from all parts of the North American Continent, our discussions must impress one thought upon our minds. We cannot fail to observe how similar are our problems but how dissimilar are out remedies. That is equally true of Canada, and I have taken some time to lead up to this point, because in my opinion the law and its administration are inseparable. The success of either one depends upon the other.

Generally speaking, the system of law administration in Canada—and I refer to all law and not to labor law only—is along the lines laid down in precedent and practice by the Mother of Parliaments at Westminster. The Dominion Government has a Minister of Labor who is head of the Dominion Labor Department, and who has under him in varying rank in the civil service a Deputy Minister and other officials. The same system is followed by the Provinces, with only slight variations, in most cases the responsible minister having charge of some other department or departments in addition to that of labor.

In Canada there are nine Provinces. In all of them, with the exception of Prince Edward Island and New Brunswick, minimum-wage laws for female employees are in active operation. With the exception of Prince Edward Island, all Provinces have statutory provision for the regulation of wages and hours of work of male employees in some form or other, some following the principle of minimum wage and hours of work fixation by mandatory order of a board after investigation, while others follow the principle of adopting and giving legal effect to wage scales and working conditions already agreed upon between adequate representation of employers and employees in an industry or occupation in specified localities. In some Provinces, both of these methods are in operation.

It might be opportune at this juncture to mention that in 1935 the Dominion Government ratified certain conventions of the International Labor Organization of the League of Nations and enacted legislation giving effect to these conventions. The statutes enacted were: (1) The Employment and Social Insurance Act, 1935; (2) The Weekly Rest in Industrial Undertakings Act, 1935; (3) The Minimum Wage Act, 1935; (4) The Limitation of Hours of Work Act, 1935.

As certain of the Provinces had challenged the action of the Dominion therein, and doubt having arisen as to the right of the Parliament of Canada to enact these measures in whole or in part, the Government deemed it expedient to refer the question to the Supreme Court of Canada for hearing and consideration. The decision of the Supreme Court was divided, and appeal therefrom was taken to the Judicial Committee of the Privy Council, our highest Empire Court. The judgment of the Privy Council declared all four acts ultra vires of the Dominion Parliament, and the position now is as it was formerly. The right to legislate in such matters is vested exclusively in the Provinces.

I am sure I will be forgiven if, in dealing with operative administration, I confine my reference very largely to the Province wherein I have actual experience. In British Columbia minimum wages for female employees have been in effect since 1918, and between 1925 and 1934 rather sporadic attempts were made to establish minimum wages for men. It was not, however, until 1934 that the question of wages-and-hours regulation by law for all employees was tackled in a comprehensive manner. This was done by the substantial revision of all existing labor laws and the enactment of many new ones.

This program has been executed in two parts—creative and administrative. The creative part is performed by the board of industrial relations and the administrative part by the officials of the department of labor, who belong to the civil service of the Province. The industrial relations board commenced its work on the principle of restoring to industry the foundations in wage structures that had been

shattered by the years of depression. We have held consistently along that line, our object being that once a foundation is laid, having in mind the welfare of all workers in any industry, and compatible with the ability of the industry to pay, higher wages for more highly skilled employees can generally be left to the mutual arrangement of employer and employee. At no time have we attempted to fix standards of wages for all classes of labor in their respective and circumscribed occupations.

In Alberta, a movement has recently been made to establish a minimum wage for male employees on a comprehensive provincial-wide basis.

In Ontario, Quebec, Saskatchewan, Alberta, and Nova Scotia, industrial standards in respect of wages, hours of work, and conditions of labor that have been established by agreement between representative groups of employers and employees may be given the effect of law within prescribed areas if approved by the authorities administering the statutes enacted for that purpose. In Ontario, Alberta, and British Columbia, trade schools are subject to governmental regulations: (1) To prevent exploitation of students; (2) to assure that trade schools have a proper course of study; (3) to prevent alleged trade schools from competing unfairly with properly equipped and bona fide business establishments; (4) to require trade schools to keep proper records of all their transactions.

Enforcement presents its problems. We in British Columbia have tried and are still trying to educate employers and employees to the advantages the legislation affords. In a number of cases we find it necessary to lay charges in the courts against employers who, when infractions have been brought to their notice, have failed or refused to abide by the orders of the board. During 1936, charges were laid against 181 employers for violation of our labor law. In 165 cases convictions were registered and the penalties applied, while in 16 cases, the charges were dismissed or withdrawn. Only recently we had occasion to prosecute 24 employees employed by one concern, as well as the employers of the concern, for violation of the Hours of Work Act. In the same year, 10,245 inspections were made by our inspectors, detailed reports being made out on regular inspection forms in every case. The sum of $60,172 was collected by departmental officials and paid over to employees who had not received the amounts to which they were legally entitled.

This brings up the point of collecting money for employees, many of whom have knowingly worked for less than the legal minimum, and later have used the officials of the department as collecting agents. Were it not for the additional penalty that is applied to the defaulting employer by the amount he is compelled to pay in the collecting process I would be constrained to make fewer collections, for I believe we will

never achieve the desired measure of enforcement until employees assist the administrative authorities to a fuller extent by making a greater individual effort to take advantage of the protection and help which the law affords.

Apart from the provisions in the wage-fixing statutes in force in the various Provinces, there is no means by which the State can collect money for employees who have not received their wages. Employees in such circumstances, however, have access to the courts for that purpose by virtue of the lien acts, which are generally in effect in all Provinces, but the procedure in such cases is along the lines of civil action. It is my conviction that in Canada there is need for legislation to cope with the ever-growing problem of unpaid wages, and in this connection I feel sure that the draft act for State wage collection prepared by the committee of this association will be of assistance. In British Columbia we have a Semimonthly Payment of Wages Act, which covers most of our basic industries except agriculture; but while this law imposes a penalty upon the offending employer, it provides no means for collecting wages on behalf of the unfortunate employee who has been deprived of his earnings.

The system of apprenticeship has been vigorously encouraged by statute, particularly in two of the major industrial Provinces—Ontario and British Columbia. In those two Provinces, regulations are also in force to curb malpractice in the field of industrial home work. These regulations require a complete system of registration of work of this character.

Generally speaking, the attitude of the courts has been helpful rather than obstructive, and I think I am safe in saying that in the case of every well-drawn and unambiguous labor law that has kept clear of jurisdictional uncertainty, the administering authorities have had the fair and active support of the judiciary.

Agricultural labor and domestic service remain as yet practically untouched so far as labor regulations are concerned.

My discourse would be incomplete without some reference to the all-engrossing topic of the moment, namely, the right of labor to free association in the organization of its own choosing and the problem of dealing with labor disputes. In Canada the right of labor to organize stands unchallenged. The Prime Minister of Canada and the Minister of Labor of Canada, as well as the responsible ministers of provincial governments have repeatedly asserted this axiom. The right to picket peacefully is fully recognized under the Criminal Code of Canada and the Trade Union Act of British Columbia, but coercion and intimidation receive no sympathetic glance from those in authority, and law and order are fully maintained by the forces charged with that responsibility.

Legislation providing for conciliation and arbitration in industrial disputes has been in force in Canada since 1907, but has not escaped the experience of jurisdictional controversy. The original act, the Industrial Disputes Investigation Act, a Federal statute, provides for the establishment of a board of conciliation and investigation in any labor dispute in public-utility industries and mines within Federal jurisdiction. All the Provinces except one have now passed the necessary enabling legislation to make the act operative where provincial jurisdiction applies.

The policy of fair wages and fair labor conditions on Dominion and Provincial government undertakings and contracts has become established by statute and practice throughout Canada, and is operating satisfactorily through the administrative machinery provided for that purpose.

I have tried in the time at my disposal to give you some idea of our position in Canada with regard to labor legislation and its administration. It can be regarded only as a brief outline of a volume of legislation, the product of many years' effort and concentrated thought. I can only say in conclusion that in the discharge of our administrative responsibility we have tried, and we will keep on trying, to perform our task in the fair and equitable interest of all concerned, and in a manner that will reflect credit upon the country to which we have the honor to belong.

Round-Table Discussion

Mr. HALCROW (Ontario). I should like to raise the question of how to instill in employers a proper respect for labor laws and regulations and instructions issued by the department of labor. Under what circumstances is it deemed advisable to resort to court action?

Mr. BELL. That is a matter on which each Province or each administrative authority must determine its own policy. In British Columbia we have embarked on a rather vigorous enforcement of the law. Where there are people who openly defy the law, there is only one way to handle the violation. We had occasion in 1936 to take 181 cases into court. We did not do that because we wanted to take people into court, but if we ran up against an employer who openly defied us, we were left with no alternative. We give a man one chance, sometimes two, but we always give him one chance. We make sure the man knows the law. If our inspector goes in and finds there is a violation of the law, he will say to the employer, "You are doing wrong. Here are our regulations. Do you know about them?" If the employer replies, "No, I was not aware I was doing wrong," the inspector says, "Well here are the regulations, put them up on the wall; that is

where they are supposed to be. You know about them now. Do not say you do not know the next time."

In my opinion an inspector, particularly the chief inspector, has to use his discretion and judgment. We do not just turn an inspector loose and say, "Go to it." Before a case is taken into court it is reported to the head office in Victoria, and we decide on its merits whether or not it should be one for prosecution. The inspector always reports the facts before any action is taken in court. We have a very systematic inspection system, and we carry out our inspections in a very systematic way. Much of our inspection work arises out of the complaints which we receive, anonymous and otherwise, but which must all be looked into. We follow, as much as we can, a system of systematic inspection. For instance, in the city of Vancouver we map out the city into blocks and let an inspector take charge of a particular district for a certain length of time; then if we find from reports and information we receive that a certain industry is tending to get out of hand, we will probably turn the whole inspection staff on the industry, or if not the whole staff, then a good portion of it. That is the procedure we have been following in British Columbia.

Miss MACKINTOSH. I was at a conference last summer where there were both labor people and lawyers. The lawyers could not understand why factory laws could not be enforced just the way criminal law is. I think it is accepted that you cannot administer labor laws the way you administer criminal law. You are supposed to be able to carry the employer along with you. You must inform the employer about the law, and how it operates, and pick out the offenders who are violating it willfully. It is an old saying that a bad law well administered is better than a good law badly administered. The inspector must explain the laws to the employers, how they are enacted, and secure their good will in the enforcement.

Mr. HALCROW. Here is the next question. Where a man has been informed of the law, what consideration would you extend to him if he disregards it?

Mr. BELL. That is a problem of enforcement which rests with your officials—to build up a more wholesome regard for the law. And that leads us on to another point. What is the most effective penalty you can apply? All our labor statutes in British Columbia contain penalty clauses involving a fine and, on failure, imprisonment. To some people publicity is a worse penalty than a small fine. We have run up against employers in British Columbia where, when found guilty of violating the law, the last thing they wanted was to be taken into court. They would have paid much more than the fine to which they were liable, and certainly were only too glad to pay what arrears were coming to the employees, just to keep their names clear of any court

action, because they felt court action would affect them in their future business. In obtaining future contracts the publicity would be a black mark against them and would injure them considerably in their business associations. In our annual report we publish each and every case that is taken into court. Sometimes there is also publication in the newspapers, but not very often. The reason for this is obvious without my going into it.

Mr. MAHER. In the Province of Quebec, where an employer fails to respond to communications, he has to pay the expenses of the inspector and the money is collectible in court.

Mr. HALCROW. Fear of the courts is one of the strongest weapons we possess. There are many people with whom you have to use some weapon to get cooperation. How would you collect an inspector's expenses?

Mr. MAHER. The first trip is not paid for by the employer. If an inspector has to make a second trip, the employer is responsible for his inspection fees.

Mr. HALCROW. What kind of inspection are you speaking of?

Mr. MAHER. Factory inspection, boiler inspection, etc. With regard to our minimum-wage act: In the Province of Quebec, up to September 1 we had two definite acts: The Women's Minimum Wage Act, enforced by the minimum-wage board and the Collective Labor Agreements Extension Act. In the first case the board had the authority to negotiate orders providing a minimum wage for women. The board in that case had to act as a collecting agent for women, and used to collect from $10,000 to $15,000 a year. We found it was not exactly the right system for the Province, and the legislature passed a Fair Wage Act, replacing the Women's Minimum Wage Act. Our new Fair Wage Act provides minimum wages for men and women. Orders negotiated under the old act remain in force until repealed, replaced, or modified. The fair wage board has not the right to collect money for employees. The only one able to collect back pay is the interested employee, and her case has to be taken up in the civil courts. The board may take cases to court for violation of the orders under the act.

The Collective Labor Agreements Extension Act is repealed by the Workmen's Wages Act, which provides for the making of collective agreements arrived at by organizations of workers and employers to cover all workers and employers in the industries concerned. The Fair Wage Act is to provide for the fixing of wages and hours for such workers as are not covered by collective agreements under the Workmen's Wages Act. The administration of agreements under the Workmen's Wages Act does not fall upon the department of labor. A joint committee is formed from representatives of employers and

employees. That committee can take legal action but also has the right to take civil action against employers and to collect back pay, and, more than that, can collect from the employer a penalty of 20 percent of the amount collected and also from the employee who has worked for a lower rate. I believe this provision of the act has done away with quite a lot of violation on the part of employees who know they are working for lower rates. With regard to inspection service, this work is done by the joint committees enforcing the various agreements. Employers and employees are pleased with the various agreements in effect, because these agreements tend to eliminate unfair competition and unfair practices. The committees have been taking a large number of legal proceedings. Employers have now begun to understand that we mean to enforce the law, and they respond.

