DEPARTMENT OF COMMERCE AND LABOR

BULLETIN

OF THE

BUREAU OF LABOR

No. 80—JANUARY, 1909

ISSUED EVERY OTHER MONTH

WASHINGTON
GOVERNMENT PRINTING OFFICE
1909

CONTENTS.

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No. 80. WASHINGTON. JANUARY, 1909.

WOMAN AND CHILD WAGE-EARNERS IN GREAT BRITAIN.

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INTRODUCTION.

Because the modern factory system began in Great Britain and, together with material blessings, brought social evils, the first factory laws were enacted in that country. Since then constant conflict has continued between the destructive forces of untrammeled industry, sacrificing its servants to its dominant end, production, and the protective intervention of society, staying those forces in the interest of humanity. This conflict has resulted in a highly developed system of factory legislation, based on over a century of experience. But many evils still afflict workers for which remedies remain to be discovered. Recent enactments and projected laws do not stop at the factory and workshop, but seek to correct abuses in the very homes of the operatives. A complete view of the legislation affecting wage-earners, therefore, must regard not only past measures, but also those in prospect, and the justification of the latter in existing evils. In a progressive country social legislation is never static, and tendencies are as illuminating as attainments. This is particularly true of Great Britain, where advanced factory regulation has prepared the way for progress in a new direction.

Although British experience with factory laws is so extensive and long continued, and the general social effect of these laws is understood, their detailed economic effect has not yet been fully studied. It might be argued that these laws have recorded rather than caused the improvement in the condition of factory workers during the last century. The question remains open whether they have checked or accelerated the progress of particular industries. No searching anal-

ysis of the influence of the factory acts in these directions has yet been made, and statistical data for a complete demonstration of this influence are now lacking. But there have been partial investigations, both public and private, of several of the problems here suggested. The literature, documentary and otherwise, that has thus grown up around this subject in Great Britain, is the most valuable that we have illustrating the effect of laws upon social and industrial conditions.

THE FACTORY LAWS.

The first English factory act was passed in 1802, to protect the health and morals of parish apprentices employed in cotton and woolen mills. It marked the transition from the old regulation of trade apprenticeship to the new factory legislation. In 1819 a second law prohibited the employment in cotton mills of any children under 9 years of age and limited the working hours of children under 16 years of age to 12 a day. The act of 1825 retained 16 years as the age of those whose hours of work were thus limited, but in 1831 this provision was extended to all young persons under 18, and night work by persons under 21 was forbidden. The act of 1833 extended these regulations to all textile industries, and required that children under 13 should be employed only 48 hours in one week and not more than 9 hours in one day, and factory inspectors were appointed to enforce the law. In certain respects, therefore, the laws regulating the employment of children were more advanced in Great Britain 75 years ago than they are in some American States at the present time.

The effect of these acts was to cause women to be substituted for children in low-paid occupations. Many arguments, both physiological and moral, were urged against unregulated female employment, especially at night, and in 1844 women were brought under the provisions hitherto applying to young persons.

For 25 years prior to 1850 there was agitation in England in favor of a 10-hour day for factory women and children. In 1847 such a law was passed, but employers were allowed so much latitude in selecting the period within which the 10 hours should be worked as largely to nullify its benefit. Three years later the working hours were increased to 10½, but required to be continuous except for meals. The next 20 years saw little addition to the law, but witnessed its extension to nearly all manufacturing establishments, and increasing efficiency in its administration. In 1874 the hours of females and children employed in textile mills were reduced to 56½ per week. From this time opinion began to be divided as to the desirability of laws limiting the working conditions of women. A party supported by some women workers maintained that these regulations made employers

prefer men in occupations previously filled by women, and thus drove the latter out of positions. Recently woman suffragists have denied the right of a parliament elected exclusively by male voters to make regulations applying only to women. There seems to be more opposition from these sources than from employers to the further regulation of women's work in Great Britain. Meantime the act was extended to workshops, and, partly on account of the opposition to restricting female employment, was given only limited application to women workers in shops where no children were employed, while in domestic workshops, employing no persons outside of members of the family, women were entirely freed from regulation. This was no boon to the latter; for these exempted shops have since proved the chief seats of long hours, low wages, insanitary conditions, and all the other evils of sweating.

The following table, compiled and extended from one published in the Journal of the Royal Statistical Society in 1902, gives in brief form the main provisions of the various laws affecting hours of work:

YEAR OF PASSAGE AND MAIN PROVISIONS AFFECTING HOURS OF WORK, OF FACTORY ACTS OF GREAT BRITAIN.

Year.	Industries affected.	Operatives affected.	Details.
1802....	Cotton.....	Apprentices.....	12-hour day, between 6 a. m. and 9 p. m.; night work regulated.
1819....	Cotton.....	Children.....	Minimum age, 9 years; children 9 to 16 years limited to 12 hours a day.
1825....	Cotton.....	Children.....	Saturday's work limited to 9 hours, before 4.30 p. m.; weekly hours, 69. Work day from 5 a. m. to 8 p. m.
1831....	Cotton.....	Children, 9 to 13; young persons, 13 to 18 years.	Prohibited night work for employees under 21; children and young persons limited to 12 hours daily and 69 weekly.
1833....	Textiles.....	Children, 9 to 13; young persons, 13 to 18 years.	Children limited to 9 hours daily, 48 weekly; young persons remain 69 weekly, 5.30 a. m. to 8.30 p. m. Extended to all textiles.(a)
1844....	Textiles.....	Children, young persons, and women.	Children half-time system, 6½ hours daily or 10 hours for 3 alternate days. Women to work same hours as young persons.
1845....	Print works.....	Children, young persons, and women.	Extension to print works.
1847....	Textiles.....	Young persons and women..	"Ten Hours Act;" 11 hours daily and 63 weekly from July 1, 1847; 10 hours daily and 58 weekly from July 1, 1848.
1850....	Textiles.....	Young persons and women..	Hours 10½ daily, 60 weekly, between 6 a. m. and 6 p. m. or 7 a. m. and 7 p. m. and to 2 p. m. Saturdays.
1853....	Textiles.....	Children.....	Extension of act of 1850 to children.
1860....	Bleaching and dye works.	Children, 8 to 13; young persons, 13 to 18 years; women.	Except bleaching in open air; 12-hour day, between 6 a. m. and 8 p. m. and to 4.30 p. m. Saturdays.
1861....	Hosiery and lace...	Children, 8 to 13; young persons, 13 to 18 years; women.	Extends acts of 1850 and 1853, except youths 16 to 18 may work 9 hours between 4 a. m. and 10 p. m.
1864....	Fustian cutting, cartridge making, pottery.	Children, young persons, and women.	Extends acts previously applying to textiles.
1867....	Workshops and factories.	Children, young persons, and women.	Extends act to any premises constituting one trade establishment employing 50 or more in manufacturing. Hours in workshops regulated.
1870....	Print, bleach, and dye works.	Children and young persons.	Open-air work regulated.
1871....	Brick and tile works.	Children and young persons.	Children under 10 years and females under 16 prohibited.

a Factory inspectors were first appointed in 1834.

YEAR OF PASSAGE AND MAIN PROVISIONS AFFECTING HOURS OF WORK, OF FACTORY ACTS OF GREAT BRITAIN—Concluded.

Year.	Industries affected.	Operatives affected.	Details.
1874....	Textiles.....	Children 10 to 13 years, young persons 13 to 18 years, and women.	Employment of children under 10 forbidden. Children's hours as before, but not to be employed Saturdays if working over 5 hours any day of the week. Hours 56½ weekly. After Jan. 1, 1876, minimum "full time" age 14 years, unless evidence of proficiency in school.
1878....	Textiles.....	Children, young persons, and women.	Children 6½ daily, or 10 hours for 3 alternate days, between 6 or 7 a. m. and 1 p. m.; or between 1 p. m. and 6 or 7 p. m. On Saturday work to end at 1 p. m.
	Nontextile.....	Children, young persons, and women.	Children same as in textile mills, but to end Saturdays 2 p. m. Young persons and women 10½ hours, 6 a. m. to 6 p. m., 7 a. m. to 7 p. m., or 8 a. m. to 8 p. m. Exceptions. Saturdays end at 2 p. m.
	Workshops.....	Women only.....	Workshops not employing children or young persons, 10½-hour day, between 6 a. m. and 9 p. m. Saturdays till 4 p. m. Other workshops same as nontextile factories.
	Domestic workshops.	Children and young persons.	Children as in nontextile factories; young persons as in workshops; women not regulated.
1891....	Domestic workshops.	Children only.....	Minimum age for half timers raised from 10 years to 11 years.
1895....	Factories and workshops.	Children, young persons, and women.	Young persons' overtime prohibited; women's overtime limited to 2 hours a day, 3 days a week, 30 days a year, with exceptions. Regulation extended to laundries.
1901....	Factories and workshops.	Children, young persons, and women.	No child under 12 to be employed. Many detailed provisions governing hours of employment in particular industries and establishments. Period of employment in textile factories reduced 1 hour Saturdays.

The last amendments have reduced the hours of work in textile factories to 55½ a week, and have established numerous minor but important regulations, relating especially to sanitation and dangerous trades. Meantime each year's experience has resulted in more efficient administration, and more liberal provision has been made for the enforcement of the law.

The present acts apply in many respects to men in common with women and children, and are enforced equally in factories where only adult males are employed. Such provisions, especially those relating to sanitation, fire protection, and guarding dangerous machinery and processes, do not belong to our topic, though their benefit is perhaps most felt by young persons and delicate female workers. The demands of health, comfort, and decency are as well considered in most British factories as in the homes of the operatives, and in many cases working surroundings are superior to those of the domestic circle.

The measures applying exclusively to woman and child factory workers, which therefore embody Great Britain's answer to the problem of their particular welfare, relate chiefly to time and duration of continuous labor and to employment in injurious or dangerous trades. Other regulations are mostly subordinate to these two main matters.

The time of employment of women and children varies, and in case of children it is conditioned by age and education.

A child may begin working in a factory or workshop, or above ground at a mine, when 12 years old, providing (1) that it secures a certificate of physical fitness from an official examining surgeon, (2) that it has passed in school a certain required standard set by the local authorities, and (3) that it continues to attend school regularly half time. Half timers may work either alternate days or in morning or afternoon shifts, attending school the remaining days or shifts. In the latter case the shifts must be alternated each successive week. At 13 years old a child with the proper physical certificate may begin working full time in a factory, or underground in a mine, provided it has passed the fifth grade or has attended school five full years of "350 attendances" since it was 5 years old. Otherwise a child remains a half timer until 14. At 14 children become "young persons" in the eyes of the British law and remain so until 18 years old. There is no further educational requirement, but in order to acquire this status they must be reexamined and must secure a new physical certificate from the certifying surgeon. In textile factories young persons may work, subject to the legal meal intervals, from 6 or 7 a. m. to 6 or 7 p. m., respectively, so long as the aggregate hours do not exceed 55½ weekly, and in other factories either the same hours or from 8 a. m. to 8 p. m., and not more than 60 hours in one week. There is a short day Saturday. Women are in most cases subject to the same regulations as young persons, except that in certain industries they may work a limited amount of overtime. When working in his family, termed by the law in a "domestic workshop," a child may be employed only half time, and a young person may work only between 6 a. m. and 9 p. m., ordinary days, with 4½ hours of intermission, and from 6 a. m. to 4 p. m. on Saturdays, with 2½ hours' intermission. Women in domestic workshops may work the hours they please any day but Sunday.

In textile factories 2 hours of the 12 must be allowed for meals, and in other factories and in shops 1½ hours; and in these two classes of factories, respectively, the meal hours must not be more than 4½ or 5 hours apart.

Overtime for children and young persons hardly exists in Great Britain, the few exceptions being in seasonal occupations or where perishable products are handled. Women may work overtime, when notice has been given to the factory inspector; but not later than 10 p. m., nor more than 2 hours a day, nor more than 3 days in one week, nor more than 30 days in any year.

These are in substance, omitting minor details, the regulations to prevent excessively protracted work for women and children. Over-

work, however, depends upon intensity as well as time. Intensity is unregulated. The act is sometimes evaded, especially by small employers; and some factories send away work to be done by employees illegally at their homes outside of factory hours. On the other hand, in many establishments women and children do not work the full legal time; so that their average hours in all factories are probably less than the maximum allowed by law.

Employers are forbidden "knowingly" to employ a female operative within 4 weeks after childbirth; but it is so difficult to secure convictions under this provision, because employers can plead ignorance of the facts, that evasions frequently occur.

The jurisdiction of the factory act is very wide, applying to all establishments within the definition without regard to number of employees, including laundries and bakeries, and to workshops where either women or children are employed. Building operations, wharves, warehouses, and railway sidings are subject to the law only as to the reporting of accidents. Establishments where dangerous trades or processes are carried on are required to observe, in addition to the ordinary provisions of the act, such rules for the protection of employees as may be issued by the home secretary. These factories include all those engaged in the manufacture of lead colors, or where lead dye, glaze, decoration, or enamel is used, match factories using phosphorus, places where poisonous or explosive chemicals are manufactured or used, shops for the mixing and casting of brass or where files are cut by hand, establishments handling or employing in manufacture wools and hairs likely to carry anthrax contagion—such as hat factories, some spinning and weaving factories, and tanneries—houses bottling aerated waters, and places where derricks and locomotives are used in immediate connection with a manufacturing establishment. Many of these special regulations do not affect women and only incidentally affect boys; but in some industries the employment of children, young persons, and women is either greatly restricted or altogether forbidden. Women are not allowed to work in white-lead works, and no longer are employed in certain occupations in brass foundries. Children may not operate or clean dangerous machinery, and young persons and women may not clean such machinery while in motion. Children shall not be employed to carry too heavy burdens, or be otherwise employed so as excessively to tax their strength or attention. In granting a physical certificate to a child beginning work as a half timer or to a young person, the certifying surgeon may prescribe the particular work the child is capable of doing without injury, and may make the certificate authorize the child's employment only in that class

of work. A factory inspector may at any time suspend or annul the physical certificate of a child or young person, either for violation of its provisions, or because the child's health or strength appears to him unequal to the tasks prescribed or to any further factory work. The child may then be reemployed only after a new physical examination and the issuance of a new certificate by the certifying surgeon.

Regulations governing home work and domestic workshops apply peculiarly to women and children. A domestic workshop is defined by law as "a private house, room, or place, which though used as a dwelling, is by reason of the work carried on there a factory or a workshop, as the case may be, within the meaning of this act, and in which neither steam, water, nor other mechanical power is used in aid of the manufacturing process carried on there, and in which the only persons employed are members of the same family dwelling there." Since no number of workers is specified, this brings within the purview of the law most outworkers, who receive clothing and other materials from a factory for making up. If any outworker uses assistance, whether paid or not, outside his immediate family dwelling with him, his place becomes a workshop under the broader definition, and is subject to still more complete supervision. Persons who give out work in certain industries must keep a list of the names and addresses of outworkers, and forward copies of these twice a year to the local authority and, on demand, to the factory inspector. Though this is primarily a sanitary regulation, and an employer is required to cease giving out work to places where conditions may endanger public health, incidentally such shops are thus brought under stricter general control. This not only enables greater supervision over the hours of work and the age of employment, but also helps in enforcing other requirements of the act which, though in principle applying equally to all workers, in practice are chiefly a safeguard to women and children. These are the provisions prohibiting excessive fines or deductions for imperfect work or damaged materials; payment in goods or charges for extras, such as light and heat, and those compelling the employer to give "particulars," that is, to allow a pieceworker an itemized account of the price to be paid for each kind of work.

Employment in mines and upon railways is regulated by separate acts. There are also special laws, relating more particularly to employment in stores and shops and the work of children outside of factories, that affect the condition of saleswomen and younger wage-earners. School ordinances and other local regulations also influence the condition of the latter.

ADMINISTRATION OF THE FACTORY LAWS.

The various laws regulating conditions of work in Great Britain are enforced by four groups of inspectors—factory inspectors, mines inspectors, and railway inspectors, all of whom are officials of the central Government, and public health officers and other inspectors appointed by local authorities. The factory, mine, and railway inspectors have distinct spheres of jurisdiction; but all of them, and especially the factory inspectors, may be called upon to cooperate with the officers of the local government. Laws affecting women and children employed in commercial, as distinct from industrial, pursuits are for the most part administered solely by the local authorities. Such, for instance, are the Seats for Shop Assistants Act, 1899; the Shop Hours Act, 1892 and 1904, and the Employment of Children Act, 1903. Municipal officers cooperate with factory inspectors principally in sanitation and education. Local building ordinances govern the construction and arrangement of factories and workshops; but these must conform also to the requirements of the factory laws as to space, light, ventilation, fire protection, and general sanitation. The relations between factory inspectors and local health officers are so regulated that if the latter neglect to enforce acceptable regulations in the matters subject to their special jurisdiction the factory inspector, upon authorization by the secretary of state, may himself issue and enforce the necessary orders. He can recover the expense from the local government. The factory inspector may require the assistance of the city police to enforce any provision of the act. Local educational authorities prescribe the standard of school advancement for half-time certificates, and may forbid half time altogether, as in certain cities (notably London) they have done. They also work together with the factory department in enforcing the compulsory-education law.

There are now 200 factory inspectors, including office staffs. Under their scrutiny are five and a half million employees and over a quarter of a million factories and workshops. Assisting these are the local inspectors mentioned and more than 2,000 certifying surgeons. These surgeons are not salaried, but receive a fee from the employer for each prospective worker examined. Unless a factory has fewer than 5 employees the physical examination must be at the factory itself, and is issued for employment in that factory, and, as just stated, for certain occupations. Therefore, usually no question can arise as to the identity of the child holding the certificate; and since the surgeon has nearly the same rights of visitation as the factory inspector, he can satisfy himself as to sanitary conditions and protection from dangerous machinery in the places where the child will work.

In 1908 the number of factory inspectors was increased from 165 to 200, and it is still thought inadequate. The majority of the male inspectors are assigned, either in charge or as assistants, to definite districts, where their work is controlled by the chief inspector or by one of his supervising assistants. Lady inspectors are usually sent to such portions of the field as require their work, according to the emergencies of the service. Experienced inspectors are detailed to make special investigations when information concerning some particular district or industry is required. In addition, the Government provides special expert inspectors for textile industries, electrical machinery, and dangerous trades, besides a medical inspector. There are also some 70 sanitary inspectors, nearly half of whom are women, whose duties are solely under the Factory and Workshop Act. About 40 mine inspectors, under a chief inspector, enforce prescribed conditions of employment in mines. Over 170 local inspectors are either wholly or partly engaged in enforcing the Shop Hours Act and the law requiring seats for shop assistants.

Most of the male factory inspectors are men who previously to entering this work were practically familiar with manufacturing, while several of the female inspectors have been drawn from the ranks of social workers. Of the men on the staff in 1907, 49 were engineers, 20 had been manufacturers or managers of works, and 20 were scientists or teachers of science or of engineering. Seven were university men, 16 had been transferred from other government departments, 24 had been either workingmen in factories or trade-union officials, and 11 had held clerical positions. The army furnished 2 inspectors and the law 1. Of the lady inspectors 5 had previously been in local sanitary departments.

There is no cooperation, except voluntary, between trade unions and the factory inspectors; but the labor party in Parliament, largely representing these organizations, naturally interests itself especially in the provisions and the administration of the factory laws. The civil-service requirements are said to prevent workingmen from securing appointments as inspectors, or after appointment from advancing to more responsible and better-paid positions. In 1907 among the former workingmen upon the staff the proportion of full inspectors to assistants was only a little over one-ninth the corresponding proportion among members from other callings. The weak point in the administration of the law, however, is not so much in the personnel or in the powers of inspectors as in the inadequate strength of the inspecting force. Omitting domestic workshops, which need as much attention as larger works, in 1906 the field force was able to visit each establishment registered under the act an average of 1.5 times. As some of these visits were made to domestic workshops, the average

number of times each factory was inspected was less than this. Moreover, special demands or convenience of opportunity caused two or more visits to be made to many works, while others escaped inspection altogether. Even with the increased force, each inspector available for field work must look after the welfare of nearly 30,000 workers—the population of a city. In Massachusetts, where there are separate inspectors for steam boilers and where local authorities enforce rather more provisions of the law than do the local authorities in Great Britain, there are more then ten times this number of inspectors in proportion to the workers to whom the law applies; and in some other Northern States the proportion seems to be larger than in Great Britain. But in our Southern States as yet there is practically no provision for enforcing by direct inspection the laws recently enacted in regard to woman and child workers. And in the United Kingdom the congestion of population and industries makes a relatively smaller force more adequate than it would be in America.

One proposal in England is to increase the powers and responsibilities of local sanitary inspectors, at the same time making them strictly subordinate in industrial inspection to the factory department, thus leaving the latter's inspectors free to concentrate attention on such matters as dangerous machinery and processes, hours of work, and wages. Some of the labor representatives, on the other hand, favor increasing the central at the expense of local supervision, and for this reason would greatly strengthen the inspecting staff. The uniform administration of the law is rendered more difficult where much is left to local action, and influences are more likely to come into play to prevent the rigid enforcement of some requirements. The general opinion seems to be that the value of the law is in proportion to the number of officers in the field to enforce it, and that its administration is best intrusted, in all main matters, to a single central authority.

The treatment of violations of the act is left to the discretion of inspectors. The application of a large number of special rules to a complicated industry results in many minor or inadvertent violations, which are dismissed with a caution. For an inspector to prosecute every offense detected would in a sense defeat his usefulness; for it would require him to spend so much time in court that he could not visit factories. Generally the cases taken before a magistrate are (*a*) repeated offenses, (*b*) offenses involving a contested point of law, or (*c*) where an example is made of one employer to check a tendency to disregard some provision of the law observed among several employers in the vicinity. Suits are brought in the police court, with the possibility of appeal. Before bringing a suit the inspector secures the authorization of the supervising inspector or the chief

inspector, and he prosecutes in his own name and may conduct his case without an attorney.