Mr. HALCROW. I admire your laws, but I do not yet know how you collect that money. I go to interview an employer. Do I collect the money right there or does the board mail a bill?

Mr. MAHER. In the larger centers there are inspectors stationed there who can be instructed to call and there is no expense involved, but in the smaller centers the board mails a bill for the inspector's expenses.

Miss MACKINTOSH. Do I understand you to say that while the joint committees under the Workmen's Wages Act collect wages, the fair wage board does not do that for the employee?

Mr. MAHER. No; it cannot.

Miss MACKINTOSH. Is not that rather hard on the employee who is the most concerned?

Mr. MAHER. I believe it is, but the Fair Wage Act itself states that the act will apply where a collective labor agreement cannot be entered into. It means that the Government favors the Workmen's Wages Act. Employers in the Province of Quebec are well trained to pay their girls, but our board has been very active since 1925.

Mr. CRAWFORD. As former chairman of the board in Ontario, we have done everything possible to train employers and they are not trained yet. We still have a long way to go before they will be properly trained. We will have to continue our efforts for years and years. I wonder that you can really collect arrears of wages when the employee herself has to take civil action.

Mr. MAHER. When the old board was operating, the chairman would call an employer to his office and tell him, "You owe that amount of back pay. If you won't pay it, we will take legal proceedings."

Mr. BELL. Strictly speaking, we have no legal authority to collect money for an employee. This collecting business has begun to assume

tremendous proportions, but personally I hate to give up the procedure, and what your late chairman used to do, as you outlined a minute ago, that is what our inspectors still do. They will find a certain employee is not receiving the amount to which he or she is entitled. They will say to the employer, "There is $250 owing to the employee for a period of 6 months. What are you going to do about it?" (We are limited to 6 months in the collection of arrears.) Strictly speaking, under the statutes the inspector should say to the employer, "You have broken the law. I will lay a charge against you." But what happens then? The case comes up in court, it is tried, the magistrate finds the employer guilty, and applies the penalty of $25. The act requires that the magistrate make an order, but it does not necessarily follow that the court order is fulfilled, because the lawyer may plead extenuating circumstances on the part of the employer, and if a good staller he may get off altogether. The lawyer walks out of court with $25 in fees, the employer pays a fine of $25 but saves the $250 he should have paid to the employee, and the poor employee walks out without anything at all. Everyone gets something but the employee. She has a right to take civil action, but in many cases it is doubtful if she could get a lawyer to handle the case.

Mr. RIGG. In what industry do you find the largest percentage of infractions?

Mr. BELL. In the public-housekeeping order applying to restaurants; that is the most difficult order.

Mr. RIGG. Have you had any experience as to what the effect is on an employee who has had to give evidence against an employer in court?

Mr. BELL. Sometimes the employee suffers as a result. It is frequently a black mark against the employee. One of the difficulties in connection with all this labor-law administration is that it does not fulfill that principle of law that the guilty only should suffer. So very frequently it happens that where an individual has been compelled to take court action, or where the Government on his or her behalf has taken court action, for the purpose of collecting unpaid wages, that individual has frequently been called upon to suffer beyond the value of the wages that have been received. I do not think there is any way in which we can remedy this, but I do think that it is somewhat unfair to place the burden of taking legal action upon the employee.

Mr. RIGG. I am afraid that so far as that practice is concerned, an employee who on a couple of occasions had been called upon to take an employer into court would find her chance of getting employment reduced.

Mr. BELL. In some cases that is true, but it is unavoidable. Our act contains a clause that an employee has a right to civil action, but as I have said, we sometimes make settlements without going to court. If we do prosecute, we cannot get a conviction without dragging the employee in. Her evidence is essential.

We have a clause in our act that, if an employer discriminates against an employee because the employee has testified in any investigation, the employer is liable to a certain penalty, but an employer does not have to leave himself open to that penalty. It is a hard section to apply. For instance, you have worked for me and take action. I do not need to dismiss you the next day, but I can wait until I get a chance, and then you are out. There is only one case in British Columbia where we have succeeded in getting a conviction. We received a complaint that employees were not receiving the minimum wage from a certain employer. An inspection was made, and sure enough there was a violation. We told the employer that there were three employees who were all receiving a substantially lower rate than they were entitled to receive. The employer was so angered he called the three employees in and told them, "You are fired, get out." If he had taken in one at a time, he might have covered up to a certain extent. We had the corroborative evidence of the three witnesses and laid an information against the employer.

Mr. RIGG. You say you had 181 prosecutions and 165 successful ones. How many inspections did you have?

Mr. BELL. Ten-thousand-odd.

Mr. RIGG. In these 10,000 every one did not disclose a discrepancy?

Mr. BELL. Certainly not.

Mr. RIGG. I was merely trying to find out what percentage of the firms inspected fell so far short of a reasonable recognition of the law that it became necessary to take them into court.

Industrial Health and Safety

Problems of Health and Safety Legislation

By VERNE A. ZIMMER, *Director, United States Division of Labor Standards*

When your secretary suggested to me that I come here to lead a discussion on this subject I was glad to agree, because while the Division of Labor Standards has indicated an interest in fostering and promoting labor legislation in general, we do have a unit in the division specifically for the furthering of health and safety. We brought with us from Washington our third annual edition of a synopsis of labor legislation, just off the press. It tells in brief the story of the Pennsylvania accomplishments, as well as those in the other States.

In a discussion of this kind, I think we ought to be reasonably frank in appraising the situation as to health and safety legislation in the United States, and anything that I may say pertains strictly to the United States, because I know but little about the situation in the Dominion.

All of you know fully as well as I do what the difficulty is. In the first place, it is a difficult thing to put into statute form sufficiently comprehensive and detailed laws with respect to safety or health. The reason is that when you attempt to put into the statutes definite bench marks, limitations of exposures, details as to safety technique, etc., you have a cumbersome, ambiguous, and ineffective piece of legislation. I think that was exemplified very graphically by the experience of Illinois in its old safety, health, and comfort laws. It was specifically illustrated in connection with its exhaust codes, where it specified certain standards and types and measurements as to exhaust means. That law was enacted 25 years ago, and since that time practically all of it had become obsolete through developments of different techniques and processes.

All of us recognize, I think, that the only way adequately to cover detailed standards of safety and health is through the medium of codes, having the force and effect of law. Unfortunately, only one-half of our States have given the power to the departments of labor to set up these rules and regulations. To be precise, 24 States have in some measure granted that authority. I say, "in some measure," because in some instances that authority is confined to specific conditions or industries or processes. Not more than a dozen

of the States now have anything approaching a comprehensive set of rules or regulations, or codes, covering the essentially hazardous processes and occupations. I realize that in a great many of the States the legislatures think that the courts would not uphold such delegation of power. Sometimes they maintain that it is contrary to the State constitution. But apparently the issue has not been tried out definitely in those States that put forth that idea. We doubt, of course, whether in any jurisdiction it would be practicable to attempt a constitutional amendment. You cannot get amendments through without a great deal of public support. But surely there are a great many more States in which it would be possible to make a start and to secure for the department of labor this particular authorization.

The vast majority of the codes that are now in existence pertain more particularly to safety—fire hazards, elevators, boilers, and matters of that kind—than they do to this very important phase of health. It is evident that legislative regulations for the safeguarding of health are far behind those applying to safety. There are several reasons for that, of course. We must realize that labor legislation in the field of safety was initiated in many States because of some spectacular catastrophe in the way of an accident. You seldom have that in occupational diseases. In fact, there is a surprising lack of knowledge of the effect of certain conditions on the health of workers. In any event, the fellow who gets lead poisoning or other poisoning and stays home and ultimately dies seldom gets into the newspapers. Little is known about these things by the general public. Furthermore, when workmen's compensation acts were initiated—for the most part 25 years ago—they were silent in respect to benefits for occupational diseases. If we know too little about that particular subject now, we knew practically nothing about it a quarter of a century ago.

I do not need to tell you that the safety movement, in the United States at least, came about concurrently with workmen's compensation. Employers did not undertake safety programs in the days before the compensation acts. All that has since been done of a voluntary nature (and a great deal has been done) has been stimulated by the fact that the employers save money by these programs. Unfortunately, however, I think it is true in every State and probably in every Province that the difficulty today in respect to safety and health lies not so much with the big concerns as with the small employers. The only possible everyday approach to these small concerns is through the medium of the labor department, which has factory inspectors in the field every day in the week.

Perhaps I should interpolate a thought here in connection with an appeal for a further study of health hazards. I have sensed in the last 2 or 3 years, as I think some of you have, a rather subtle piece of propaganda to the effect that the proper place for the control of

health in industry lies in the health departments rather than in the labor departments. I have never made any secret about my views when we have discussed this matter in meetings with insurance carriers or with the medical associations. I believe it would be a calamity if the authority to control and enforce regulations for health, which the majority of our States now vest in the labor departments, were to be taken away from the labor departments. I think, however, that if the labor departments do not take the initiative in going vigorously after the problem, they are in no position to complain if the legislatures take it into their heads to transfer that function to the health services in the States. There is no need of going into the reasons why I think the labor departments should retain control of health as well as safety. Naturally, a group like this would concur in my own thought, but I think it is not difficult to convince any disinterested person that you cannot separate the supervision of health in industry from that of safety. They go together. Of course, I have heard it put forth that the health departments in the States are generally in better repute than the labor departments. Naturally, I have never failed to challenge that particular statement most emphatically, and I have put forth the idea that if in any given State the labor department is steeped in politics a little investigation would, I think, disclose that politics were also rampant in the health departments.

One of the difficulties in the promotion of legislation, as I have observed it, is a lack of facts, a lack of data to support the recommended legislation. Mr. Bashore has given us an inkling of that. I do not think we have ever received more demands for factual material in support of these various legislative proposals than we did from Pennsylvania, and to get that information has kept us busy in every direction. But the point is, I think that is the proper approach. In the field of labor legislation I have appeared before legislative committees many times, and I can appreciate their need for a lot of factual information. It is a subject with which, as a rule, they are not familiar. They want to be shown, and the only way that they can be shown is to assemble every bit of factual material that is available.

In the field of administration, I think we will all agree, if we analyze the situation closely, that in the United States enforcement and administration lag a bit behind our legislation. The situation, from what we have learned, is probably the reverse in England. There, their administrative technique, I feel, is in advance of their laws. There are a number of valid reasons why our administration generally lags behind, and you are even more familiar with the reasons than I am. No State labor department that I know of ever gets sufficient funds for complete administration of the laws. In looking carefully over the appropriations in the different States it is not at all unusual

to find legislatures appropriating three times as much for the protection of fish and game as for the workers. That is true in some of the States represented here. I think that is a valid and fair comparison, and the commissioners would be quite right in pointing out to the legislatures that the workers in their States certainly ought to be on a parity with the fish and the game.

One great difficulty for a number of years in various States was that the labor department was not taken as seriously by the legislatures and by the public as some of the other major divisions of State governments. I think too often the commissioner of labor was viewed by the public as a sort of necessary gesture to labor on the part of the political set-up. Today, however, and during the past 4 or 5 years, due in part to the tremendous impetus given to labor legislation in general throughout the country, the labor commissioners and the labor departments have been coming into their own. It is certainly comforting to know that in a great many States today the labor commissioners are members of the governors' cabinets. They are on a parity with any other major department executive. They are advisers and counselors to the governors on matters of labor policies. That is not true, of course, in all of the States today, but it is becoming true in more of the States, and I can foresee the time when it will be a fact in practically every one of them. In all fairness, I should say that throughout our own country the caliber of the State labor department heads is higher than it was in the old days. The commissioner has in recent years been giving far more attention to administrative technique than he did in the old days, and has been himself responsible in many instances for the improved status of the community and his department. In listening to Mr. Bashore reciting the accomplishments in Pennsylvania, it occurred to me that the commissioners can do still more to encourage financial and moral support for their labor departments. We know that in most State legislatures the employer interests dominate when it comes to appropriations. It is not difficult to kill appropriations. That has a real appeal, especially in these times, and even reasonably strong lobbying on the part of management can defeat the most worthy request for additional funds.

Perhaps in many jurisdictions there has been overlooked an opportunity to demonstrate that a labor department can and should be of real service to the employer himself. I mean by that that when you send factory inspectors, for instance, into an industry, if you send the right type of a factory inspector, he is in a position to advise and counsel with the employer and to point out specifically and in detail where and how production can be improved by conserving the lives and health of the workers. That was called to my attention graphically only last week. One of our little jobs has been the conducting of factory-inspection schools in different sections of the United States, and at

Mr. Bashore's request we have started a school in Philadelphia, which will open next week. A couple of the men regularly on our staff went up to contact employers. As you know, we use the employers' places for a clinic, and it is necessary to get their consent and cooperation. In that city was one of the leading employers of Pennsylvania. He not only runs a large industry but also is prominent in all organizations. He is particularly prominent in Harrisburg. I knew this individual, and it so happened that I had attended a conference with him at which Mr. Bashore presided. We discussed a very important bill which would cost the employers of Pennsylvania an increase of several hundred thousand dollars each year. This man had no particular reason to feel very friendly either to Mr. Bashore or to myself, because we did not agree to any of his proposals, and the legislation was passed in spite of his very definite opposition. Yet when our men went to see him last week to tell him that Mr. Bashore was going to carry on a factory-inspectors school in Philadelphia with our assistance, and that we wanted to use his plant as a clinic he said, "Absolutely. That's a good idea." He said he thought Mr. Bashore was doing a good job and that not only would he let us use his plant, but he would also telephone some of the other big plants, which he did. That convinced me that a vigorous labor administrator in a State can sell his department to the employer as a needed public service. I think more of that can be done in every jurisdiction, and that on the whole you can command the support of industry through vigorous administrative methods more than if you fawn upon or cater to management. I think that industry as a whole has a very great respect for the administrator who vigorously carries out his duties under the statutes.

May I say in closing that I think that the fact that we have here a large attendance from both the States and the Provinces, and the interest and close attention paid to the papers on these involved legislative and administrative subjects, show that on the whole our commissioners today are a group that is as interested, as technically qualified, as dependable, and as worthy of respect in their jurisdictions as those in any other executive form of official work.

Discussion

Mr. McKinley (Arkansas). In my own State I have had some experiences that you seem to have encountered in other States, Mr. Zimmer. In reference to the health department, the last legislature passed a resolution requiring the health department to make a survey of the State with reference to industrial diseases. The resolution as originally written was that the commissioner of labor should make the survey. That was changed for the reason that we did not have the facilities to make it. A joint request from the secretary of the board of health and the commissioner of labor to the governor resulted in

bringing gentlemen from Washington to conduct the survey. Their interpretation of the resolution seemed to be that the first thing to do was to place another position in the department of health, rather than to make a survey. They inferred that the proper body to make the survey would be the health department, because the labor department on account of its lack of popularity, possibly, would not have the success that the health department would. I rather believe, when they put forward that opinion, that they must have segregated certain divisions of the people in the State and taken them as the basis for popularity. I do not agree that, with reference to the labor departments, that is true with the masses of people in any State.

Mr. Zimmer also spoke of legislatures sometimes being a little slow to appropriate money for the department of labor to carry out measures for the benefit of the laboring people. In 1917 we were attempting to get through the legislature a mothers' pension bill that merely gave to the county judges the privilege of appropriating money for that purpose. We had a great deal of difficulty, and a great many counties were exempted. That same morning the legislature appropriated $100,000 to protect cattle from ticks and $50,000 to treat hogs to prevent cholera, but it was not willing, it seemed, to give county judges the privilege of taking care of the mothers of the State. I am so glad that we have gotten away from that way of thinking. The popularity of labor laws at this time in the United States, it is my impression, is the result of the President's friendliness toward that sort of legislation. He has created support all over the United States that makes it easy to get legislatures to introduce and pass labor laws. We broke our record this year, but we did not have as much trouble and difficulty as we have had in the past. I was glad the gentleman from Pennsylvania admitted it did require some lobbying.

I was glad that Mr. Zimmer touched on the matter of health protection and protection against occupational diseases, and asserted his belief that it does belong in the department of labor. I believe that in the department of labor there will be more enforcement and more attention paid to these efforts. I have had some experience with the health department in attempting to get its cooperation where we believed it was needed, but we did not get it.

Mr. TONE. In Mr. Zimmer's talk I heard him say that some years ago one of the requisites of a labor commissioner was that he did not know too much about labor, and that is true. I have observed that in a great many States, including my own, invariably the selection of a labor commissioner was based on the fact that he did not know too much about labor. If we are going to raise our standards so they will compare with those of other departments, such as the health departments, which are professionalized to such an extent that in a change of administration, although they may play politics, it is of a more digni-

fied and higher character, or they use a better sort of lubricant, then we will have to make some changes. Consequently, I think this association could well take a strong stand for requiring labor departments to subscribe to certain standards in the appointment of inspectors, etc., so that if there is a change in administration at least the labor departments can continue with inspectors who will know their business. I know that when an inspector appears in the office of an employer, if the employer realizes that his appointment is political and that he has not the ability, in going through the industry, to offer any advice and to render the service that should be rendered for improving conditions of the men and women employed, the employer is not going to be favorably impressed by the efforts of the department of labor. I think that it is high time that an organization of this sort subscribed, through a resolution, to standards that will improve the inspectors in the various departments throughout the country.

Mr. FLETCHER. I want to subscribe to everything that Mr. Tone has said about this problem of factory inspection. In North Carolina we started from scratch a little less than 5 years ago, having no force at all. We have built up, with the help of the United States Division of Labor Standards, a rather effective small force. I want to pay tribute to the work that Mr. Zimmer has done along this line. I had the privilege of sending my little force of six inspectors to the first of the schools that were referred to—that in Baltimore, Md. They came back from that school 100 percent better than they were when they went there, and they have improved constantly since. We have been given funds for five additional factory inspectors, and I am going to see that those factory inspectors are sent to one of these schools. I have written to Mr. Bashore about it, and he has kindly consented to let our men attend one of the schools in Pennsylvania if we cannot find one closer. I think Mr. Tone is right when he says we can get nowhere unless we raise the standards and get better men and women to do our factory-inspection work.

At Topeka last year I was greatly interested in the talk given by Mr. David Vaage of the International Labor Office on inspection standards in Europe. In nearly all of the countries over there a man does not get an appointment as a factory inspector unless he is a man with fine technical training. Most of the factory inspectors are university men and have also been through schools where they are especially prepared for factory-inspection work. In my department, the division of standards and inspections is the heart of the department and the apple of my eye. I believe in it and give most of my time to it, and I am more dependent on it than on anything else for improving working conditions in the State of North Carolina, and for making my department effective. So I hope that this movement which Mr. Zimmer has started in the United States will spread

into Canada and all over our own country, and result eventually in a system of certifying factory inspectors. I do not know just how it could be worked out, but I think that upon what has been done can be built some system that will work.

Mr. MORLEY (Ontario). I thoroughly agree, although I am an outsider here, with what Mr. Fletcher has said about the desirability of standardization, and while I think that a certain amount of mental harrowing is good for us all, I also think that possibly another point of view regarding Mr. Vaage's remarks should be brought out. I remember sitting in at a meeting in Geneva 10 years ago where a great many of the individuals on the committee were factory inspectors, and they were deploring the fact that they were so badly received by the average employer. My comment at that time was to the effect that I felt that any man, when going in to interview an employer, got in the main the type of reception that he was looking for. If he knew his job and held himself as a man, and talked as though he knew what he was talking about, he would get a reception that justified his job. I should hate to have any of us here think that every factory inspector in every country in Europe is a high-minded, pure-souled individual, who has been to a university and who never splits an infinitive, and who always knows what he is talking about and always gets a fine reception from employers, because that is not true.

Mr. GRAM (Oregon). I agree with Mr. Tone and Mr. Fletcher with regard to inspectors. When I started my career back in 1917, it was as a factory inspector. I was an inspector for 12 years, and repeatedly employers would say to me that I must be a pretty good politician to hold the job. I realized then that as long as the job of factory inspector was looked upon as a political job, we were working under a serious handicap and would be unable to get results. When I became commissioner I decided to eliminate politics from the department as far as possible. In order to establish confidence among the employers, I invited a number of employers to sit in for the purpose of examining applicants for positions as factory inspectors. The first board I had had 12 men on it. That was purely in order to give all industries representation. The lumber industry, of course, is a major industry in our State, and I had three men from the lumber industry.

Twenty-two men came to take the examination. We worked all day, until 10 o'clock at night, and we flunked every one of the men. When I sent out my notes, the secretary of the Merchants Manufacturing Association wrote to me, wanting to know where I got the authority to create a commission to investigate and examine inspectors. I wrote him that there was no such law, but I did not know of any law prohibiting me from inviting my friends in to help me. Since then we have always had an examination by the examining

board, but the board has been cut down to three members—two mechanical engineers and a boilermaker.

We have found that there are practically only two types of men who are able to qualify—that is, a boilermaker who has been in the game long enough so that he is competent to occupy a position as foreman or layout man in the shop, and an engineer who has been in the business long enough to have first-class papers. Those are the two types of men who have been able to pass the examination. We held an examination last week. As it works out now, the board is never called together except to examine the papers. The examination is held in a room where there is nobody except the applicant and either myself or my chief inspector. The papers are given a number and they are graded. The board never knows the applicant by name. I find that by doing that we have established ourselves in the community, so that the operators have confidence in us and in our men. They realize that our men are not there for political reasons, but because they have proven themselves to be qualified. I think the schools Mr. Zimmer has started are wonderful, and I am hoping that he will set up a school out West. I want my men to attend. We need it, and I think it would be wonderful if we could get standardization in the United States.

Mr. CRAWFORD. I do not want to be misinterpreted and to give the impression that in Canada we do not have examinations or courses for inspectors. We have. But I believe that one of the most practical things we could do would be to introduce into Canada courses similar to those described by Mr. Zimmer. I do hope that the Canadians here will get more information about it, personally and otherwise, and that we may have the cooperation of Mr. Zimmer. I want to congratulate Mr. Zimmer and his department on the excellent work they have done.

Mr. ZIMMER. We would be glad to help out in any way and to supply you at any time with an outline of the subjects taken up and the methods of procedure in these schools. I certainly hope that the Division will have an opportunity to get out on the west coast, in accordance with Mr. Gram's suggestion.

Mr. WALLING. Mr. Zimmer has spoken about another problem which it seems to me is worthy of emphasis, and that is the responsibility of the State departments of labor to enter, and to continue to occupy, the field of safety and health work. The immediate application of this has perhaps more interest for the American delegates, because of the opportunity which has been afforded the States through the health appropriation in the Social Security Act. Unfortunately, the appropriation as worded provides that funds made available for public health work must be utilized by the State departments of public

health. That, of course, handicaps the State departments of labor very much in participating in that program and in obtaining the use of those funds, but it is possible, it seems to me, for them to work out an arrangement with the State departments of health, which are eligible under the Social Security Act to be allotted funds appropriated under it, to work jointly in this field, so that the departments of labor will have at least a part in the handling of these health problems. I think the point ought to be emphasized here to the State delegates that they ought to take the responsibility, if they have not already done so, or they will find that the field will be entirely preempted by the State departments of health. I hope that the delegates here will investigate the possibilities of working out joint programs with their departments of health, so that they may have a share in the orientation of this very important problem.

Mr. ZIMMER. That is a very good presentation of the problem, Mr. Walling, very definite and to the point. I have had numerous talks in the past few years with the Surgeon General's staff as to the interpretation of that social-security statute, and at first they told me their conclusion was that they could not legally supply those funds to labor departments, but after further discussion they seemed to agree that they could supply them to the departments of labor in States, but only with the written approval of the public health officer. As a matter of fact none of the States having an industrial-hygiene division in the department of labor has received a nickel, and there are several States, as you know, where the entire hygiene unit is located in the department of labor. I should like to make one addition to Mr. Walling's statement, to the effect that in working out that cooperation between the industrial-hygiene section and the health department, the commissioners should insist that the primary function of the hygiene section is to furnish service to the commissioner who enforces the regulations.

Mr. PATTON. In connection with the remarks by Mr. Tone, I think we ought to bear in mind that this association has already gone on record towards accomplishing what in the long run he has in mind. There is nobody who has more respect and admiration for the work you have started, Mr. Zimmer, in these training schools for factory inspection than I have, but what I have in mind is this: If Mr. Fletcher in North Carolina gets the best training possible for his factory inspectors, all the good accomplished will be gone if in the next election every one of those people is going to be turned out. Through the civil-service committee this association has distinctly gone on record that inspectors, once appointed and trained, are the best men possible, and that those inspectors, so long as they remain competent, shall be assured of a definite tenure of service. Mr. Zimmer will provide himself with a big job if he has to train all the factory inspectors

every 2 years. No matter how good the training might be, no factory inspector can possibly be as good at the end of his second year of service as he would be at the end of 4, 6, or 8 years. I feel strongly that this body's support should be given definitely and decisively to the point that competent factory inspectors and other labor-department employees should be appointed, and that after they are on the job they should be given further training and instruction so that they would become increasingly more fitted for their task.

Mr. PRAIN (Ontario). In the factory-inspection branch of Ontario we have a great deal of interest in Mr. Zimmer's publications, particularly the recent publication on school training. I am putting forward a thought which has occurred to some of us. In Ontario we have an arrangement with Great Britain with regard to school teachers whereby we have an interchange of teachers. Teachers come here from Great Britain and they get our ideas, and we send our teachers over there, and the arrangement is mutually beneficial. Would it not benefit both our countries if we could, in one way or another, arrange for an interchange of inspectors for periods of possibly 3 months, one State sending one or two inspectors to Ontario to get our ideas, and our department sending inspectors to States in the Union? I believe that each country would benefit by the experiences of the other in the field of factory inspection. We are all out to achieve the same end, and the best methods possible should be adopted. If your methods would benefit us and our methods would benefit you, the interchange should be seriously considered. It is my intention to take it up with our Deputy Minister and with the different States.