The number of prosecutions averages about 4,000 a year, with nearly 95 per cent of convictions and voluntary withdrawals. In 1907 the convictions were 4,211 out of 4,474 cases brought into court. The average fine inflicted upon offenders was 19s. 8d. ($4.79). The law fixes minimum and maximum penalties for certain defined offenses and also in some cases a penalty for each day of default in carrying out the provisions of the act. The minimum penalty that may be inflicted is £1 ($4.87) and applies to repeated offenses within 2 years for all classes of offenses except breach of regulations relating to cotton-cloth factories, where the minimum is £5 ($24.33) for the first and £10 ($48.67) for the second offense, and contract or payment contrary to the Truck Act, where it is £10 ($48.67) for the second offense. The maximum penalty rises in some cases to £100 sterling ($486.65). This is the fine for neglecting a regulation by which injury or death is caused, and does not bar civil action by the employee for damages or compensation. For disregarding important health or safety requirements an inspector may secure an order of court closing a factory or workshop until the bad conditions shall have been remedied; but such closing must be ordered only as a precaution against injury to workers, and not as a penalty for violating the act.

PROPOSED AMENDMENTS.

In Great Britain there is now no such opposition to factory legislation as still evidences itself in some parts of America. No employer or representative of employers was heard to criticise the act as a whole, and there was but mild objection to any of its details. Undoubtedly among smaller works and in the sweatshop districts one might encounter struggling proprietors competing with large manufacturers under the disadvantage of insufficient capital and amid uneconomic conditions, who see in the demands for modern sanitation and regulated employment extortions that foreshadow their own ruin. But these people are few and growing fewer, and do not make public opinion outside their class. The great main current of thought and sympathy among the mass of the nation, including both employers and workers, not only favors present regulations but is not averse to extending them.

The present tendency, as indicated by the more recent amendments, is to bring new and quasi-manufacturing industries—such as laundry work—under the law, and greatly to amplify the regulations governing dangerous trades. Apart from the constant agitation to increase the number of inspectors, which has just led to considerable results, there are three chief lines of amendment advocated by those who wish

to strengthen the law. One is to carry forward the general movement to shorten hours by reducing the weekly period of factory labor; the second is to abolish half time, thus doing away with what is called in England child labor by making the lowest age of beginners in shops and factories 14 years; and the third, and most important politically and economically, is to regulate sweating by establishing a legal minimum wage. The third proposal would introduce a hitherto unrecognized principle into British factory legislation.

The agitation for shorter hours is not so active as it would be were not labor unions, improved machinery, and the general transformation of industry bringing these about without further assistance from legislation. In many industries and establishments women and children are not at present employed the full hours allowed by law, because better results are obtained by a shorter working day. But during the recent boom in textiles some factories where piecework rates are paid and where employees are not always averse to evading the regulations, there is still "time cribbing," or running the machinery a trifle over the legal time, especially at meal intervals. The present depression will probably stop most of this for the time being, because there is not sufficient work to keep the mills going full hours.

THE HALF-TIME SYSTEM.

In Great Britain the sentiment of the general public and of many employers, and the official attitude of the labor party, are opposed to the labor of children under 14 years of age in factories and workshops, and so to the half-time system. This system grew up in the midst of the compromises that have characterized most factory legislation, and has never been justified by its own merits. On the other hand, some employers and many of the rank and file of workers, especially in Lancashire and in certain other textile districts, favor its retention. The attitude of the working people is based upon the real or assumed need of the children's wages to support the family, and to a less clearly expressed but equally widespread sentiment that what was good enough for the parent is good enough for the child. Employers use the argument that for spinning finer numbers of yarn, and possibly in some other occupations, children acquire the necessary skill only when they begin young. There are a few places, notably the jute mills of Dundee, where the survival of an industry in competition with foreign (in this case Indian) cheap labor is supposed to depend upon the employment of young children. The arguments against half time are the same as those against all child labor, and are reenforced by special considerations. The alternation of factory work and school attendance, particularly when this occurs on the same day, overtaxes most children—and in such a way

that the main loss of interest and attention is felt by the school work. The organization and discipline of the schools are embarrassed where some of the pupils attend but one session daily, and this in turn reacts on the welfare of the other pupils. The whole community thereby suffers, and probably the total loss is greater than any possible gain from the children's labor.

Inasmuch as the law permits only those children who have attended school regularly and who have acquired a certain standard of proficiency in school to work half time, stupid and slow children are debarred from this questionable privilege; therefore, the half timers should be mentally as well as physically a picked class. The almost unanimous testimony is that factory life soon removes them from this preferred position. To quote a leading physician of one of England's chief factory cities:

To every teacher the half timer is an unmitigated nuisance, and his presence in school an intellectual drag and a bad moral influence—the evil atmosphere of the mill very soon affecting him. If educated alongside the ordinary whole-day scholars, the curriculum of the whole school has to be curtailed to suit his possibilities, and wherever possible in large schools separate half-time classes are established, with a view to minimizing the effects of this intellectual handicapping and the insidious moral contamination of the other children. * * * At an examination one poor little fellow who was asked by the inspector to repeat his portion of poetry, rose up but could not proceed, whereupon one of the other boys called out, "Please, sir, he's a half timer."

The half timer is not an isolated phenomenon. In Lancashire, Yorkshire, Cheshire, and Derbyshire something like one-half of all the children go to work in the factories before they are 14 years of age. A prominent social worker, speaking of a personal investigation in this district, says:

In one town I visited six large council schools, all of which contained an average of from 100 to 150 half timers. Fifty per cent of the children at work, in the upper classes, were half timers; in some schools even more. In one class I found 49, out of 56 girls, half timers—only 7 being present the whole day. In another, the proportion was 36 out of 55; in another, 14 out of 27; in another, 20 out of 40. The children are not all present at the same time, some being engaged in the morning shift, others in the afternoon; consequently continuity of teaching is only secured with difficulty. * * * The teachers say the children lose more than 50 per cent of their education. When they come to school after the morning shift 33 per cent are in a semicomatose condition, quite unable to profit educationally from the lessons put before them, and more often than not they fall asleep in school during the afternoon. This is hardly to be wondered at when we remember that the children are almost entirely employed in the spinning rooms, and in a very hot and highly humid atmosphere. The monotony of the work, the noise, and the smell, all affect the

children prejudicially and make them less responsive intellectually. Morally the effect is also undesirable. They become less inclined to discipline and rougher in manner.

Some of the worst evils of child labor exist in North Ireland, especially in the linen factories of Belfast and vicinity. A lady factory inspector, making a special investigation of conditions in this district, found that illegal employment of children under age was not uncommon, and that children with surgeon's certificates were working at tasks beyond their strength and capacity. Children sometimes worked with certificates that did not belong to them. In Belfast, of 133 half-time children aged 12 years, 88 were in the three lowest grades at school; out of 146 aged 13 years, 89 were in the three lowest grades, and out of 19 aged 14 years, 11 were in the same primary classes. With nominal compulsory education, over 1 child in 6 of those under 14 years, but of school age, could not read or write. However, the half-time law seems to have one good effect in this part of Ireland—some children first begin to attend school regularly when they enter a factory. The act requires that a certificate of attendance for the previous week be filed with the employer every Monday morning, and where the child has failed to be in school fully one-half of the sessions the previous week, except in case of illness, he must not be employed the coming week until the sessions in default are all made up.

The great preponderance of testimony goes to show that half time in factories weakens children physically. The life of the half timer has been vividly pictured, but without essential exaggeration, as follows:

Every alternate week in the year, rain or sunshine, the children must be wakened at 5 or a little after, in order to arrive at the factory by 6 o'clock, or in some instances at half past 6. It means that for six months of the year they must leave home and walk often a mile or more through the raw mist, the cold, and the darkness so typical of a north of England town. It means that they will stay in the factory until 12 or half past 12, with half an hour's interval for breakfast, a breakfast composed of bread and butter and tea, without milk, taken at the loom side. It means that at 12 or half past, they run home to a midday meal, the more tidy and respectable to change their oil-sodden, ill-smelling factory clothes for neater garments, to snatch a hurried meal and to be in school by 2 o'clock. After a long morning, begun when most of us are asleep, at lugging bobbins, doffing bobbins, laying on bobbins in the spinning rooms, or tenting in the weaving sheds, can you wonder that the children find it hard to concentrate their minds on the mysteries of arithmetic and grammar?

The next week the child works in the afternoon instead of the morning, and probably comes to his lessons with somewhat fresher interest, but by no means on an equal footing with his more for-

tunate schoolmates. But the physical effect of overfatigue upon growing children, combined usually with improper diet, is here only suggested. This is but one of the many ill influences depressing the physique of industrial populations, yet it is one of the most important. The half-time system falls more heavily upon the children of these factory operatives, precisely because they start in life with a physical handicap. Following are some figures taken in Liverpool, which is not a factory town, showing the average height and weight of school children of different ages, in schools in a wealthy and in a poor district, respectively:

AVERAGE HEIGHT AND WEIGHT OF SCHOOL CHILDREN IN LIVERPOOL, AT SPECIFIED AGES, BY LOCATION OF SCHOOL.

Location of school.	Seven years old.		Eleven years old.		Fourteen years old.	
	Height (feet and inches).	Weight (pounds).	Height (feet and inches).	Weight (pounds).	Height (feet and inches).	Weight (pounds).
Wealthy district	3 11¾	49	4 7¾	70	5 1¾	94½
Poor district	3 8	43	4 1¾	53	4 7	71

In the original tables statistics from schools in intermediate districts are given, which show a regular gradation in the height and weight of children of the same ages from those of the wealthiest to those of the poorest class. A similar investigation in Dundee, where there is a large factory population, gave equally striking results. A much more extensive investigation in England showed that at 13 years of age the average height of the boy from a well-to-do home was 3.17 inches above that of the boy who worked, and the average difference in their respective weights was 10.33 pounds. This difference continued to increase until at 16 years of age the nonworking boy had an average advantage over the working boy of 3.47 inches in height and 19.68 pounds in weight. Differences in average chest measurement show the same variation. These physical handicaps of the poor children are not solely caused by early labor. They are also to be accounted for in a large degree by food, housing, prenatal conditions, and to care during infancy. Nevertheless the evil done by too early and too arduous employment accentuates these handicaps. Medical officers report:

Factory children of factory parents, urban and suburban, compare unfavorably with children in nonfactory districts, urban and rural, and the rate of mortality, particularly infant mortality, is unduly high in factory districts.

A factory inspector of long experience says:

Employment of this character [in textile mills], especially if carried on in high temperatures, rarely fosters growth or development;

the stunted child elongates slightly in time, but remains very thin, loses color, the muscles remain small, especially those of the upper limbs, the legs are inclined to become bowed, more particularly if heavy weights have to be habitually carried, the arch of the foot flattens, and the teeth decay rapidly. * * * The girls exhibit the same shortness of stature, the same miserable development, and they possess the same sallow cheeks and carious teeth. I have also observed that at an age when girls brought up under wholesome conditions usually possess a luxuriant growth of hair, these factory girls have a scanty crop, that when tied back is simply a wisp or "rat's tail."

In Bradford 52 head teachers were recently interrogated by a city medical officer as to the physical effect of half time upon school children:

Thirty-seven declared that the system was most injurious to the child's physique. They considered that the lack of adequate sleep, the constant pressure to work quickly, the carrying of big loads of bobbins about the factory, the morning tea without milk, the heat of the spinning room, the lack of play all worked harm.

A factory surgeon of 25 years' experience reports:

The medium average of Lancashire factory children is not equal to the average elsewhere. * * * Even strong children do not escape scot-free, for insidious diseases settle in their lungs, the blood is squeezed out of their faces, their limbs lose their youthful straightness and vigor. But the delicate children have no chance at all, for that which injures the healthy kills the frail quickly. * * * The promising child of 10 degenerates into the lean and sallow young person of 13; and this process is continued until a whole population becomes stunted.

The percentage of accidents among half-time employees is said to be higher than among adults or young persons, indicating probably the influence of fatigue as much as lack of familiarity with machinery.

The argument that the wages of half timers are a necessary aid in the support of their families disregards the influence of the competition of these half timers in lowering the wage of adult workers, making the latter less able to provide for a family, and also the second direct influence of this system, that of depressing the wages of men engaged in the ordinary occupations by throwing into the labor market a large number of boy half timers who are too old to remain in the mills but are not qualified to undertake any skilled occupation. A factory official in a half-time district said: "There is no work for the boys after they are 16. Most of them become casual laborers." It will be shown later that men's wages are generally lowest in half time centers, though in some cases women's wages are higher than elsewhere. Speaking of conditions in Dundee, where there is still considerable half time, though not nearly so much as

in some of the English and Irish cities, a local investigating committee says:

The demand for men's labor would have to be more than three times as large in order to provide work for all these lads, and a number whose parents have sent them to mill or factory as children are turned adrift at the age of 17 or 18. A few of them become skilled workers in other trades, but a mill or factory boy is handicapped in his search for work. If he is not too old to become an apprentice to some trade he may earn half or less than half his accustomed wage. It would appear, moreover, that employers in nontextile trades in Dundee as a rule prefer to employ lads who have not spent a portion of their childhood in the jute works, on the ground that they make steadier workers and are in better physical condition. Some boys on leaving the mill or factory become laborers in other trades; others enter the army, and after serving their term return to the city, seeking work as unskilled laborers; a number—as may be inferred by the fact that there are about 3 women to 2 men in Dundee between the ages of 20 and 45—leave the town to seek work elsewhere, while others live from hand to mouth as casual laborers, or join the ranks of the permanently unemployed. The outlook for boys who remain in the mills and factories is not very favorable, as only about 1 in 12 rises to be an overseer or tenter, and the average wages for men's work in the mill or factory (excluding mechanics) are under 15s. [$3.65] in 5 processes, under £1 [$4.87] in 8 processes, and £1 [$4.87] or over in 5 processes.

Moreover, the statement that the earnings of the half timers are necessary to help support the family does not in the main accord with the facts. Doubtless there are some instances where the wages of one or two children keep a widowed or invalid parent from poor relief; but in Great Britain the child workers in factories and mills and those employed out of school hours (as will be shown later) do not as a rule come from the most destitute classes. In Belfast it was discovered that a considerable number of the half timers in the linen mills came from families where parents earn from $12 to $15 a week. Since laborers support families on half this sum, it is not necessity alone that drives these little people into the mills. Not infrequently, it has been found, the family drink bill exceeds the children's earnings. Another consideration pointing to the same conclusion is that in districts where (either on account of local regulations or because of custom) half time does not exist the condition of the working classes is quite as good as where half time is common; and this occurs where the dominant industries are sufficiently similar to show that difference in trade is not a decisive factor in the question. While Oldham, Bolton, Blackburn, and Bradford throng with half timers, Warrington, Widnes, Bootle, and the great cities of Manchester, Leeds, and London have none. A factory inspector intimately acquainted with living conditions in the textile districts said of the system: "It is not so much necessity as habit;" and truly custom

seems more important than need in determining whether or not children under 14 years shall work in the mills.

The argument of some employers that children must be trained from an early age to acquire the skill necessary for fine spinning and other deft branches of textile work is scouted with scorn by well-informed social workers, and receives only a noncommittal smile from some manufacturers. It may well be doubted whether the dexterity mentioned can be acquired only between the years of 12 and 14. The finest yarns spun in the United States are manufactured where the law does not permit children under 14 years to enter a factory, and where there is no hereditary operative class. Most of the textile workers in New England are immigrants from countries where there is little industrial development, who do not take up this work until after their arrival, and generally not until they are approaching maturity. While the proportion of fine work is less in America than in Great Britain, the difference (especially between England and New England) is not great enough to invalidate in this respect a comparison between the two countries. In fact, the frank statement was made on one occasion that half time affected the parents more than it did the mills.

The defenders of the half-time system say that the children are eager to get into the mills and to become wage-earners and partly self-supporting. This is true, and is due to the ideals of manhood and womanhood placed before the children in their homes and by their street associations. The association with older people in employment, the sense of being with the crowd, the freedom from what they regard as the juvenile restraints of school life, all appeal to most children from the factory classes. Also, in the half-time districts, successful business men are often pointed out with the remark that they began as half timers. And there are fairly numerous examples in England of men and women who have survived the hardships of an arduous childhood in the mills to attain success in business, though few—like Livingstone—rise to higher spheres of accomplishment; yet it could hardly be said that these people owe their success to their mill experience.

The half-time system increases the difficulty of administering the factory law and adds to the ease with which it may be evaded. It makes work for both employers and officials. Those who by satisfying the educational requirements become full timers at 13 years, add still more to the complexity of the situation. A mere casual inspection of a workroom full of children affords no clue to the status of the different individuals. In some places where there is a great demand for young labor the proportion of full timers under 14 years is large. The Nottingham lace district is an example of this. The certain prospect of remunerative work, combined with good schools,

may afford the incentive and opportunity for obtaining full-time certificates early; but some well-informed people in England consider that the present law, by allowing too much discretion where there is the maximum pressure of self-interest, permits local educational authorities in some cases to encourage moral, if not technical, evasions of its intention.

An interesting incidental effect of the prevalence of half-time textile labor is that in some districts its example appears to encourage the employment of children in industries that elsewhere are conducted with older workers. An illustration of this is found at Bradford. There were, according to the most recent figures, considerably over 5,000 half timers in the city, constituting more than 10 per cent of the total school enrollment. Spinning occupied 1,725 boys and 1,495 girls, and more than 1,300 children were employed in other textile work, principally as doffers, bobbin layers, and peggers. But there were over 500 half timers, or about 10 per cent of the whole number, in other occupations, in some of which children elsewhere do not usually engage. A factory inspector found 5 children 12 years old attending an ironing and calendering machine in a steam laundry. There were other half timers working in the same establishment. The employer said that unless he caught the children young they went into the mills and remained until they were too old to become skilled laundry workers.

Bradford and the neighboring city of Leeds illustrate the irregular distribution of half-time labor in Great Britain. The cities are some 10 miles apart and are of about equal size. Leeds is a great woolen and clothing manufacturing center, while its sister city is a seat of the fine woolen industry. Yet in Leeds there is no half time. Except in Dundee, there is practically no half time in Scotland, where more interest is taken in universal education than elsewhere in Great Britain. Even in Dundee half time is decreasing in spite of the demand for cheap labor, so that now only 400 children are employed. But in Bradford and in Lancashire half timers have recently been upon the increase, the number in Bradford rising from 4,970 in April, 1906, to 5,130 a year later. In both these districts manufacturers and factory officials ascribed the greater employment of children to the prevailing prosperity in the cotton and woolen trade which created an extraordinary demand for labor. This is in peculiar contrast to the testimony of manufacturers in the textile districts of America in the summer of 1907, that the decrease of child labor was due to the great prosperity and high wages, which enabled parents to keep their children out of the factory and send them to school.

This recent increase in child labor, contrary to the general tendency in Great Britain during the past century, has occasioned much com-

ment and agitation against the half-time system. The returns made by the board of education for 1906–7 show the number of pupils enrolled in the schools who worked part time, for the three preceding years, to have been as follows:

1903–4	78,876
1904–5	80,323
1905–6	82,323

According to the Annual Report of the Chief Inspector of Factories and Workshops for 1907, 45,555 children were examined for certificates exempting them from full school attendance in order to work in factories. Of these, 24,414 were in Lancashire and 11,597 in Yorkshire.

All the influences affecting the distribution of this kind of labor are difficult to determine. Apart from the nature of the dominant industry, the extent to which industries are diversified seems to have something to do with the question. At Leeds and Bradford it was commonly observed that the former city was able to dispense with child labor because it had more different occupations for adults, so that men could find employment at good wages. Leeds has large tanneries and machine shops, and is one of the chief centers in England for the manufacture of woolen clothing, while Bradford is almost exclusively a spinning town. Manchester, with its varied industries, has few, if any, half timers, while Blackburn has over 4,000, Bolton over 3,000, and Halifax, Preston, and Oldham each over 2,000. These are almost exclusively textile towns. However, Paisley, in Scotland, which is preeminently a textile town, has no half timers; but Belfast, in Ireland, with its diversified industries and great shipyards, has many of them.

Although there nas been a temporary increase in child employment in some districts, the general tendency, quite apart from legislative influence, is toward its restriction. But this tendency is not continuously effective, so there are temporary rises in what is upon the whole a rapidly descending curve. In England and Wales the per cent of all the children 10 and under 15 years old returned in the census schedules of 1861, 1881, and 1901 as occupied was as follows:

PER CENT OF CHILDREN IN ENGLAND AND WALES 10 AND UNDER 15 YEARS OF AGE ENGAGED IN GAINFUL OCCUPATIONS, AT CENSUS YEARS 1861, 1881, AND 1901.

Year.	Per cent of children 10 and under 15 years of age returned as occupied.	
	Males.	Females.
1861	36.9	20.2
1881	22.9	15.1
1901	21.9	12.0

In 1891 special industrial conditions caused the proportion of boys employed to rise to 26 per cent, or considerably higher than 10 years previously, and the proportion of girls to rise to 16.3, also higher than at the end of the previous decade.

The number of half timers reported in England and Wales in 1890–91 was 173,040, and in 1900–1901 it was 74,468. This decrease was in large part due to restrictive legislation. Between 1895 and 1901 the number of half timers in the cotton trade decreased from 31,570 to 20,953; in the woolen trade, from 13,435 to 7,475; in flax and hemp, from 8,732 to 7,125; in all textile industries, from 64,357 to 43,636. The number of half timers, therefore, fell off 32.2 per cent, while the number of adults employed in this group of industries decreased but 2 per cent. Only about one-half of these child workers are employed in factories, workshops, and laundries under the inspection of the factory department. Mines account for about 10,000, and stores and other commercial establishments, offices, and the messenger service for most of the remainder. In March, 1908, the half timers subject to factory inspection numbered, in the United Kingdom, 37,625, of whom 25,345 were in Lancashire and Yorkshire.