Mr. DAVIE. I would go along with you on that.

Mr. TONE. After listening to our friend from Canada speak, I would suggest that where a school for inspectors is run by the Department of Labor in Washington, perhaps it would be possible for the Department or the Division of Labor Standards to extend an invitation to the Department of Labor of Ontario to participate in that school.

Mr. ZIMMER. I think that can be done so far as the schools are concerned, because, as I have indicated, we get the industries to cooperate voluntarily, and although we cannot take a very large group into these establishments, I think that could be worked out very well. I should think, however, that the States would find some little difficulty, as to the legality of it, in bringing in, for instance, an Ontario representative, and putting him with one of their regular factory inspectors in his regular work over a period of weeks. I think there might be some challenge as to that, and presumably the Province of Ontario would have the same opposition.

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Mr. TONE. I think all those things could be determined ahead of time.

Mr. ZIMMER. Surely there is no reason why they could not participate in the schools. I voted the other day for the resolution recommending that universities assist in schools of administration. I do not want to seem facetious, but I was tempted to tack on another resolution to the effect that the experienced administrators in this group provide a school to instruct the instructors in the colleges, for I doubt whether many of our universities have on their staffs competent safety engineers who can teach the technique of safety inspection. I have some doubt as to whether the universities have men of outstanding ability to teach administrators the technique of administration. I have a feeling—perhaps it comes from the fact that I was an administrator in a State a long time—that it is best learned by experience, and by collaboration with those who have experience. On my own staff we have several safety engineers who assist with these schools, and in addition we pick one or two key men from within the State. For instance, in Pennsylvania there are some thoroughly trained men on the staff. We will take those men for leaders in the school. Other States have donated men who are all trained, not only technically, but also in the field of actual experience.

Mr. WRABETZ. In agreement with the University of Wisconsin, the industrial commission arranged this summer for courses to be given at the university, with the commission's facilities to be used as a laboratory for training in public service. We are beginning this work in connection with the employment service, and then we will extend it to all of our departments.

Mrs. BEYER. There has been considerable discussion here of the technical training that is needed for this job. I do not believe that we should overlook the great value of the education that comes from the school of hard knocks. We do not want to think in terms merely of school education, because there is a great deal more that can be learned in day-by-day industry than can be learned in school. I do not think we should bar from these positions the people who have had training in the labor movement and in industry.

Mr. NATES. I want to express my appreciation of the valuable assistance Mr. Zimmer has given the Department of Labor of South Carolina. We have had two of his men down on two or three different occasions. I heartily agree with what Mrs. Beyer says. I find that practical experience beats a college education. I have only five inspectors, but when the department was created there were two inspectors in the division of labor, which was formerly in the department of agriculture, commerce, and industry. Those two men have had from 18 to 20 years of experience as factory inspectors, and since

the textile industry is our major industry, both of them have worked several years in textile plants. I have a building inspector who has been in the building industry for about 25 years. In Clemson College we have a textile division, and when students are graduated from that division they are placed in some cotton mill as superintendents. I am often called upon to make an address before a class at the University of South Carolina. In our State we have to educate the students of the university as to our labor problems and labor laws. When they held the examination for the employment service, I conducted a special class to enlighten the persons who were going to take the examination on labor legislation.

Apprenticeship

Apprenticeship Training

By VOYTA WRABETZ, *Chairman, Wisconsin Industrial Commission*

We have been experimenting with State apprenticeship legislation and administration in Wisconsin for the past 25 years. While we cannot say we have the best possible apprenticeship program, nor that it is functioning on as large a scale as would be desirable, nevertheless, we are satisfied it is a very practical plan since it is acceptable to both management and organized labor.

Our principal problem still is that of converting the employer. This need not be surprising in view of the fact that relatively few present-day employers—and journeymen for that matter—have served a genuine apprenticeship. Now that there are rumors of an impending scarcity of skilled help, there is a revival of interest in the subject. However, I shall not discuss the problem from that angle. There seems to be some doubt as to whether an actual shortage of skilled workers exists. In some industries there is no question about it. In others, as for example in the building trades and service occupations, failure to develop apprenticeship has dragged some of these trades down to new low levels both as to standards of skill and as to general conditions within them.

Let it be understood that we are here talking about only one brand of apprenticeship, and that is the learning of a skilled occupation on the job, in the employ of a qualified master and under the supervision of one or more journeyman mechanics. That definition is necessary because there are as many kinds of apprenticeship as there are forms of education. Furthermore, there are so many groups of people dabbling in apprenticeship in one way or another that one can hardly blame labor unions and responsible employers for being suspicious of every new movement to revive apprenticeship.

Failure to support or promote genuine apprenticeship affects some occupations differently than it does others. In the machine or manufacturing trades, production is slowed down, costs go up, and there results an incentive to create more labor-saving devices and machinery. Still, they cannot dispense with the services of the skilled mechanic, try as they might.

In some of the other crafts, the building crafts for example, an entirely different situation results because of lack of attention to

apprenticeship. Let us examine the journeyman's position. Perhaps we can discover why he and his union are suspicious of the well-meaning people who want to "do something about apprenticeship."

Here is a journeyman painter and decorator. Let us assume that he served a 4-year apprenticeship. Knowledge of the trade is his working capital. He has as much at stake as the attorney who spent several years in college at considerable expense. The professions are protected by license and other protective laws. A far greater protection accorded the professions are the excellent schools provided for them. The trades enjoy no such defense. A very few are licensed, but such legislation has little or no bearing on training.

As for schools, the trades are bedeviled by a hundred and one kinds of schools which are interested, not in elevating the trades as colleges elevate the professions, but in "preparing" students for and "guiding" them into the trades. A great many schools compete with the trades in turning out so-called skilled workers, and very often this is done without regard to the needs of the trades. Some schools are modest in their claims and admit that the graduate needs a little brushing up in practical experience before being qualified as a journeyman. In either event the graduates are neither apprentices nor journeymen. In Wisconsin, we believe the place to learn a trade is on the job. It is my opinion that schools might better confine their apprenticeship activities to supplying occupational information, to assisting in the selection of prospective apprentices, and later to furnishing the necessary related technical information. The schools should not attempt even those things without the advice and counsel of the trades concerned.

To return to the journeyman painter: He has certain rights and privileges to protect. He does not object to the entrance into the trade of a reasonable number of new apprentices, but he wants those who come into the trade to be mentally and physically qualified and, above all, he wants them to serve a full and complete apprenticeship. The learner who serves half an apprenticeship is half a mechanic, and he is the man who is willing to work for 50 cents an hour when the prevailing rate is 90 cents. Taking him into the union does not make a mechanic of him. It is for those reasons that journeyman mechanics are opposed to indiscriminate hiring and placing of apprentices.

The employers in these trades, if they are at all interested in improving their business, are in perfect accord with the apprenticeship viewpoint of the journeyman. In every occupation and business there are undesirable competitors. How did they get into the occupation? Who gave them an opportunity to gain a foothold? The undesirables and the incompetents already in the business might be persuaded to join the association, but they do not always join and often then refuse to be "educated" to higher standards and more

ethical business practices. The employers themselves are largely to blame for that situation. When an employing painter, in order to save a little money, hires a helper instead of a journeyman, and then lays off the helper at the end of the busy season, what is the man likely to do? Is he going to sit back and wait until he is again called to work? No. He is going to paint whenever and wherever he can and, presto, another contracting painter is made. In all probability by the following spring he will be competing with his last year's employer. The competition that hurts the established employer in these trades is that offered by the 50-cent journeyman who becomes a 50-cent contractor. The competition of the man who has served a genuine apprenticeship need not be feared. He is worth more money. He knows it and he is going to demand more.

All this may sound elementary, but for a proper understanding of this problem we must get down to fundamentals. We must make employers and journeymen appreciate the fact that the welfare of the crafts depends on what is done or what is not done about apprenticeship. A good apprenticeship system is the best possible protection for both parties.

I have discussed this in some detail to show that apprenticeship is more than the mere placing of a learner in a skilled occupation. Our big job is to make, not alone employers and journeymen but also school people and placement agencies, see apprenticeship in that light.

Concerning the manufacturing industries, there has been widespread laxity in apprenticeship development. These industries have always employed plenty of young men called apprentices, but if these were genuine apprentices what became of them? The truth is, apprenticeship never existed. The only plausible explanation for that condition is that the technique of apprenticeship is not understood. It might appear presumptuous on my part to infer that a manufacturer who has been in business many years may actually know very little about apprenticeship, but that is exactly what I mean to infer. On this side of the Atlantic apprenticeship is somewhat of a stranger. Thus far we have managed to get along in a fashion, but now that the European trained mechanic is rapidly becoming extinct we will need to act and act soon.

The educators have been blind to the needs of the industries in this respect. They have insisted that their teachers meet certain scholastic standards, but nowhere in the United States, at least to my knowledge, are apprenticeship administrators being trained.

It is estimated that the metal trades lose somewhere between 5 and 10 percent of their skilled help annually. This would require an entirely new crop of mechanics about every 16 years. All through the depression years, practically no new apprentices were hired. In other words, the ratio of apprentices to journeymen today ought to

be double what it was before the depression until a balance is again struck. Our apprenticeship figures, based on the records of 3,600 indentured metal-trades apprentices, indicate that in order to produce 100 skilled mechanics it is necessary to hire 167 apprentices. Note that I said indentured apprentices. Employers naturally select their learners with more than ordinary care when they sign a legal and binding agreement with them. These 3,600 apprentices were under the supervision of the industrial commission, and the whole arrangement was backed up by the State apprenticeship law. If with those safeguards it is necessary to hire 167 apprentices to produce 100 mechanics, what happens where no such system exists? With that information, you can understand why management is beginning to show a lively interest in apprenticeship.

A question of timely interest is that of handling apprentices in event of labor trouble. We always urge that both sides avoid involving the indentured apprentice. Since his wage is based on the prevailing journeyman's rate, he has no reason to join a strike for higher wages. If the journeymen gain an increase, the apprentice automatically benefits.

We have adopted no set rules governing the status of apprentices in struck shops. The apprentice is free to join a union if he cares to do so. We refrain from advising him what to do when we are approached. If he joins, and if a strike is called, he probably will walk out with the journeymen. In that case he takes his chances with the men. Should the employer demand a cancelation of contract when an apprentice strikes, we would refuse to issue it. Incidentally, no employer has ever asked for a cancelation upon those grounds. However, striking apprentices have lost their apprenticeships as a result of very prolonged strikes. In those instances the journeymen never returned to work and neither did the apprentices.

If the apprentice does not join the union and a strike is called, we would not expect him to break through a line of pickets in order to report for duty. We neither cancel indentures nor approve new ones in event of a strike.

In the history of Wisconsin apprenticeship, both employers and unions have exhibited a broad-minded attitude toward the apprentice in times of labor trouble. In some of the biggest strikes all apprentices were permitted by the unions to remain on the job. Naturally, if arrangements are made to permit the apprentices to work during a strike, the employer is expected to keep the boys engaged on work similar to that performed prior to the walk-out.

During several recent strikes, the management sent its apprentices to the vocational school full time and paid them the full hourly wage for time so spent. That is a sensible way to handle the situation if the employer wants to keep his apprenticeship organization intact

without at the same time engendering hard feelings. Now and then it happens that when journeymen strike, their places are filled by professional strikebreakers. We do not believe that such an atmosphere is a fit one in which to leave an apprentice, and we do what we can to get him out of it. In any event, neither side is permitted to use the apprentice to help win a strike. Thus far we feel that we have been highly successful in keeping the apprentice aloof of industrial strife.

I mentioned the necessity of training apprenticeship administrators, which is nothing but a fancy term for salesmen. The question of adequate personnel has always bothered the commission. We cannot hope to have a staff large enough to cover the field, and for that reason other agencies must be relied upon to promote apprenticeship locally. Some vocational schools, of which we have 48 in our State, have been doing good work in this respect, while others have not been so active. We felt that there was need for additional help, and lately we have completed arrangements for a closer tie-up with the State employment service.

After all, when a public employment office receives a call for an apprentice in a skilled occupation, why should not that boy, as part of the placement, be regularly indentured as contemplated by the apprenticeship law? Furthermore, we believe that it is an advantage to have only one place at which applicants for apprenticeships can register. The logical place is the public employment office. We are making no attempt to squeeze the vocational schools out of the picture nor to operate in competition with them in placement work. One of the difficulties has been that high-school graduates have had no place to register for apprenticeship. There were exceptions, of course, but the tendency has been for the vocational schools to place their own boys, when as a matter of fact, the demand has been for high-school graduates.