That the tendency to dispense with child workers is not due entirely to legislation is indicated by the fact that while the number of adult textile operatives decreased 2 per cent during the 5 years ending with 1901 the number of young persons between 14 and 18 years of age engaged in these industries decreased nearly 10 per cent. With this latter decrease the law had nothing to do. Probably improvements in machinery and factory organization, and perhaps a better appreciation of the conditions of economic production, are convincing employers that youthful labor is no longer the most profitable. It is not uncommon to be told by a manufacturer that he can not afford to employ half timers. Other reasons, and it is to be hoped the principal reasons, why fewer children go into the mills than formerly are that the sentiment of parents is changing and that working people are better able than they were to get along without the wages of their children.

Nearly all the factory inspectors interviewed in districts where half time is common suggested its gradual abolition as the next desirable amendment to the factory law. Many thought the minimum half-time age limit should be raised to 13 years and no full-time certificates issued to children under 14. This would prepare the way for the complete abolition of the system a few years later. Educational officers were (so far as interviewed) unanimously and emphatically in favor of sweeping the whole institution out of existence as soon as possible. Labor leaders oppose half time, but admit that it is necessary to educate the rank and file of their followers up to their position. The newspapers occasionally contain

letters, apparently from operatives and those who reflect their sentiment, opposing the further restriction of child labor. One such letter closes with the statement: "Of 21,000 members of our Operative Cotton Spinners' Union, of Lancashire and adjoining counties, fully 98 per cent began work as half timers." But the feeling of a little gathering of workingmen in a textile city was not responsive to this argument, one man saying that the masters sent their children to the schools and not to the factories, and that he thought his children should have the same privilege. In Preston the unions were said officially to oppose half time (though this could not be verified) and educated working people opposed it; but the sentiment in its favor among the mass of the operatives was strong. Still this sentiment is said to be changing rapidly.

Child labor in mines has fewer defenders among the workers. In the coal mines alone there are between 8,000 and 9,000 boys under 14 years of age, two-thirds of whom work underground. A few girls are employed above ground, but their number is inappreciable. Of two neighboring and competing coal districts one may employ children and the other none. The character of the coal, as clean or shale-mixed, might affect differently in different places the need of cheap labor at the picking tables; but it is difficult to see how the general physical conditions of adjacent districts can influence so variously the necessity for child workers underground. These are mostly drivers and trap boys. Mine employment, therefore, presents features that substantiate the surmise made in case of factories, that child labor is more a matter of custom than of economic convenience. The employment underground of children under 14 years is one of the points against which social reformers are directing their attacks. In the Cardiff field boys prefer working in mines to factory employment because of the higher wages. In that district there are 1,347 boys working underground. At Newcastle there are only about 350. In the Midland district there are 1,027, and in Durham 1,084. Durham has about as many adult coal miners as Scotland, but in Scotland only 100 boys work underground.

Incidentally it may be remarked in connection with coal mines that they employ about 6,000 women and girls in Great Britain, all of whom work above ground. Some of these are office and lamp cleaners, telephone attendants, and clerks; but a very large majority work at the picking tables or endless belts over which coal is carried to be cleaned from shale, and some load and unload tubs from the carriers. Though this labor is discountenanced by public opinion, it is probably a field of employment preferable in some ways to work in a factory or shop. One mine inspector reports that "both as re-

gards health and morals they [the coal pickers] will compare favorably with any other class of female workers." A woman trade-union secretary made the same statement. But it is proposed in a projected bill to forbid this labor altogether, thus completely excluding women, who are already forbidden to work underground, from coal mines.

Returning for a moment to the question of child labor, though there is now no bill before Parliament radically extending the present restrictions, the combined influence of law and industrial progress bids fair within a very few years to make employment under 14 years practically unknown in factories, and to lessen employment immediately above that age.

EMPLOYMENT OF CHILDREN OUTSIDE OF FACTORIES AND WORKSHOPS.

Before considering the proposed minimum wage amendments to the Factory Act, which affect chiefly women, it may be well to depart from the discussion of that statute long enough to review a second law relating particularly to child labor, the Employment of Children Act of 1903. This was passed in response to an agitation, extending over several years, for the regulation of children's work outside of school hours and of trading by children on the streets. Few, if any, of these children were protected by the factory and mines laws. A previous statute for the prevention of cruelty to children had restricted their employment in dangerous or immoral occupations. In 1899 the educational department obtained an incomplete return showing the employment of children in England and Wales outside of school hours, which indicated that, of a total registration of something over five and a half million children under 14 years of age, 144,000 worked for compensation when not in school. In the occupations followed principally by boys, 76,000 were employed in shops and offices, 26,000 sold newspapers or hawked goods, over 10,000 did odd jobs, and 6,000 worked on farms. Of the girls, some 20,000 were in domestic service and 4,000 did sewing. Rather over a third of these children worked more than 20 hours weekly outside of school; more than a fourth of them were under 10 years of age; and the average earnings of those of all ages did not much exceed 25 cents a week. The result was that many children were overworked, to the injury of their health, and their progress in school was hindered. But the opinion of many teachers was that a limited amount of outdoor employment did not harm the children.

The distribution of this form of child labor was uneven, a much larger proportion of the public-school pupils being employed in some city and some country districts than in other city and other country

districts. In London, of 480,000 pupils over 7 years old, 30,800 were wage-earners, and some 12,000 worked 20 hours a week in addition to 27½ hours in school.

These returns were admitted to be incomplete when published, and subsequent investigation indicated that they fell very far short of reporting the full number of children engaged in outside work. In 1901 an interdepartmental committee, representing not only the education office but also the authorities regulating child labor in industries, reported that in England and Wales nearly a quarter of a million children were probably at that time working outside of school hours in occupations not subject to inspection by the central Government; and that 200,000 represented a fair average of the number attending school full time and working for wages, for their board, or for other compensation outside these hours. The committee recommended that powers be given local authorities to make by-laws regulating (1) the hours between which school children might be employed; (2) the age at which employment might begin; and (3) the number of daily and weekly hours beyond which they might not work. These recommendations were embodied in the act of 1903.

The law places general restrictions upon the employment of children outside of school and gives authority to local governing bodies to increase these restrictions. The whole administration of the act is left to local supervision, the factory and mines inspectors not intervening in any way for its enforcement. But the local by-laws made under this authority must be confirmed by the secretary of state before they become valid. The parliamentary restrictions upon the employment of children outside of school are:

(1) A child shall not be employed between the hours of 9 in the evening and 6 in the morning: *Provided*, That any local authority may, by by-law, vary these hours either generally or for any specified occupation.

(2) A child under the age of 11 years shall not be employed in street trading.

(3) No child who is employed half time under the Factory and Workshop Act, 1901, shall be employed in any other occupation.

(4) A child shall not be employed to lift, carry, or move anything so heavy as to be likely to cause injury to the child.

(5) A child shall not be employed in any occupation likely to be injurious to his life, limb, health, or education, regard being had to his physical condition.

(6) If the local authority send to the employer of any child a certificate signed by a registered medical practitioner that the lifting, carrying, or moving of any specified weight is likely to cause injury to the child, or that any specified occupation is likely to be injurious to the life, limb, health, or education of the child, the certificate shall be admissible as evidence in any subsequent proceedings against the employer in respect of the employment of the child.

Up to the end of February, 1908, 69 local authorities, 7 urban districts, and 3 counties, including the city of London, had made by-laws under this act; but in 34 instances these regulations deal only with street trading. The London County Council rules, which are among the more recent, provide that children under 14 years shall not be employed in industrial work (such as assisting at a trade followed in their homes) on school days, except between 5 and 8 p. m., or on other week days except between 9 and 12 a. m. and 5 and 8 p. m.; and they shall not be employed on Sunday. Children attending school full time shall not be employed at any occupation between 8 a. m and 5 p. m., or before 6 a. m. or after 8.30 p. m. This shortens by a half hour in the evening the time of employment permitted by the general act. Boys may not be employed where any intoxicants, except those in sealed vessels, are sold, and boys under 12 shall not be employed in barber shops. If a school is open only 2 days or less during any week, pupils may be employed not to exceed 30 hours that week. Several cities do not allow the employment of boys under 13 years of age in barber shops; and Banbury, Brighton, and Sheffield have prohibited altogether the employment of boys in such shops. Some local regulations specifically provide against young children being employed to deliver milk at very early hours or to deliver messages late at night.

This kind of child labor presents several aspects and problems similar to those noticed in connection with half-time employment in factories. The London medical officers have arrived at the conclusion that as a rule it is the children above the average in physique and mental ability who go to work. "The evil effects are shown later, when the best capital of the nation has been squandered in premature wage-earning." As in the case of half timers, too, investigation indicates that family necessity is not the determining factor in deciding the extent of this kind of child employment. A study of the incomes of 802 families in London whose children were employed out of school hours showed that for only 143 families were the weekly earnings under £1 ($4.87), while in 343 families they ranged from £1 to £1 10s. ($4.87 to $7.30), and in 316 families were £1 10s. ($7.30) and over. Small as these earnings are, they are above those of the poorest families in that city. Outside of London a partial investigation of typical districts indicated that of 714 cases more than half had an income of £1 10s. ($7.30), while in 258 cases it was over £1 15s. ($8.52).

Probably the worst conditions are found in large cities, and those most detrimental to the health of the children are in industrial work. Nearly 17,000 children attending school full time have been found to be engaged in piecework trades in their homes outside of school

hours. These trades include making paper bags, brushes, baskets, and match boxes, sorting rags, and linking and carding hooks and eyes. Over 4,000 little girls—for this applies only to children under 14—are engaged in making dresses, shirts, mantles, belts, and similar articles. In the East End of London children are unable to take advantage of the fresh-air fund outings to the country, because their parents want their labor during vacation. Little girls of from 6 to 10 years of age help their mothers make hairpin boxes before and after school; a little girl of 13 was found who did trouser finishing. In Nottingham an investigator was told by teachers that children of from 5 to 11 years of age were employed at home during the dinner hour. "A little girl of 8, still in her hat and jacket, was at 1.30 drawing lace for her mother; she had not had dinner, and probably would eat it on her way back to school."

Quite apart from temporary overstrain incidental to such children's work, especially where they have to carry burdens, and even apart from the physical fatigue of abnormal labor during the growing years, the constant application to routine occupations during a time when the child's perceptive faculties are most active, and are evidently intended by nature to receive the greatest variety of impressions, is mentally deadening. The total effect upon school progress is very bad. A London head teacher investigated the results of such work upon 103 boys. Although the usual record of such children before going to work was above the average, 54 of these were reported "dull" or "very dull" or as behind in their work or recently demoted from a more advanced class. In 1905 one of the London physicians made an examination of 330 similar cases, finding that 209 showed retardation in school work, 86 being one year, 83 two years, and 3 four years behind the grades corresponding to their age. These results may not be due to the effects of overwork alone. They are doubtless accounted for in part by poor diet and other home conditions. But the testimony seems to show that the great setback in the child's school progress does not come until the child is employed outside of school hours, and that therefore this is the immediate and probably the principal direct cause of its mental retrogression.

That a child of average strength can not attend school full time and work outside for several hours a week without suffering in health is also a fact based upon something more than common opinion. An investigation of 340 working boys, from 14 schools, representing an attendance of 3,864 children, showed that of those working not to exceed 20 hours per week 50 per cent showed fatigue signs, 34 per cent anæmia, 28 per cent severe nerve signs, 15 per cent deformities, and 11 per cent heart signs. Of those working 20 to 30 hours outside of school, 81 per cent showed fatigue signs, 47 per cent anæmia, 44 per cent nerve signs, and 21 per cent deformities. Of those working over

30 hours, 83 per cent showed fatigue signs, 45 per cent anæmia, 50 per cent nerve signs, 22 per cent deformities, and 20 per cent severe heart signs. Industrial deformities are here referred to. Of the shop boys carrying heavy weights, 26 per cent showed deformities and 21 per cent heart disease. Girls carrying heavy weights and employed in minding babies suffer from lateral curvature of the spine and flat-footedness. In another public school of 103 boys who worked outside school hours, only 30 per cent were of normal physique and health and showed no ill effects from their labor.

Though there are no statistics showing the number of children working outside of school hours since the Employment of Children Act was passed, the indications are that the number is not decreasing. It was noted that even the employment of children in factories, where the influence not only of legislation but also of mechanical improvement and perfected organization is to displace child labor, has risen temporarily since 1903. But in case of outwork children the law is not to the same extent supported by the progress of industry. The trades followed by these little workers are essentially unprogressive. The demand for their labor may remain stationary or even increase for an indefinite period. We might therefore anticipate what recent inquiries have confirmed, that the proportion of school children attending classes full time and working for wages has not diminished. An investigation of a few typical London schools shows that in some places as high as 13 per cent of the pupils enrolled are employed outside. Still the effect of the law has been felt in at least two ways, according to recent testimony, (1) the number of school children working for small tradesmen has decreased, many of the children having been displaced by boys who have left school and who work full time, and (2) the number of school children employed as house servants is now less, the children having been replaced by girls who have left school and who work full time as domestic servants.

STREET TRADING BY CHILDREN.

Street trading by children during school hours has been illegal in Great Britain since compulsory education was adopted; but trading on the streets during school hours by children over 14 years and by younger children outside of those hours, was first regulated by Parliament in the act of 1903. The educational return of 1899 had shown 17,617 school children thus engaged, and the report of the interdepartmental committee 2 years later estimated the number—for England and Wales alone—at 25,000. Before 1903 most English cities had but limited power to deal with this subject, though as early as 1884 Liverpool seized upon a general clause in the corporation act to issue a by-law forbidding children under 9 years old to trade on the

street, and children under 13 years to do so after 9 p. m. in the summer and 7 p. m. in the winter. In 1899 Parliament gave this city special authority to regulate further this kind of traffic. Because it is a large seaport Liverpool has an unusually numerous waif and semi-homeless child population, many of whom pick up a precarious living by selling newspapers, matches, flowers, and other small articles. But the problem is not peculiar to that city. In 1905 a census of street traders in Leeds showed the following numbers of children under 16 years old trading on the street: Selling newspapers, 753 boys and 6 girls; selling matches, 24 boys and 10 girls; selling vegetables, 16 boys and 1 girl; selling fruit, 9 boys and 2 girls; selling miscellaneous articles, 46 boys and 15 girls.

From the point of view of immediate earnings some of these children are not unfortunate as compared with other young workers. Newsboys especially often make from $2 to $4 a week. In the social esteem of the street venders themselves match sellers are said to occupy the lowest place, but this distinction is not necessarily based upon comparative earnings.

The evil results of street trading are too well known to need more than summary enumeration. These children furnish a very large proportion of recruits to the criminal population. Those who do not graduate into crime form a liking for the petty excitements of the street and a distaste for regular employment. They lack skill and perseverance, shun the monotony of a permanent job, and as they grow older either follow itinerant and questionable trades or become ill-paid and inefficient casual laborers. Therefore these young people are a source of waste to society rather than of profit. Finally—and this seems to be curiously prominent in the minds of many respectable city residents—swarms of half-fed, half-clothed, and dirty children on the streets, importuning passers-by, are as offensive to delicate people as unswept pavements and malodorous sewers. During the investigations preceding the passage of the act of 1903 it was shown that in Birmingham out of 713 children found selling in the streets during six months 458, or nearly two-thirds, had been prosecuted during that period for various offenses. The number charged with felony was 115, of which 49 charges were against boys and 4 against girls under 14 years of age, while there were 185 charges of gambling, all against boys. A city medical officer testified:

Street trading has a pernicious effect on the boys engaged in it. There is, first, the evil physical effect of excessive fatigue during the years of growth. This is more marked in street trading than in employment under other by-laws of this act (the Employment of Children Act). The ulterior consequences are even more serious. The children employed as street traders are brought into contact with the adult class of street traders, their moral standard is endangered, and

they are apt to drift into the large class of those who never have any other than casual employment throughout their lives.

Liverpool, under the additional authority given by Parliament in 1899, began to license children trading on the streets, restricted further the time and the ages at which children could follow this vocation, and devised a system by which private philanthropy and public supervision cooperate to keep these children properly clothed. Other cities soon applied for special legislation to enable them to follow Liverpool's example, and the final result was the act of 1903.

The general provisions of the law, in addition to the clause quoted above forbidding children under 11 years old to sell newspapers or other articles on the streets, are as follows:

Any local authority may make by-laws with respect to street trading by persons under the age of 16, and may by such by-laws—

(a) Prohibit such street trading except subject to such conditions as to age, sex, or otherwise as may be specified in the by-law or subject to the holding of a license to trade to be granted by the local authority;

(b) Regulate the conditions on which such licenses may be granted, suspended, and revoked;

(c) Determine the days and hours during which, and the places at which, such street trading may be carried on;

(d) Require such street traders to wear badges;

(e) Regulate generally the conduct of such street traders: Provided as follows:

(1) The grant of a license or the right to trade shall not be made subject to any conditions having reference to the poverty or general bad character of the person applying for a license or claiming to trade;

(2) The local authority in making by-laws under this section shall have special regard to the desirability of preventing the employment of girls under 16 in streets or public places.

The essential requirement of the by-laws enacted under this provision by the local authorities is that children trading in the street shall hold a license from the city. The license is indicated by a badge or belt, which is usually of one color for children under school age and of another color for children above that age, and this badge must be kept prominently in sight while the child is on the street. Children are required to be decently clothed and orderly, and are not allowed, either in pursuit of business or to deliver goods, to enter places of public entertainment or where intoxicating liquors are sold. The minimum age at which children are granted licenses varies in different places, but for boys it is usually 11 or 12 years, and for girls it rises from 11 or 12 up to 16. The London County Council does not allow girls under 16 to trade on the streets unless accompanied by a parent or guardian. The London rules, which are fairly representative of

those in other large cities, limit the hours of street trading for children between 11 and 14 years old to one hour in the morning—from 7 to 8—and to 3 hours in the evening—from 5 to 8. There is the single exception that during the summer months a child who attends a street stall under the immediate direction and control of an adult may work as late as 9 p. m. Two towns, Burnley and Hornsey, have forbidden altogether street trading by girls under 16 years, and though the by-laws of the following cities do not expressly forbid it, no licenses are issued to girls by the officers at Banbury, Crewe, Eastbourne, Hove, Newport, Norwich, and Stretford. In Scotland girls are generally prohibited to sell goods on the streets until they are 16 years old.

The administration of the law is made as simple as possible. Its execution is intrusted to a division of the police office, or watch committee, known usually as the "street trading department." This is in charge of a special officer with his assistants, who issues licenses, enforces the rules under which they are granted, and acts as public guardian of the children under his supervision. A few qualified policemen, generally plain-clothes men, who are specially assigned for this purpose, keep track of the children on the streets and even to some extent in their homes. A successful officer generally knows by their first names all the street trading children on his beat and cultivates friendly relations with them, so the regulations are applied as informally as is compatible with their observance. To quote from a report of the head constable of Liverpool:

> In the performance of these duties the constable is building up a knowledge of the youth in his particular district, and is teaching both them and himself that a policeman's first duty is the prevention of crime, and that there is no better way of doing it than by helping the young to keep out of temptation.

In 1907 the 11 officers detailed for this work in Liverpool made 37,000 visits to homes, where they became "almost as friends of the family, and advise, with the sanction of the law behind their advice."

When a child wishes to sell goods on the street he tells a policeman or his teacher, or any other responsible person, that he wants a license, and generally through the aid of such person procures the proper application form and is assisted to fill it out, after which the form is filed with the department. This form must be indorsed by the parent or guardian of the child, if it has any; and this requirement alone prevents many newsboys and would-be juvenile vagrants from deserting their homes and living in warehouses and alleys. When the application is received an officer visits the boy's home and reports to headquarters the character and circumstances of the boy

and his parents. An inquiry blank is also sent to the school the child attends. If the reports are satisfactory, the boy receives his belt or badge, usually from a member of the committee, and has explained to him orally under what conditions he receives it and will be allowed to retain it.

In some cities, though this has not been made general by the act of 1903, provision is made that the boy shall be decently clothed. In Liverpool this is done through an organization called the "Police Aided Association for Clothing the Destitute Children of the City," a voluntary society founded about 13 years ago, whose activities are not confined exclusively to street traders. Though the society is a private one, and is supported by free-will subscriptions, it bestows its charity subject to the advice and under the supervision of the police department. If a child on receiving its license is not decently clothed, and the parents are clearly unable to provide suitable clothing for it, the street trading committee supplies him with a suit of clothes and boots at the expense of the police aided society, and charges him a penny a day until they are paid for. The child must wear these clothes when trading, and, by reason of the fact that the clothing is so marked that it can not be sold or pawned, the child is protected from being despoiled by dissipated parents. For some years after the system was started the cost of the clothing supplied annually increased, but the proportion of that cost repaid by the children or their parents rose from 32 per cent in 1903 to 93 per cent in 1907. The latter year the demand upon the department for clothing fell off some, the number of children so aided decreasing from 301 to 273 and the cost of clothing from £90 5s. 6d. ($439.32) to £72 8s. ($352.33). Liverpool has rather unique authority, under its special legislation, by which street traders found to be living in vicious homes may be placed in lodgings approved by the department and their expenses partly or wholly provided for from public funds.

The supervision of the children continues throughout their license-holding period, and efforts are made, both through the friendly advice and assistance of the officers and by private societies, to get them into permanent positions, where they will receive some training for a better career than itinerant vending. This has been so far successful in some places that in 1907 the Bradford watch committee was able to report that out of the total children licensed when the law went into operation—nearly 600—only 22 still made street trading their sole occupation.

The license itself is distinct from the badge and contains in simple language the rules which the child is expected to observe. The following are the provisions of the Glasgow license, which do not differ

materially from those of Liverpool, Manchester, and other British cities:

CONDITIONS OF LICENSE.

You must not break any of the by-laws.

The badge does not belong to you, but is only lent to you to show that you hold a license to trade in the streets. You will only be allowed to keep it so long as you are licensed and observe these conditions.

It must be given up to the police whenever required, or when you stop trading, or when your license has expired.

You will not need it after you are 16 years of age.

It must not be sold or pawned or lent to anyone else, and you must not wear any other.

You must always keep it clean, and wear it when engaged in the streets.

It must be worn on the arm with the lettering uppermost, and must not be covered in any way.

If any person asks for the number of your badge you must always show it.

You must always be clean in person and clothing.