As we see the problem, there is much more apprenticeship work to do out in industry than in the classroom. The educator's viewpoint does not take into account the fact that unless the field work is done there can be no apprentices in the classroom. Too much emphasis has been placed on the preparation of the student for industry, and not enough weight has been given to the importance of creating an opening in industry for youth. What sense is there in vocationally guiding a youth into the plumbing trade only to have the employing plumber use the boy as a truck driver? If we were to expend one-tenth as much effort in getting employers to assume the proper apprenticeship attitude toward youth as we do in vocationally guiding the youth himself, we would be rendering young people a real service and everybody else would benefit. In other words, there are no more apprenticeship openings than can be created, and that is where the employ-

ment service fits into the picture—create the opening and then fill it with a qualified apprentice.

Knowing that few States have modern apprenticeship legislation, I have refrained from discussing our law and its operation. As I have tried to point out, apprenticeship administration runs into many ramifications and many groups are affected. It is obvious that all interests will be best served when the responsibility for development and control of apprenticeship is placed in the hands of one neutral agency. That must be a State agency, and such an agency can be created only through State legislation.

Apprenticeship represents a combination of education and employment. We accept the education of our youth as a public responsibility and we aim to protect the employed minor through child-labor laws. The problem of training youth in useful occupations is not less important than wages or hours of labor. If we believe in legislation governing old-age security, it is equally logical to support legislation which will pave the way in industry for the practical training of young people better to enable them to be self-supporting throughout life.

Round-Table Discussion

Mr. BREEN (Rhode Island). Under the Wisconsin law must some person sign for the apprentice?

Mr. WRABETZ. The indenture is signed by the boy and his parents, the employer, and the industrial commission.

Mr. BREEN. Is the provision specifically enforceable against the apprentice himself?

Mr. WRABETZ. Yes; but I do not know of a case where we have ever had to make the apprentice carry out his contract. I do not know what we would do if we had to make him carry it out. I do not suppose that under those circumstances the apprentice would be very desirable anyway. When he gets to the point where he breaches the contract he would not be very valuable.

Mr. BREEN. Suppose in that contract there was a provision that he would not engage in the occupation as a journeyman or other than as an apprentice elsewhere. Is there such a provision?

Mr. WRABETZ. No. My reference was to the learner or helper who is not indentured. Apprenticeship does not become compulsory in Wisconsin unless we declare a trade to be a craft. In that case all learners would have to be indentured. Under our law now there are two crafts in which learners are required to be indentured—plumbing and painting. Both are licensed under the law. We have refrained from entering orders declaring certain occupations as trade industries. If we declare a certain industry as a trade industry all learners must

be indentured, but we have found that until the industry itself—both the journeymen and the industry—is thoroughly sold on apprenticeship, it would be a futile effort to try to put over a friendly apprenticeship program. The first industry in which that was done was the plumbing industry, the reason being that the plumbing industry is thoroughly organized in Wisconsin, both from the standpoint of the industry and of the journeymen, and they policed the job.

Mrs. BEYER (Washington, D. C.). Do you not feel it highly important to have these labor standards of apprenticeship in the hands of the labor departments?

Mr. WRABETZ. I think the whole apprenticeship program should be definitely in the labor department, because, after all, it is one of labor standards, aside from education. Education is important, but after all, it is merely incidental to the apprenticeship program, in view of the fact that the vocational schools supply the related technical subjects involved in the particular trade being learned.

Mr. CRAWFORD (Ontario). What do you do about learners over 21 years of age? How do you prevent an adult from learning a trade? Our law applies to minors only.

Mr. WRABETZ. We do not prevent adults from coming in—they can come in voluntarily, and we invite them to come in. Our law is compulsory only as regards to minors.

Mr. PATTERSON (Washington, D. C.). The unions have insisted that people over 21 should not be permitted to enter as apprentices except in instances where they have had experience in a trade.

Mr. CRAWFORD. That was one of our chief difficulties. Some people thought that by the apprenticeship act we would definitely regulate the number of learners and eliminate these half trained workers. But we deliberately made regulations prohibiting anyone over 21 years from learning a trade. Certainly we cannot stop anyone over 21 from working in the trades at all. We attempted to correct that deficiency, only to find that organized labor insisted on that provision.

Mr. HAWES (Ontario). After you have recognized trades and industries in your State, do you insist that the boys go through examinations by people who ought to know how to examine, and do you issue certificates of qualification through such an examination?

Mr. WRABETZ. No, we do not. We do this: If a boy comes to us we refer him to a vocational school to have bim go through the vocational guidance.

Mr. HAWES. Do you not think it would be better for the boy himself to choose the field in which he should receive vocational training?

Mr. WRABETZ. Personally, I am a little skeptical about this matter of ultimate decision in vocational guidance, because human beings do have the failing of erring every once in a while. After all, the ultimate decision should be with the boy.

Mr. HAWES. Take the plumbing trade, where public life and property are in danger. In this city we have 5-year terms for plumbers' and steamfitters' boys. At the end of 4 years, after regularly attending evening classes, they take an examination under people who are pretty strict—it is a severe examination.

Mr. WRABETZ. I thought you meant do we require a certificate of competence before apprenticeship is undertaken.

Mr. HAWES. No.

Mr. WRABETZ. Yes, in the case of plumbers, before they are permitted to work as journeyman plumbers they must take an examination. We have a State license system.

Mr. HAWES. That comes later, after approval of the apprenticeship?

Mr. WRABETZ. Yes, after the completion of the apprenticeship.

Mr. HAWES. Will the State board allow a boy even to take an examination before he finishes his course?

Mr. WRABETZ. No, that is ironclad. He cannot take the examination unless he has completed his indenture.

Mr. HAWES. Did I understand you to say that you do not get any objections from international trade-unions regarding entrance ages?

Mr. WRABETZ. I have not received any personally.

Mr. PATTERSON. In the national standards they have insisted upon putting the top entrance age at 21.

Mr. CRAWFORD. Just before the depression we provided special classes for apprentices—day classes. We brought the boys in from all parts of the Province, at public expense, to attend school for 8 weeks during the winter months in an intensive training, 8 hours a day, under especially expert instructors. Then we had evening classes in the technical schools where they resided. We found that, despite any voluntary arrangement which might exist, the trade-unions refused point-blank to recognize as an apprentice any person over 21 years of age. He might practice the trade, but he could never become a journeyman. Those classes were finally given up.

Mr. THORNE (Ontario). We are about to embark on a new scheme of taking in voluntary apprentices.

Mr. WRABETZ. Could you tell us more about the nature of the school work in connection with indentures?

Mr. HAWES. Mr. Crawford practically built the thing up. Speaking of classes, for the 2 months' course we collected an assessment

from the trades, amounting to one-eighth to one-tenth of their total pay roll. In the various vocational schools we set up trade classes. That in itself presented some difficulty, because we had to persuade some persons that ordinary chemical classes were not trade classes. But over the period of 3 or 4 years we did develop what were in my opinion some very successful classes, and in my opinion this was the greatest contribution to industry that has yet been made in cooperation with vocational schools.

We took the boy from his home town, far or near, at public expense, to a center where we were able to establish a vocational class. We paid his fare, found him a boarding house, inspected the boarding house, met the boy at the station, saw that he was safely landed at the boarding house, and installed him in the special trade class and provided a living allowance of $10 a week. He worked in the school 8 hours a day, and we tried to establish conditions in the school as close as possible to conditions that would be found on the job. It was an entirely different set-up from an ordinary technical training class. The results were highly satisfactory. We had employers investigate these schools, we had representatives of the various government departments come down to see them, and we had representatives of organized labor. I have yet to hear any criticism that the schools were not doing everything that they were expected to do, and we have proof that the training the boys received there was very beneficial. I could tell you numerous stories demonstrating the result of that intensified 8 weeks of training. As a man with many years of experience in construction, I feel that the contribution we made to the construction industry was the most beneficial thing we have ever brought about. I think the continuous training gave those boys a continuity of thought that seemed to sink much deeper and was much more beneficial and lasting than the fact of going to night school for 2 or 3 nights a week.

Mr. CRAWFORD. The real value of the instruction was that we paid particular attention to the practical training. We related theory and practice right on the job. The boys did sheet-metal work and had related subjects. They even had English, but it was not formal English—just the making of reports and doing certain elementary things in English under a shop instructor. In bricklaying they built and rebuilt model homes, and so forth. They were not confined to theory at all. We were told repeatedly that they not only got the technical theoretical instruction, but also learned more of the practical experience in the work than they learned in 2 years on the job. They had an opportunity to do at that school what they had never been permitted to do on the job. Then they were able to go back on the job with an intelligent conception of what it was all about and with definite training as to just how things were done.

Mr. WRABETZ. Do they have other school contacts aside from these 8 weeks?

Mr. CRAWFORD. Evening classes afterwards were available. Unfortunately, we do not have enough centers available. We were developing some correspondence training, but it has never been finished. It took us about 3 years to build up those courses of instruction. We hired a qualified technically trained teacher who knew how to develop a course of instruction. We supplemented that arrangement with practical men from the trade and experimented with different procedures. Then we built up a course which we think was effective and which we will certainly do again if we ever get the opportunity. It is without doubt the most effective thing in the building trades I have ever heard of or seen. We were just getting to the point where employers were enthusiastic, trade-unions were solidly behind us, and the boys were enthusiastic about it, when our program had to be greatly curtailed.

Mr. WRABETZ. Under our law an apprentice is required to take at least $400 worth of school work during the term of the indenture. In our contracts, however, we usually provide for 576 hours. That means 4 hours each week during the day, and the employer must pay the wage that is provided for in the indenture for the period that he attends. About a year ago in Milwaukee the vocational school thought it rather difficult to furnish this 4 hours a week, and wanted to change it somewhat, to provide for 8 hours a week for one-half the time. I vigorously opposed this because I felt that the related school work should go along concurrently with the practical work being done in the shop. I was wondering how you accomplished it in 8 weeks and some night work.

Mr. CRAWFORD. We tried your scheme first and abandoned it for various reasons. The law, being compulsory, applies to every boy in the Province. But that applied only to boys in Toronto. Outside of there we have a lot of rural districts, and it was not fair to those boys because they did not have the school available. So we made it a school for registered apprentices only and established a center. I do not know whether that will be applied to barbering and hairdressing or not, but I think we are definitely settled as to the method in the building trades. We have the courses nearly all worked out. We think we have something which is really good and hope that we will get a chance to develop it further later on.

Mr. PHELAN (Ottawa). Are you doing it in the automobile trades?

Mr. CRAWFORD. We hope to do that, but it will be somewhat different. Unfortunately, I cannot speak at the moment.

Mr. THORNE. I do not suppose that two or three of the speakers from the same city would agree that assessing employers would ever

be a very satisfactory plan with regard to having classes. I do believe that we ought to persuade heads of governments to see how important this training is. I wish you could have seen these day classes. The intensive training was wonderful in every way, and the value of the boys to the employers when they finished was grasped by everybody concerned with the building trades. I believe that is the real plan, but I think the assessing of employers is a terrible job. It causes endless confusion, and I believe the employers are able to show governments that they will not do it; but if governments could pay for it themselves, I think that is what we should work toward.

Mr. DAVIE (New Hampshire). How rigid is your examination by the commission, Mr. Wrabetz, before the indenture is granted?

Mr. WRABETZ. The boy goes to the vocational school and goes through the classes there and the vocational set-up, and then makes his own selection. We see to it that the contract is in proper form and that the boy is protected, and that the indenture definitely provides for the kind of instruction and the periodical changes, so that at the end of the term he will be a journeyman. We have four inspectors who devote all their time to checking up.

Mr. DAVIE. You are well enough organized so you control the number of apprentices, do you not?

Mr. THORNE. They all vary.

Mrs. BEYER. It seemed to me that in the light of Mr. Hawes' suggestion as to voluntary activity on the part of unions and employers in the beginning, that might be a guide to the States as to a way to get their machinery going pending legislation. There has just recently been this reasoning on the part of the Federal Government as to the need for real apprenticeship in the labor departments. We are advising the States that have no apprenticeship laws to set up committees within their organizations to promote apprenticeship on a voluntary basis, and it seems to me that the work they will have done during this interim period will be such that they can very easily secure legislation at the next sessions of their legislatures.

Mr. WRABETZ. I was glad to see congressional action on the subject, and especially that apprenticeship promotion was definitely made a duty of the Department of Labor.

Mr. PATTERSON. I think there is another way of approaching it. It is hard to get laws when you have to build up a case. We have had some experience. The State technique of getting experience is to take an illustration, say plumbing, in setting up national standards. It took 8 months. The employers and unions each had a committee and they worked together in getting up a set of standards. Those two organizations put the whole force of their organizations into putting these standards into effect. The unions sent out a letter to their

700 member locals in the States, with a copy of the standards, and asked them to put the standards into effect. Arkansas passed the first law incorporating the model law that the secretary sent out last winter and Mr. McKinley has had some interesting experience.

Mr. McKINLEY. That law was passed just about 4 minutes before adjournment, but in doing that, under our constitution we had reached a certain point where it would take two-thirds of both houses to make the appropriation. After the law was passed we formed a committee—we did not have a cent for the purpose—and now we have committees in the printing, plumbing, and painting trades over the State. Local committees have been established, and we got our first apprenticeship contract about a month ago. When I left, eight apprenticeship contracts were being sent out in Little Rock in the plumbing trades. We are receiving splendid cooperation from the employers and representatives of chambers of commerce. One person, in fact, was a little afraid that possibly we might have some friction in making rules, but his background was that of a manager of a railroad. He really was very helpful in protecting the interests of the apprentices, and gave us some fine ideas along that line. In fact, these people are really enthusiastic about it, and I think if we can make a fairly good showing we can get an appropriation at the next session of the legislature. We have a happy situation there in Little Rock because practically all of the master plumbers have contracts with the unions, and both master plumbers and unions are in accord with this contract.