If a policeman tells you to move on, you must do so at once.

If you are under 14 years of age you must not trade in the streets or other places between 9 o'clock forenoon and 4 o'clock afternoon, except on Saturdays and holidays; or after 7 o'clock at night from 1st October till 31st March. For the rest of the year you must not trade after 9 o'clock at night.

If between the age of 14 and 16 years you may trade all day, but not after 9 o'clock at night.

You must not damage your license or lend it to another child or other person.

You must produce it when required.

If you are convicted before the court for any offense, or break these conditions, you may lose your license, and you will not be allowed to trade in the streets.

You must not trade in the streets when there is any infectious disease in your home.

If you change your home you must go at once to the central police office and report it.

You are strictly forbidden—

(a) To obstruct any person or cause any annoyance;

(b) To impose or attempt to impose on any person;

(c) To shout to the annoyance of any person;

(d) To continue shouting when asked by any constable to stop doing so;

(e) To sell any indecent book, paper, print, picture, photograph, or article;

(f) To write or draw anything indecent on the pavement or on the walls of buildings;

(g) To sing or recite anything indecent, or to use bad language;

(h) To fight or quarrel with other boys or girls;

(i) To play football or any other game on the streets;

(j) To smoke while trading in the streets or other public places;

(k) To be assisted by an unlicensed child;
(l) To beg;
(m) To go into any public house or any theater, music hall, or place of entertainment to trade there.

The general experience is that licensing not only lessens the number of children trading on the street, but diminishes from year to year the number even of licensed children. As early as 1900 the Liverpool committee reported that the application of the by-laws "has had the effect of greatly reducing the number of children trading in the streets, especially during school hours and late in the evenings, and of improving the condition, appearance, and behavior of those children who still engage in street trading." That year 1,049 licenses were granted. At the end of December of each of the following years the numbers were:

1903	732
1904	669
1906	553
1907	540

Meantime the law is being better enforced each year, as familiarity with its provisions increases among the children and familiarity with the children increases among the police. In 1907 there were 253 proceedings for trading without a license, mostly against young children and strangers ignorant of the law; and in four cases out of five the offenders were dismissed with a caution. The report from other cities is the same. In Birmingham the number of children trading in the streets decreased 500 between January, 1907, and January, 1908. In Newport during the last year reported the number decreased from 382 to 327. In Bradford, where the number of license holders has regularly fallen since 1903, the decrease during the last three years reported was 217; that is, the number fell from 597 to 380. In the neighboring city of Leeds, where street traders are not licensed, their number in 1905 was 892, or more than double as many as in Bradford. But in the latter place there is more industrial employment of children.

In response to inquiries as to the effect of licensing in preventing juvenile crime, it is difficult to get positive answers, partly because opinion as to the influence of licensing upon this class of delinquency differs, but chiefly because recent reforms in the method of treating youthful offenders in Great Britain make comparative statistics misleading. Speaking generally of the influence of the laws, the Liverpool watch committee says:

> During the last period under report (six months to June 30, 1905) not a single charge of immoral or indecent conduct has been made against a licensed girl, whereas a few years ago such charges were common, and there were only 2 licensed boys among the 68 committed

to the reformatory schools, and only 6 among the 583 committed to industrial schools.

The Manchester authorities also noted that commitments to industrial schools had decreased largely since the licensing regulations went into force. The Glasgow police report for 1906 mentions street trading as one cause of a recent increase of crime among young persons. The street-trading laws went into force in that city in the spring of 1906. Official statistics show that the number of convicted youthful offenders under 16 years of age fell from 2,236 in 1905, before the laws were in force, to 1,832 in 1907, the first full year they were in application, a decrease of 404. This decrease is not ascribed wholly to the introduction of licensing, because the probationary treatment of young offenders has recently been extended, under police caution, so that they do not come to trial before the courts so much as formerly. The registrar of police of that city said:

In the opinion of the authorities most familiar with conditions of juvenile crime in Glasgow, the application of the street-trading act in this city has not yet made an appreciable difference in the number of offenders brought before the court.

On the other hand, in its report for 1907, the Newcastle watch committee says, in referring to a decrease of 161 in the number of juvenile offenses during the preceding year:

Before licenses were granted by the watch committee inquiry as to the homes and circumstances of the children was made by two officers specially detailed for the work. They thus got into touch with the children and their parents, and the decrease of juvenile offenses above referred to is, I believe, one of the good results of the supervision and control which they subsequently exercised.

Though there is not yet a satisfactory statistical basis for the opinion that the licensing laws decrease crime, most police officials and others in touch with the problem seem to believe that in the long run these laws will assist in reducing crime not only among juveniles, but also among adults. The fact of being under official supervision, and having a recognized business status, give the young license holder a sense of responsibility. Home influences are more alert, especially where the child's earnings are an essential part of the family income. The child with a vested interest in the trade of his locality, represented by a license, himself enforces the law against unlicensed interlopers, and so becomes an upholder of this particular law, and perhaps later of law in general.

The influence of these regulations upon school attendance can be shown more precisely. In 1905 the Liverpool watch committee reported—

That (the school attendance) of the licensed children is only a point over 1 per cent less than the average for the whole of the children attending the council schools, which would most probably

not be the case with an equal number of children if free from supervision, and, as a proof of this, the subcommittee may again point to the fact that only 6 licensed children were among the 82 committed to Hightown and the 336 committed to the day industrial schools for school offenses.

Three years later the police department of the same city could point to the fact that the percentage of attendance of street-trading children was actually higher than the average attendance in elementary schools, or 88.6 as compared with 88.2 per cent. During the first quarter of 1908 the street-trading children increased this margin of attendance to a full 1 per cent above the average attendance of all children in the schools. The Bradford school committee notes a marked improvement in the regularity of attendance of licensed children. The Manchester education committee reports, in 1907:

The school attendances of children holding the badges for street trading issued by the watch committee have been regularly inquired into, and it is gratifying to state that on the whole it is most satisfactory. The regulations for street trading carried out by the police in Manchester have proved a great safeguard in preventing juvenile depravity, and have undoubtedly tended to decrease the number of children formerly sent to industrial schools.

In Manchester the street-trading children compare even better with the rest of the school population, in the matter of regular attendance, than in Liverpool. In August, 1908, the educational authorities supplied these figures for the preceding year: Average attendance of all children, 89.35 per cent; attendance of licensed street-trading children, 96.27 per cent.

As to the more general results of the law, the report of the chief constable of Liverpool for 1907 says:

The streets are bad places for a child to play or to work in, but, until there is somewhere better for him to go to, there he must be, and the best thing to do is to face the evil and to minimize it as far as possible, license to trade in the streets only those who will not suffer physically and only those whose parents can not be persuaded or are unable, and indeed very many of them are unable, to find them some other employment, and teach them a little discipline by making them obey regulations.

I will not pretend that all the licensed children are as clean and well behaved as they might be, but I will say that they are a great deal cleaner and better behaved than they would be if they were not licensed and had nobody looking after them.

The Newcastle police authorities thus summarize the effect of the regulations in that city:

The licensing of juvenile street traders has undoubtedly had a good effect in clearing the streets of children begging under pretense of selling, preventing them from frequenting licensed premises (where intoxicants are sold), and practically stopping street trading by girls under 16.

The report of the street-trading subcommittee of Bradford for 1907 contains the following testimony:

It is admitted that as a result of the control of street trading by children there have been marked improvements, not only in the general condition and habits of the street-trading children, but to some extent in their home surroundings, as it tends to impress the parents with a greater sense of their responsibilities.

There is no longer the same number of ragged children begging, actually or under pretense of selling, and those under 11 years have entirely disappeared.

In Birmingham, according to the police report, the licensed children "are now more orderly and civil." In this city and in Manchester the children are assisted with clothing, as they are in Liverpool. In Manchester a systematic effort is made to have the children apprenticed, and a record is kept of them after they leave school. There has been little opposition to the introduction of these laws. When they were proposed at Belfast some newspapers were at first hostile, fearing that the restriction to trading might injure paper sales in the street, and now and then a critic is found who points to violations of the law—which are occurring and from the nature of things must constantly occur—to prove that it has had no effect. But public opinion is decidedly in favor of the regulations, and though they have not been in force long enough and extensively enough to exert their full influence the conclusion is irresistible that they benefit the children at present and that probably in succeeding years, when they have been in continued operation for a generation, they will have benefited the health and morals of many of the weaker industrial population, and will have lessened among them both crime and poverty.

The Employment of Children Act does not give other local authorities all the powers which Liverpool received in 1899 and still exercises. Possibly the licensing policy has not accomplished so much in other cities for this reason. The Liverpool corporation has the explicit right to arrest for offenses under the act, to contribute toward the cost of a child's maintenance, lodgings, or clothing, and to visit the homes of children to see that they are properly treated. It is the opinion in that city that these additional powers greatly assist in making licensing successful.

OUTWORK, SWEATING, AND THE MINIMUM WAGE.

The principle of the minimum wage, which it is now sought to establish in the factory act, is entirely new in Great Britain; and in factories themselves the need of such a wage is not, even now, thought sufficiently urgent to shape serious legislative projects. The new proposals are aimed at sweating, which is chiefly associated with

work done in the homes of workers living in the slums of large cities, where competition for a bare existence depresses earnings to the lowest limit. The misery found among this class of work people has been too often described to be unfamiliar. In some British industrial towns women work from sunrise till late into the night for the equivalent of $1 or $2 a week. No reliable estimate of the average wage of home workers can be made, but it is probably, for equal time, not much over half the average wage in factories. This is partly because, as a rule, less profitable occupations are followed in the homes; but it is largely due to other competitive conditions.

Outwork is technically in Great Britain work for an employer performed on premises not subject to factory inspection, but for the present purpose the term will be used to apply more particularly to some form of manufacturing or preparing articles for sale. Home work, often used interchangeably with outwork, is more comprehensive, and includes laundering and a number of other female occupations. In relation to sweating, too, it should be observed that small factories and workshops, nominally subject to factory inspection, are often seats of the same evils that afflict outworkers, and may even present those evils in an exaggerated form.

Some of the more obvious economic causes of outwork are (1) economy of capital on the part of the employer, (2) larger and more elastic labor supply, and (3) freedom from government supervision. The economy of capital is naturally greatest where rents are highest; therefore, we find much home work in densely populated districts. The worker must have a lodging whether he works at home or in the factory, and usually heat and light; so by utilizing the same space for manufacturing he saves for his employer three important items of expense. The labor supply is larger because women and children who, on account of domestic duties or, perhaps, on account of inefficiency could not be employed economically in a factory, can work at home irregular hours. The supply is more elastic, for the same reasons, and thus conforms to the convenience of many trades, like garment making, in which the demand for goods is concentrated at certain seasons and, on account of fashion changes and other elements of uncertainty, can not be anticipated by manufacturing in advance. Finally, freedom from government supervision enables unscrupulous employers to extort a greater profit from the service of their working people. This ultimately reacts on all employers by lowering the standard of wages and efficiency throughout the competitive area.