Minutes of Business Meetings and Reports of Officers and Committees

Session of September 14, 1937

Report of the Secretary-Treasurer

Since the Topeka convention the New Brunswick Department of Labor, the Colorado Industrial Commission, and the Oregon Bureau of Labor have joined the association. The Rhode Island Department of Labor and Mr. C. W. Dickey, of Delaware, have discontinued their memberships. 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.
Colorado Industrial Commission.
Connecticut Department of Labor.
Georgia Department of Labor.
Illinois Department of Labor.
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.
Oregon Bureau of Labor.
Pennsylvania Department of Labor and Industry.
Puerto Rico Department of Labor.
South Carolina Department of Labor and Industry.
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.
New Brunswick Department of Labor.

HONORARY MEMBER

Leifur Magnusson, American representative of International Labor Office.

The proceedings of the Topeka convention have been printed as Bulletin No. 629 of the Bureau of Labor Statistics of the United States Department of Labor.

The committees which were continued from last year, and which have prepared reports for presentation to this convention, are as follows:

Committee on unemployment compensation.—Glenn A. Bowers, New York Department of Labor, chairman; Merrill G. Murray, United States Social Security Board; George E. Bigge, United States Social Security Board.

Committee on minimum-wage laws.—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.

Committee on old-age assistance.—Harry R. McLogan, Wisconsin Industrial Commission, chairman; Glenn A. Bowers, New York Department of Labor; Robert Lansdale, Committee on Public Administration; H. J. Berrodin, 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; 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, chairman; Frieda S. Miller, New York Department of Labor; Martin P. Durkin, Illinois Department of Labor.

Committee on civil service.—E. B. Patton, New York Department of Labor, chairman; Maud Swett, Wisconsin Industrial Commission; Leifur Magnusson, International Labor Office; Gerald Brown, Canada Department of Labor; Gerald Tremblay, Quebec Department of Labor; Leonard D. White, Civil Service Commission.

Committee on women in industry.—Mary Anderson, U. S. 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.—Beatrice McConnell, U. S. Children's Bureau, chairman; Morgan R. Mooney, Connecticut Department of Labor; O. B. Chapman, Ohio Department of Industrial Relations; Mrs. Louise Q. Blodgett, Rhode Island Department of Labor.

FINANCIAL STATEMENT COVERING PERIOD SINCE TOPEKA CONVENTION

		Receipts	
1936			
Sept.	28.	Balance in bank	$1,152.63
	28.	South Carolina Department of Labor, 1937 dues	25.00
	28.	British Columbia Department of Labor, 1937 dues	25.00
	30.	Massachusetts Department of Labor and Industries, 1937 dues	25.00
Oct.	1.	Indiana Industrial Board, 1937 dues	25.00
	2.	Illinois Department of Labor, 1937 dues	25.00
	2.	Quebec Department of Labor, 1937 dues	25.00
	2.	C. W. Dickey, 1937 dues	10.00
	26.	A. L. Fletcher (refund of president's travel fund)	24.20
Nov.	21.	Pennsylvania Department of Labor and Industry, 1937 dues	25.00
	21.	Georgia Department of Industrial Relations, 1937 dues	25.00
1937			
Jan.	20.	New Jersey Department of Labor, 1937 dues	25.00
June	28.	North Carolina Department of Labor, 1938 dues	25.00
July	8.	British Columbia Department of Labor, 1938 dues	25.00
	9.	Ohio Department of Industrial Relations, 1938 dues	10.00

Receipts—Continued

1937			
July	12.	Ontario Department of Labor, 1938 dues	$25.00
	15.	New Hampshire Bureau of Labor, 1938 dues	10.00
	15.	Massachusetts Department of Labor and Industries, 1938 dues	25.00
	20.	West Virginia Department of Labor, 1938 dues	25.00
	21.	Arkansas Bureau of Labor and Statistics, 1938 dues	25.00
	21.	Virginia Department of Labor and Industry, 1938 dues	25.00
	21.	Delaware Labor Commission, 1938 dues	10.00
	26.	South Carolina Department of Labor, 1938 dues	25.00
Aug.	2.	North Dakota Minimum Wage Department, 1938 dues	10.00
	2.	Quebec Department of Labor, 1938 dues	25.00
	7.	Kentucky Department of Labor, 1938 dues	25.00
	9.	Kansas Commission of Labor and Industry, 1938 dues	25.00
	24.	New York Department of Labor, 1938 dues	25.00
	24.	Missouri Department of Labor and Industrial Inspection, 1938 dues	25.00
	30.	Colorado Industrial Commission, 1938 dues	25.00
	30.	Wisconsin Industrial Commission, 1938 dues	25.00
Sept.	7.	Connecticut Department of Labor, 1938 dues	25.00
	10.	New Brunswick Department of Labor, 1938 dues	10.00
	11.	Pennsylvania Department of Labor and Industry, 1938 dues	25.00
		Total receipts	1,886.83

Disbursements

1936				
Oct.	12.	Caslon Press, printing 350 programs for Topeka meeting	$24.75	
	15.	A. L. Fletcher, president's travel fund	100.00	
	15.	John B. Clark, bonding secretary-treasurer, period Oct. 20, 1936, to Oct. 20, 1937	5.00	
Oct.	20.	Bernice Beckman, services at Topeka convention	10.00	
	20.	Margaret Finch, services at Topeka convention	10.00	
	27.	A. L. Fletcher, postage for president's office	10.00	
Nov.	3.	Caslon Press, letterheads and envelopes	23.70	
	21.	A. L. Fletcher, postage for president's office	10.00	
	21.	Doris Patterson, reporting Topeka convention	100.00	
1937				
Feb.	23.	A. L. Fletcher, travel to Washington for meeting of executive board	21.75	
	23.	W. E. Jacobs, travel to Washington for meeting of executive board	54.40	
Mar.	1.	A. L. Fletcher, postage for president's office	3.00	
June	25.	Cash, postage for secretary's office	5.00	
Aug.	2.	Caslon Press, 1,000 letterheads	13.75	
	24.	The Lewis Co., badges for Toronto meeting	17.16	
		Total disbursements		408.51
Sept.	14.	Net balance		1,478.32

Since the Toronto meeting the following membership checks have been received:

Sept.	30.	Iowa Bureau of Labor, 1938 dues	$25.00
	30.	Puerto Rico Department of Labor, 1938 dues	25.00
	30.	Georgia Department of Labor, 1938 dues	25.00
	30.	Oregon Bureau of Labor, 1938 dues	25.00
	30.	Oklahoma Department of Labor, 1938 dues	25.00
Oct.	12.	Illinois Department of Labor, 1938 dues	25.00
	12.	New Jersey Department of Labor, 1938 dues	25.00

At the Topeka convention it was voted that a fund of $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." To date $75.80 of this fund has been used, leaving a balance of $424.20, which is included in the net balance shown above.

At the Topeka convention it was also voted that $300 be made available to pay the travel expenses of the executive board members to attend a board meeting in Washington. Such a meeting was held on February 15. The total amount spent for travel of members of the board was $76.15. The balance of $224.85 is included in the net balance shown above.

The following is a report on the status of American Standard safety codes developed or in process of development under the procedure of the American Standards Association in which the International Association of Governmental Labor Officials is interested as a sponsor or through representation on sectional committees:

PROJECTS FOR WHICH THE I. A. G. L. O. IS JOINT SPONSOR

Z8–1924.—*Safety code for laundry machinery and operations.*

At the present time no plans have been made to revise this code.
(No representative at present.)

PROJECTS ON WHICH THE I. A. G. L. O. HAS REPRESENTATION ON SECTIONAL COMMITTEES

A9–1937.—*Building exits code.*

A revised edition of the building exits code has recently been approved by the American Standards Association. The chairman of the Standards Council of the American Standards Association referred this project to the building code correlating committee for review in order that its relationship to the work of the building code correlating committee might be considered in connection with future revisions of the code.

Representative, S. W. Homan, Pennsylvania Department of Labor, Harrisburg, Pa.

A10–1934.—*American standard for safety in construction industry.*

A meeting of the sectional committee for this project was held in connection with the National Safety Congress at Atlantic City in October 1936. A new chairman of the committee was elected and new subcommittees appointed to prepare drafts of various sections of the new code. Several of these subcommittees have prepared drafts which have been distributed to the sectional committee for criticism and comment.

Representative, E. J. Pierce, New York Department of Labor, 80 Centre Street, New York City.

A11–1930.—*Code of lighting: Factories, mills, and other workplaces.*

No revision is contemplated at this time.

Representative, Charles H. Weeks, deputy commissioner, New Jersey Department of Labor, Trenton, N. J.

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.

Representative, E. J. Pierce, New York Department of Labor, 80 Centre Street, New York City.

A17.1–1937.—*Safety code for elevators, dumbwaiters, and escalators.*

A revision of this code has recently been approved by the American Standards Association. As a new feature of the work of the sectional committee for this project, it developed a recommended practice for the inspection of elevators (Elevator Inspectors' Handbook)—A17.2–1937—which has been approved as American recommended practice by the American Standards Association. This handbook will undoubtedly prove to be of great service to State, municipal, and insurance inspectors, and will tend to bring about uniform administration of the requirements of the elevator code.

Representative, John P. Meade, director, Division of Industrial Safety, Statehouse, Boston, Mass.

A22.—*Safety code for walkway surfaces.*

This project was again reviewed by the American Society of Safety Engineers, Enginering Section of the National Safety Council, at the annual meeting of its executive committee in October 1936. It was agreed that a further attempt should be made to prepare a draft of a code covering industrial walkway surfaces only and that steps should be taken to reorganize the sectional committee. The sponsors are now considering whether or not the project should be continued.

(No representative at present.)

B8–1932.—*Safety code for the protection of industrial workers in foundries.*

At the present time, no plans have been made to revise this code.

Representative, E. J. Pierce, New York Department of Labor, 80 Centre Street, New York City.

B9–1933.—*Safety code for mechanical refrigeration.*

A meeting of the sectional committee for this project was held January 20, 1937, to consider a revised draft which had been prepared by a subcommittee. Since that time the subcommittee has been holding periodic meetings, preparing a final draft of the standard.

(No representative at present.)

B19.—*Safety code from compressed-air machinery.*

The chairman of the sectional committee has advised that sufficient adverse criticism of the last draft of this proposed safety code was received to require further consideration by the sectional committee. A subcommittee is now preparing another draft to be sent to the sectional committee. The chairman believes that this draft should complete the committee's activities for the present and make it possible to submit the code to the American Standards Association for approval by the early fall.

Representative, George P. Keogh, industrial code referee, New York Department of Labor, 80 Centre Street, New York City.

B20.—*Safety code for conveyors and conveying machinery.*

The joint sponsors, the American Society of Mechanical Engineers and the National Bureau of Casualty and Surety Underwriters have completely reorganized the sectional committee for this project. The new committee held its first meeting on April 21, 1937. The scope of the project, the personnel of the new committee were reviewed; new subcommittees were agreed upon, and such drafts as were prepared by the old committee have been forwarded to the appropriate new subcommittees for consideration.

Representative, John P. Meade, director, Division of Industrial Safety, Statehouse, Boston, Mass.

B24–1927.—*Safety code for forging and hot-metal stamping.*

No revision of this code is contemplated at this time.

Representative, John P. Meade, director, Division of Industrial Safety, Statehouse, Boston, Mass.

B28–1927.—*Safety code for rubber machinery.*

No new standards are under consideration and no revisions of the existing standard has been undertaken.

(No representative at present.)

B30.—*Safety code for cranes, derricks, and hoists.*

The American Society of Mechanical Engineers, one of the sponsors for this project, has been advised that several sections of the code have been completed by the subcommittee. The task of combining these sections into one complete code was undertaken some time ago by the Bureau of Yards and Docks of the United States Navy Department, the joint sponsor. Since, however, the Bureau was not in a position at this time to assume this obligation, Dr. M. G. Lloyd of the National Bureau of Standards has agreed to do the work. The editing of the section on jacks has been completed and sections 2, 3, and 4 on inspection, maintenance, and operation have been rearranged. In a letter dated May 8, 1937, Dr. Lloyd advised that a draft of the code would be available for duplication and distribution to the members of the sectional committee in the very near future.

Representative, Dr. Eugene B. Patton, director, Bureau of Statistics and Information, New York Department of Labor, 80 Centre Street, New York City.

C2–1927.—*National electrical safety code.*

The sectional committee for this project has been completely reorganized and a meeting was held May 24 to start work on a revision of the code.

(No representative at this time.)

K13–1930.—*Code for identification of gas-mask canisters.*

No revisions of this code are under consideration.

Representative, John Roach, deputy commissioner, New Jersey Department of Labor, 571 Jersey Avenue, Jersey City, N. J.

L1–1929.—*Textile safety code.*

At the present time no plans have been made to revise this code.

(No representative at present.)

X2–1922.—*Safety code for the protection of the heads and eyes of industrial workers.*

The revision of this code has not progressed during the past year due to the fact that the United States Bureau of Mines has not been able to complete specifications for respirators which were to form a new section in the revision of the standard. However, a draft of these specifications has recently been circulated to the sectional committee for review prior to consideration at a meeting to be held in the fall.

Representative, John P. Meade, director, Division of Industrial Safety, Department of Labor and Industries, Boston, Mass.

Z4.—*Safety codes for industrial sanitation.*

Since the safety code for industrial sanitation in manufacturing establishments, Z4.1–1935, the specifications for drinking fountains, Z4.2–1935, and the specifications for the sanitary privy, Z4.3–1935, were approved, no additional standards have been undertaken in connection with this project, and no revisions of these standards are contemplated at this time.

(No representative at present.)

Z5.—*Ventilation code.*

Due to the resignation of the chairman of the sectional committee, work on this project has been delayed. A new chairman has recently been appointed by the sponsors, and is planning to proceed at once with the work on this project in order that standards on at least some phases of the ventilation problem will be available for distribution at an early date.

Representative, John Vogt, mechanical engineer, Division of Industrial Hygiene, New York Department of Labor, 80 Centre Street, New York City.

Z9.—*Safety code for exhaust systems.*

A report on fundamentals relating to the design and operation of exhaust systems has been prepared and the first edition of 2,000 copies has been completely exhausted. A new edition has now been prepared for distribution. The report has received widespread recognition and aroused considerable interest. The comments and criticisms received on this report will be used by the subcommittee on fundamentals to prepare a revision of the report. There are no special activities of the various other subcommittees to be reported at this time.

Representative, John Roach, deputy commissioner, New Jersey Department of Labor, 571 Jersey Avenue, Jersey City, New Jersey.

Z12.—*Safety codes for the prevention of dust explosions.*

While no new standards have been submitted under this project the sectional committee is continuing its activities. Work is now going forward on additions and revisions of the codes.

Representative, W. J. Burk, New York Department of Labor, 80 Centre Street, New York City.

Z13.—*Safety code for amusement parks.*

Tentative reports on several sections of the proposed code had been prepared by the safety committee of the National Association of Amusement Parks, Pools, and Beaches, one of the sponsors. This work was stopped several years ago due to conditions within the industry. About a year ago a new committee was appointed, and the chairman agreed to complete these tentative recommendations for submission to the sectional committee. This activity, however, has not taken place, and the National Bureau of Casualty and Surety Underwriters, joint sponsor, has agreed to confer with the National Association of Amusement Parks, Pools, and Beaches in an attempt to stimulate activity in this sectional committee.

(No representative at present.)

Z16.—*Standardization of methods for recording and compiling industrial accident statistics.*

The standard method of compiling industrial injury rates—Z16.1–1937—has been approved as American standard and is now being widely distributed. The proposed American recommended practice of compiling industrial injury causes—Z16.2—is now before the sectional committee for review prior to publication and distribution for criticism and comment. It is expected that possibly 2 years will have to elapse before the sectional committee will again be able to review this code and prepare a final draft for submission to the American Standards Association for approval. This plan has been developed in order that the proposed code which departs radically from past practices can have a thorough trial by all groups concerned.

Representative, J. H. Hall, Jr., commissioner of labor, Bureau of Labor and Industry, Richmond, Va.

Z20.—*Safety code for grandstands.*

A meeting of the sectional committee was held on March 11 for the purpose of trying to reconcile differences of opinion which were expressed at the time a letter ballot of the sectional committee was taken on the proposed draft of the specifications for portable steel and wood grandstands. A new draft of the code was authorized and a letter ballot of the sectional committee is now being taken on this draft.

Representative, Frederick Pavlicek, Jr., industrial code referee, Department of Labor, 80 Centre Street, New York City.

ISADOR LUBIN,
Secretary-Treasurer.

Report of the Executive Board

By A. L. FLETCHER, *President, I. A. G. L. O.*

Your executive board held a meeting on Tuesday, September 14, and the following actions were unanimously agreed upon:

The executive board voted to recommend to the association that an attempt be made to federate with the I. A. G. L. O. the Association of Unemployment Compensation Commissioners and the Association of Employment Office Executives.

The board recommends the appropriation of $500 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 legislation.

The board further recommends the appropriation of $300 to be made available to pay the travel expenses of the executive board members to attend board meetings.

The board further recommends that such portions of these two travel funds as are necessary should be available to defray the expenses of the coordinating committee appointed by the president of the association insofar as such travel is necessary and authorized by the executive board for contacting the two above-named associations for purposes of securing their affiliation with the I. A. G. L. O.

The board further recommends that there be developed within the association a separate unit to be made up of factory inspectors attached to State and Provincial labor departments.

Upon receipt of a report from the secretary of the association to the effect that the electrical standards committee of the National Fire Protection Association have refused representation to the I. A. G. L. O., the board instructed the secretary to continue to press for such representation and to appeal to the American Standards Association from the decision of the above-named committee.

The board authorized the payment of $100 to Doris M. Patterson for her services in transcribing the proceedings of the twenty-third annual convention.

The board authorized the expenditure of a sum not to exceed $50 to be used

as gifts to those persons who rendered service to the association in registering membership and in other ways.

[President Fletcher appointed the following members of the special coordinating committee and of the convention committees:]

Special coordinating committee.—Martin P. Durkin, chairman; Joseph M. Tone, W. A. Pat Murphy, John Hopkins Hall, E. I. McKinley, Elmer F. Andrews, Harry R. McLogan.
Auditing committee.—A. W. Crawford, chairman; T. E. Whitaker.
Nominating committee.—John S. B. Davie, chairman; E. B. Patton, A. W. Crawford, T. E. Whitaker.
Resolutions committee.—Joseph M. Tone, chairman; John W. Nates, Louise Murphy, Mrs. Rex Eaton.

Session of September 16, 1937

President FLETCHER. Proceeding with the regular order of business, we will now hear the report of the auditing committee.

[The auditing committee reported that it had examined the books of the association and found them to be well kept, and the balance as reported by the secretary. A motion was made and carried that the report be accepted.]

[The report of the nominating committee was presented by John S. B. Davie.]

Report of the Nominating Committee

The committee on nominations has attended to its duties and wants to submit to the convention the following names to serve as officers for the ensuing year:

President.—W. A. Pat Murphy, of Oklahoma.
First vice president.—Martin P. Durkin, of Illinois.
Second vice president.—Adam Bell, of British Columbia.
Third vice president.—Frieda S. Miller, of New York.
Fourth vice president.—Voyta Wrabetz, of Wisconsin.
Fifth vice president.—John W. Nates, of South Carolina.
Secretary-treasurer.—Isador Lubin, of Washington, D. C.

This slate has the unanimous endorsement of the nominating committee.

[Report was adopted and the officers elected; the secretary was instructed to cast a unanimous ballot.]

[Mr. Davie stated that the committee regretted that, because of the association policy of restricting the number of Federal officials on the executive board, it had not been possible to advance to a higher position on the board Mr. L. Metcalfe Walling, of Rhode Island, who is now with the U. S. Department of Labor. President Fletcher paid tribute to the work Mr. Walling had done as a State labor administrator.]

[Mr. Patton presented the report of the committee on the constitution and bylaws and asked for its adoption.]

Report of Committee on the Constitution and Bylaws

We should like to propose an amendment to article IV, section 1, which reads as follows:

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.

Our proposed amendment would change that last sentence to read as follows:

The executive board shall consist of these officers, together with the outgoing president, who shall serve as an ex-officio member of the board for 1 year.

The purport is that the executive board may each year have the experience of the president who has served the preceding year.

[Motion that the amendment be adopted was seconded and carried.]

[President Fletcher reported that invitations had been received from the following cities for the 1938 convention: New York City, Hartford, Conn., Charleston, S. C., Columbus, Ohio, Kansas City, Mo., Philadelphia, Pa., Memphis, Tenn., Montreal, Canada, Chicago, Ill., Miami, Fla., St. Louis, Mo., Sandusky, Ohio, Bedford Springs, Pa., Old Point Comfort, Va., Virginia Beach, Va., and Hot Springs, Va. Invitations were personally presented by Mr. Nates of South Carolina, Mr. Tone of Connecticut, and Mr. Patton of New York.]

[After considerable discussion, a tentative commitment was made to hold the 1939 meeting in New York, and because of the benefits it is believed the newly organized Department of Labor in South Carolina will derive, it was unanimously voted that the 1938 meeting will be held in Charleston, S. C.]

President FLETCHER. We will now hear the report of the resolutions committee.

[Mr. Tone presented the report of the resolutions committee. The resolutions adopted by the convention were as follows:]

Resolutions Adopted by the Convention

1. *Resolved,* That the thanks and appreciation of the convention are extended to the Ontario Department of Labor, and particularly to Mr. A. W. Crawford and members of his staff, for their splendid cooperation and assistance in preparation for this convention.

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 assistance; committee on minimum-wage laws; committee on women in industry; committee on child labor; committee on wage-claim-collection laws; committee on home work; and committee on civil service.

3. *Resolved,* That the report of the president be accepted as read.

4. *Resolved,* That the report of the executive board be accepted as read.

5. *Resolved,* That the report of the secretary-treasurer be accepted as read.

6. *Resolved,* That the officers of the association be instructed to secure the cooperation of the educational institutions of the various States and Provinces for the inauguration of courses, both classroom and extension, bearing upon labor-law administration, both for regular students in such educational institutions and employees of the various State labor departments, and others who might be interested.

7. Whereas, this association, at its 1936 convention at Topeka, Kans., approved the suggested language for a State bill to regulate and tax industrial home work; and

Whereas, at the same convention, the home-work committee of this association recommended the issuance of certificates to industrial home workers as one of the means necessary for the effective regulation of the practice; therefore be it

Resolved, That this association now endorses the addition to this draft of a new section making such provision, as follows:

SECTION 11. *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,

and that section 12, hereafter to be known as section 13, called "Conditions of manufacture," be amended to conform to this addition by the inclusion of the following provision:

only by a person possessing a valid home worker's certificate.

8. Whereas, the growing complexity and scope of labor legislation make it imperative that factory inspectors be selected and promoted on a basis of fitness and that tenure of office be assured; and

Whereas, even in the States which now have the benefit of civil-service protection some further method of improving methods of factory-inspection personnel must be developed; therefore be it

Resolved, That the International Association of Governmental Labor Officials sponsor the formation of a national association of certified health and safety inspectors in industry; and that the president of this Association name a committee of three to meet with a similar committee appointed by the National Advisory Committee on Safety and Health to the Division of Labor Standards to select a small list of factory inspectors who are known to meet any minimum requirements for certification that might be set, and to serve as an advisory committee to this group in the establishment of an organization of safety and health inspectors and in the naming of standing committees.

Be it further resolved, That a section of factory inspection be established in the International Association of Governmental Labor Officials so that there may continue to be a close coordination between the activities of the new organization and the parent body.

[A resolution on night work of women and minors, included in the report of the committee on resolutions, was, after some discussion, not adopted.]

[The following discussion was had on resolution 8:]

Mr. WALLING. This resolution is new to me, but I wonder if the intent is to set up a separate organization or whether it is to establish a coordinate branch of our association in line with what was previously suggested by the executive board.

Mr. TONE. The principal object is to have a coordinate branch to give momentum to the improvement of factory inspectors, so that the standards will become higher.

Mr. WALLING. Are we fostering a separate organization or including this as a branch of our own association?

Mr. TONE. With my ideas of bringing under departments of labor as many functions of labor as possible, it would be somewhat in the nature of treason to encourage another organization in departments of labor.

Mr. ZIMMER. I understand this is to foster the development of an international association of factory inspectors on a professional basis; that this organization would be called in to discuss the standards that will be required for membership; and that it would be somewhat comparable to the National or International Society of Sanitary Engineers. The very fact that it sets up standards for admission into its own association would give higher standards. I know of nothing that would help to curtail this constant turn-over of factory inspectors in the States more than such an organization. It is true that a higher-grade civil-service law would do it, but how many such laws do we have? We have about four or five that really function. Under this plan, this organization would assist in developing that and would act as a sponsor for it, and of course it would be tied in with this organization. I believe you have already passed a resolution to have special sections on factory inspection. There is no reason why that does not fall right in with this idea.

Mr. DAVIE. I am in favor of the principle, but, going back a few years, when we had this so-called International Association of Factory Inspectors we had a memorable battle in the city of Nashville, Tenn., when we brought them into this association. Rather than break this association down and go through that again, I want it absolutely clear in my mind that the intent or purpose of this resolution is not to establish another organization, when we have this association here, with its doors open, to which these people are eligible as members.

Mr. TONE. It is not the purpose to establish another organization.

[The president appointed a committee of three to work with a similar committee of the United States Division of Labor Standards to carry out this resolution, the committee to make a report to the 1938 convention. The committee appointed was as follows: Joseph M. Tone, chairman; Ralph M. Bashore, T. E. Whitaker.]

[Mr. Phelan, stating that he thought it would be advisable on future occasions to avoid meetings at night, even if the convention had necessarily to be extended another day, made a motion that the incoming executive, when making arrangements for next year's meeting, avoid having sessions, other than such social engagements as may be arranged, provided for in the evenings. The motion was seconded and carried.]

[A motion was made, seconded, and carried that the retiring president be given a rising vote of thanks in appreciation for the splendid work he had done for the Association.]

[President Fletcher presented Mr. Bell, the newly elected second vice president, and others who were present, to the convention. Mr. Bell expressed his appreciation of the honor that had been conferred on him.]

[Convention adjourned.]

Report on Meeting of Canadian Delegates to the I. A. G. L. O.

Special Session of September 17, 1937

The Canadian delegates to the twenty-third annual convention of the International Association of Governmental Labor Officials met on Friday, September 17, 1937, for the purpose of discussing future relationship with the I. A. G. L. O. and the advisability of establishing a Canadian association, either as a separate body or as an integral part of the I. A. G. L. O.

Mr. James F. March, Deputy Minister of Labor for Ontario, was appointed chairman, and Mr. H. C. Hudson, Ontario Superintendent of the Employment Service of Canada, acted as secretary. Delegates were in attendance from British Columbia, Quebec, New Brunswick, Ontario, and the Federal Department of Labor at Ottawa.

Mr. Crawford briefly reviewed his connection with the I. A. G. L. O. and the efforts he had made to promote greater interest on the part of the Canadian departments of labor in the activities of the association, which had resulted in the twenty-third convention being held in Toronto. He suggested that a Canadian section be formed, and that meetings of this section be held in conjunction with the annual convention, 1 day to be devoted to a special program for the Canadian delegates, and special activities of interest to the Canadian Provinces be carried on throughout the year. The Provincial and Federal departments would continue their present relationship as individual members of the association, but the Canadian section, with headquarters at Ottawa, would act as a clearing house of information for the Provincial departments and promote closer cooperation within the Dominion.

This suggestion was discussed at length and several other proposals were put forth by delegates from different Provinces. The relationship between the Federal and Provincial departments was also discussed, and it was finally agreed that no action should be taken which would interfere with the existing relationship of the four member Provinces and the Federal department with the I. A. G. L. O., but that steps should be taken as soon as possible to bring about closer cooperation between the Provinces, either by specially arranged conferences or by the establishment of a permanent organization. It was felt that definite action in this respect should be postponed until all of the Provinces could be brought together for the purpose, when the question of relationship with the I. A. G. L. O. could be decided.

It was moved by Mr. Mackinnon and seconded by Mr. Maher that this section is in favor of holding a conference early next year, composed of governmental labor officials and members of boards and commissions administering labor legislation, and that a committee be formed for the purpose of informing departments of labor and others interested that this conference is being held, and in the interim the committee should draw up a program and a plan for future organization to be submitted to the proposed conference. Carried.

Mr. Adam Bell was appointed chairman of the interim committee and Mr. A. W. Crawford secretary. It was agreed that copies of the minutes should be sent to all Provinces and immediate steps taken to secure representation on the committee of each Province and the Federal Department of Labor, with the understanding that this committee would work out a suitable program and make arrangements for a conference to be held in Ottawa, probably in May 1938.

APPENDIXES

Appendix A.—Organization of International Association of Governmental Labor Officials

Officers, 1937–38

President.—W. A. Pat Murphy, Oklahoma City, Okla.
First vice president.—Martin P. Durkin, Chicago, Ill.
Second vice president.—Adam Bell, Victoria, B. C.
Third vice president.—Frieda S. Miller, New York City.
Fourth vice president.—Voyta Wrabetz, Madison, Wis.
Fifth vice president.—John W. Nates, Columbia, S. C.
Secretary-treasurer.—Isador Lubin, Washington, D. C.

Honorary Life Members

George P. Hambrecht, Wisconsin.
Frank E. Wood, Louisiana.
Linna Bresette, 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; September 16, 1937.

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. The executive board shall consist of these officers, together with the outgoing president, who shall serve as an ex-officio member of the board for 1 year.

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 [1]

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 [2]	Des Moines, Iowa	do	Do.
8	May 1891	Philadelphia, Pa	do	Frank H. Betton.
9	May 1892	Denver, Colo	Charles F. Peck	Do.
	1893 [2]	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.

[1] Known as Association of Governmental Labor Officials, 1914-27; Association of Government Officials in Industry, 1928-33.
[2] 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 Willams	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 Keity.
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 [1]

[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. R. Witter	Do.
14	May-June 1927	Paterson, N. J	John S. B. Davie	Do.
15	May 1928	New Orleans, La	H. M. Stanley [2] / Andrew F. McBride	Do.
16	June 1929	Toronto, Canada	Andrew F. McBride [3] / Maud Swett	Do.
17	May 1930	Louisville, Ky	Maud Swett	
18	May 1931	Boston, Mass	John H. H. Ballantyne [4] / W. A. Rooksbery	Do.
19	September 1933 [5]	Chicago, Ill	E. Leroy Sweetser [6] / E. R. Patton	Maud Swett.
20	September 1934	Boston, Mass	T. E. Whitaker	Isador Lubin.
21	October 1935	Asheville, N. C	Joseph M. Tone	Do.
22	September 1936	Topeka, Kans	A. W. Crawford	Do.
23	September 1937	Toronto, Canada	A. L. Fletcher	Do.

[1] Known as Association of Governmental Labor Officials, 1914-27; Association of Government Officials in Industry, 1928-33.
[2] Mr. Stanley resigned in March 1928.
[3] Dr. McBride resigned in March 1929.
[4] Mr. Ballantyne resigned in January 1931.
[5] 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.
[6] Mr. Sweetser served as president from May 1931 to the end of December 1932.

Appendix B.—Persons Attending the Twenty-Third Annual Convention of the International Association of Governmental Labor Officials

UNITED STATES

Arkansas

E. I. McKinley, commissioner, bureau of labor and statistics, Little Rock.

Colorado

W. H. Young, chairman, industrial commission, Denver.

Connecticut

Morgan R. Mooney, deputy commissioner, department of labor, Hartford.
Edna M. Purtell, department of labor, Hartford.
Joseph M. Tone, commissioner, department of labor, Hartford.

District of Columbia

Mary Anderson, Director, Women's Bureau, United States Department of Labor.

Clara M. Beyer, Assistant Director, Division of Labor Standards, United States Department of Labor.

Elizabeth Johnson, Industrial Division, Children's Bureau, United States Department of Labor.

Swen Kjaer, Bureau of Labor Statistics, United States Department of Labor.

Isador Lubin, Commissioner, Bureau of Labor Statistics, United States Department of Labor.

A. Louise Murphy, Division of Labor Standards, United States Department of Labor.

William R. Patterson, Federal Committee on Apprentice Training, United States Department of Labor.

W. Frank Persons, Director, Employment Service, United States Department of Labor.

Charles F. Sharkey, Bureau of Labor Statistics, United States Department of Labor.

Edwin S. Smith, Member, National Labor Relations Board.

Estelle M. Stewart, Bureau of Labor Statistics, United States Department of Labor.

Louise Stitt, Director, Minimum Wage Division, Women's Bureau, United States Department of Labor.

L. Metcalfe Walling, Administrator, Division of Public Contracts, United States Department of Labor.

Sidney W. Wilcox, Chief Statistician, Bureau of Labor Statistics, United States Department of Labor.

V. A. Zimmer, Director, Division of Labor Standards, United States Department of Labor.

Georgia

T. E. Whitaker, commissioner, department of labor, Atlanta.

Illinois

Martin P. Durkin, director, department of labor, Chicago.

Indiana

Arthur C. Viat, assistant labor commissioner, Indianapolis.

Iowa

W. W. Kelley, factory inspector, bureau of labor, Des Moines.
Milton Peaco, commissioner, bureau of labor, Des Moines.

Kansas

Loraine Edmonds, secretary to commissioner of labor, Topeka.

Massachusetts

John P. Meade, director of industrial safety, department of labor and industries, Boston.
Roswell F. Phelps, director of statistics, department of labor and industries, Boston.

Michigan

George A. Krogstad, commissioner, department of labor, Lansing.

Minnesota

F. T. Starkey, industrial commissioner, St. Paul.

New Hampshire

John S. B. Davie, commissioner, bureau of labor, Concord.

New York

S. Park Harmon, social security board, New York City.
Paul M. Herzog, State labor relations board, New York City.
Frieda S. Miller, director, division of women in industry and minimum wage, department of labor, New York City.
Eugene B. Patton, director of statistics and information, department of labor, New York City.
George C. Daniels, chief inspector, department of labor, Albany.

North Carolina

A. L. Fletcher, commissioner, department of labor, Raleigh.

Ohio

O. B. Chapman, director of industrial relations, Columbus.

Oregon

C. H. Gram, commissioner, bureau of labor, Salem.

Pennsylvania

Ralph M. Bashore, secretary of labor and industry, Harrisburg.

Rhode Island

Joseph L. Breen, secretary to director of labor, Providence.

South Carolina

John W. Nates, commissioner, department of labor, Columbia.
I. J. Via, factory inspector, department of labor, Columbia.

Wisconsin

Taylor Frye, industrial commission, Madison.
Harry R. McLogan, industrial commissioner, Madison.
Maud Swett, field director, woman and child labor, industrial commission, Milwaukee.
Voyta Wrabetz, chairman, industrial commission, labor board, Madison.

CANADA

Dominion Government

W. M. Dickson, Deputy Minister of Labor, Ottawa.
Margaret Mackintosh, Chief, Library and Research Branch, Department of Labor, Ottawa.
Tom Moore, Vice Chairman, National Employment Commission, Ottawa.
V. C. Phelan, Director of Registration, National Employment Commission, Ottawa.
R. A. Rigg, Director, Employment Service, Department of Labor, Ottawa.

British Columbia

Adam Bell, deputy minister of labor, Victoria.
Mrs. Rex Eaton, board of industrial relations, Vancouver.
E. W. Griffiths, relief administrator, Victoria.

New Brunswick

A. B. Mackinnon, chairman, fair wage board, Newcastle.
H. R. Pettigrove, fair wage officer, Frederickton.

Ontario

R. Albrough, inspector, department of labor, Sault Ste. Marie.
Fred Bancroft, member, industry and labor board, Toronto.
H. Bourne, inspector, department of labor, Toronto.
William Burns, inspector, department of labor, Toronto.
W. Campbell, inspector, department of labor, Toronto.
W. J. Cheevers, inspector, department of labor, St. Catharines.
A. W. Crawford, director, minimum wage branch, department of labor, Toronto.
Thomas H. Donnelly, inspector, department of labor, Toronto.
Patterson Farmer, industrial standards officer, department of labor, Toronto.
W. Farmer, inspector, department of labor, Owen Sound.
George L. Fenwick, inspector, department of labor, Toronto.
Mrs. M. Ferguson, inspector, department of labor, St. Thomas.
W. C. Ferris, inspector, department of labor, Toronto.
Miss M. Findlay, senior investigator, department of labor, Toronto.
Louis Fine, chief conciliation officer, department of labor, Toronto.
Miss N. Garden, inspector, department of labor, Hamilton.
Edward G. Gibb, senior clerk, department of labor, Toronto.
E. H. Gilbert, department of labor, Toronto.
Mrs. E. Gurnett, inspector, department of labor, Toronto.
George G. Halcrow, inspector, department of labor, Hamilton.
Fred J. Hawes, director of apprenticeship, department of labor, Toronto.
H. C. Hudson, general superintendent, Ontario Employment Offices, Toronto.
J. R. Johnson, inspector, department of labor, Ottawa.
John M. Kelly, inspector, department of labor, Port Arthur.
O. J. Kerr, inspector, department of labor, Stratford.

George A. Kingston, compensation consultant, department of labor, Toronto.
Miss M. F. Mangan, vice chairman, industry and labor board, Toronto.
John F. McAvoy, inspector, department of labor, Toronto.
R. B. Morley, manager, Accident Prevention Association, Toronto.
W. J. Munro, inspector, department of labor, Toronto.
Charles E. Needham, inspector, department of labor, Walkerville.
E. W. A. O'Dell, special investigator, minimum wage branch, department of labor, Toronto.
J. R. Prain, chief inspector, department of labor, Toronto.
K. E. Reesor, inspectress, department of labor, Ottawa.
Donald Scott, inspector, department of labor, London.
Mrs. E. Scott, inspectress, department of labor, Toronto.
Miss E. Sharp, inspectress, department of labor, Toronto.
Harry Stanley, inspector, department of labor, Toronto.
Margaret Stephen, senior investigator, minimum wage branch, department of labor, Toronto.
J. F. Stewart, inspector, department of labor, Toronto.
Miss M. H. Switzer, inspectress, department of labor, Toronto.
Walter Thorne, inspector of apprenticeship, department of labor, Toronto.
J. Pender-West, examiner of plans, department of labor, Toronto.
R. B. Whitehead, member, industry and labor board, Toronto.
E. J. Young, chairman, industry and labor board, Toronto.

Quebec

James O'Connell Maher, secretary of labor, Quebec.