The condition of outworkers is much better in some industries and localities than in others, and it likewise varies widely within the limits of the same trade and district. It is the aim of the proposed legislation to equalize these conditions, so far as they relate

to hours and wages, or to level them up to the higher existing standards. A parliamentary committee reporting upon home work in Great Britain, in the summer of 1908, had ascertained that "the earnings of a large number of people—mainly women who work in their homes—are so small as alone to be insufficient to sustain life in the most meager manner, even when they toil hard for extremely long hours." Not all these women are solely dependent on the product of their own exertions, but many are. An exhaustive private investigation of women workers in Birmingham showed that less than one-half of 1 per cent of the outworkers who were married (and a very large percentage of the total number were married) worked for pocket money. Nearly one-half of all the women were supporting themselves, and sometimes children, by their labor. The parliamentary committee found that in addition to wives and daughters who took in work to increase the family income, there were two classes who had no other recourse than their own earnings, (1) women who support themselves and sometimes fatherless families, who are usually regular workers and often possess some skill, and (2) wives who work when their husbands are out of employment, who are mostly casual hands and quite unskilled and therefore compelled to accept the lowest wage in the least desirable trades. For either of these classes to be reduced below a subsistence wage means one of three things, partial pauperization by being thrown upon the poor rates, gradual starvation and so physical deterioration as a worker, or vice and crime as the ultimate recourse of existence. Any one of these results not only ruins the individual, but helps to impoverish society, and therefore constitutes an economic motive for government intervention.

That outworkers should be paid less than factory workers is in part justified on broad economic grounds, relating both to competitive conditions of factory production and to the needs of these two classes of workers. In most industries the superior economy of factory manufacture is unquestioned, and its advantage continues to increase; therefore, in competition with home manufactures the factory owner can afford to pay a better wage. The Scottish Wholesale Cooperative Society determined to place its shirt making entirely on a factory basis. In competition with sweaters it lost money at first, but soon began to make a profit out of the experiment. The factory paid its operatives on an average 18s. 3d. ($4.44) a week, for 44 hours' work; the sweaters with whom it competed paid their women 10d. (20 cents) a day, for about 18 hours' work, and compelled them to supply their own thread. At anything like equal wages, therefore, the outworker could not be employed, though in the case cited the great difference in pay was probably due in part to the excessive profit made by the sweater. Testimony was given before

the parliamentary committee just mentioned, in 1908, showing that upon shirts selling in England for 10s. 6d. ($2.56) a dozen, wholesale, the sweater paid for cutting, 1½d. (3 cents); making, 1s. 6d. (37 cents); finishing, 6d. (12 cents); total, 2s. 1½d. (52 cents); and the sweater gets 4s. (97 cents), or a profit of 1s. 10½d. (45 cents).

But the entire difference between the wages of outworkers and of factory operatives, so far as it is justifiable, does not depend alone on the superior economy of the factory. The expenses of home workers are sufficiently less to admit of their receiving lower compensation for their labor. It is said that 9 shillings ($2.19) in a home is better than 14 shillings ($3.41) in a factory. The home worker does not have to pay for the care of children, for expensive canned goods, or for washing and other services that the operative usually is obliged to hire or purchase. In Birmingham the charge for caring for young children and providing their midday meal is usually in the poorer districts 6d. (12 cents) a day; in Dundee it ranges from 2s. 6d. to 6s. (61 cents to $1.46) a week.

However, the relatively lower wages of outworkers are not in all cases explained by the causes just mentioned. In fact, no cause can justify a wage that will not subsist the worker. In Great Britain a subsistence wage for a single woman is estimated to be between $2.50 and $3 a week. The superintending sanitary inspector of Glasgow gives the items of expenditure upon which a weekly wage should be rated as follows: Food, 3s. (73 cents); rent, 2s. 4d. (57 cents); clothing, light, fire, household sundries, 2s. 6d. (61 cents); car fares between home and employer with goods, 10d. (20 cents); thread, 4d. (8 cents); sick and funeral society assessments, 4d. (8 cents); all other expenditures, 1s. 6d. (37 cents); total 10s. 10d. ($2.64). In London prices are somewhat higher, so that these items would total nearly 12s. ($2.92). If a home worker labors 10 hours a day, besides attending to her household duties, she will have to earn about 5 cents an hour to attain this minimum, allowing nothing for slack work or saving. However, abundant testimony was presented by workers and factory inspectors before the home-work committee last summer and on previous occasions to the effect that many home workers did not earn more than 2 cents an hour. A skilled workwoman, making shirt waists and kimono belts, testified that when fully employed her average net earnings were less than 6s. ($1.46) a week. Women workers at Cradley Heath average about 6s. ($1.46) a week when they work 14 hours a day.

The reasons for these small earnings are various. Much of the low-paid work is sewing, which requires little training, and competition is therefore keen; such employment is comparatively easy to obtain; a large proportion of the workers are engaged in the production of articles in competition with machinery; and cheap foreign-

made goods tend to depress prices. Workers making baby linen, shirt waists, and underclothing—articles which a very large number of wives and mothers can make for themselves—must produce them at a very low price to keep the great body of consumers, the families of working and middle-class people, from buying the materials and making the articles in their homes.

If these and similar influences exhausted the causes for the underpayment of home work, there would be scarcely any hope for a remedy in legislation; but an equally important reason is the unorganized, unprotected condition of the weaker industrial classes who enter such occupations which expose them to heartless exploitation. This is indicated by the variation of wages for the same work in these industries. Such differences do not apply exclusively to home work. They are found in factories also, and will be considered later in the general discussion of wages. But it is in case of outworkers more particularly that they allow the pay of some to fall below the subsistence level. An investigation in Glasgow recently showed the following rates paid for similar work by different firms:

PIECE PRICES PAID TO HOME WORKERS IN GLASGOW BY DIFFERENT FIRMS FOR CERTAIN KINDS OF WORK.

Kind of work.	Unit.	Piece price paid by—	
		Best firms.	Other firms.
Shawl fringing	Dozen.	$0.47	$0.37
Cheap shirt finishing	...do..	.07	.03
Girls' underclothing	...do..	.18	.08
Finishing pajamas	...do..	.37	.16
Ladies' underclothing	...do..	.85	.37

Where there is an essential difference in the quality of the work, piece rates properly vary; for a worker can often earn more doing coarse or hastily-put-together articles at a low rate per dozen than in making expensive garments, requiring more care, at a much higher rate. But in the cases quoted the work is understood to be substantially the same where the higher and the lower scales prevail. The wide variation in rates of payment is due partly to the ignorance and partly to the needs of the workers, which prevent their informing themselves of the conditions of work at different establishments or from protesting against underpayment where it is known to be below the customary rate. In fact, some of these workers are not informed beforehand of the price they are to receive for their labor. Note the following examples, instanced by the research committee of the Christian Social Union:

(1) Brush drawer A. Is a bristle sorter. Does not know how much per pound she will be paid until she takes home the work.

Payments range from 5d. to 7d. [10 to 14 cents] per pound. To sort one pound of bristles takes about three hours.

(2) Brush drawer B. Is a worker in toothbrushes. Payments arbitrary, "according to mood of employers." If inferior bone is used payment is always lower, though there is no variation in the amount of work required.

(3) Tarpaulin, tent, and sack work. Workers know nothing of the price to be paid until they have the work in hand.

(4) Making cadets' pouches. Inworkers never know what they will be paid for work beforehand.

Sack makers receive 5d. to 7d. (10 to 14 cents) a dozen, and to make a dozen is a day's work. In making baskets the net earnings are 9d. (18 cents) a day.

For making cadet pouches a worker received 2s. 6d. (61 cents) for a week of 54 hours. At toothbrush making a worker employed all of every day, including Sundays, sometimes earned 7s. ($1.70) a week; but more usually earned between 5s. 6d. and 6s. ($1.34 and $1.46). For making the walls of a tent, 16 yards long, with 58 holes to make and 110 eyes to sew on, a worker is paid 9½d. (19 cents). It takes the whole day to finish one tent wall.

The proportion of outworkers who belong to this poorly paid class is large, but by no means includes their whole number. In some industries outwork is subsidiary to and coordinated with factory work, so that employment is regular and the rate of pay approximates more nearly that of factory hands. In centers of specialized industry these wages are relatively high. Londonderry is the center of shirt making for Great Britain, and here the industry is organized primarily upon a factory basis. In the factory they cut, make the trimmings—collar and wrist bands, bosoms, etc.—and hem the body of the shirt. The partially completed garments are then sent in various directions—sometimes 60 miles into the country—to home workers, who seam the sides, stitch on sleeves and trimmings, and make the buttonholes. There are about two outworkers for each factory operative. Women earn more than men, and though wages are generally lower in Ireland than in England, Irish shirt makers are better paid than those of Great Britain. In the factories learners begin at 4s. (97 cents) a week and earn as sewing-machine operators about 10s. ($2.43) weekly. Ironers and turners are paid more. Outworkers are paid by the piece, the rate for making up a dozen shirts varying with their quality from 2s. 6d. (61 cents) to 4s. 6d. ($1.10); and a family of four, working when not engaged in household duties, will make up 12 dozen in a week. This would make the average earnings presumably about the same as in the factory. A similar system of making gloves prevails at Yeovill, where the condition of outworkers is said to be unusually good. In both these cases the work is done largely in country cottages, where the money

earnings of the family are supplemented by the produce of a garden and perhaps a cow or two, and the workers possess considerable skill. In the London clothing trade many factory firms pay their inworkers and outworkers the same rate, though some pay outworkers less. In both cases piece rates are paid, and the best work is usually done in the factory. It is said that some outworkers earn more than factory hands, because they work longer hours; but this is found to be true only in a few favored instances, where the outworker has a room apart from the family, where she can work undisturbed and without household interruptions. Factory operatives are more regularly employed than outworkers, since they are more apt to be kept on during the slack season. There are two classes of middlemen in this trade, the man who rents a shop in a district where home workers are abundant, from which he distributes work, receiving the work from a manufacturer in a different quarter of the city; and the contractor who has a workroom in the factory of the manufacturer. The former has some reason for existence, because by handling goods in quantities he saves on transportation between the workers and the manufacturer and thus greatly economizes the time of the workers, which would otherwise be lost in going a long distance to get and to return the parcels of work allotted them. The contractor performs no service, except in getting a greater amount of work out of his hands for a certain amount of money than would the manufacturer himself, and it is to these contractors that some of the worst sweating in this trade is due.

In the manufacture of artificial flowers, an industry somewhat depressed by foreign competition, factory hands, in addition to having more regular work as a rule, earn in London from 9s. ($2.19) to 40s. ($9.73) a week, taste and skill largely affecting the pay of this class of workers. Competent hands average between 15s. ($3.65) and 22s. ($5.35) a week. Outworkers can engage only in the least profitable parts of this occupation, and a large proportion of them earn only 1½d. or 2d. (3 or 4 cents) an hour. The following instances are given:

(1) Earning 4s. to 5s. (97 cents to $1.22) a week making poppies and common flowers.

(2) With help of her children earning 12s. ($2.92) a week and paying 4s. (97 cents) rent.

(3) Rarely makes as much as 6s. ($1.46) a week.

(4) Could earn from 6s. to 10s. ($1.46 to $2.43) a week by working 14 hours a day.

Here the great disadvantage of the outworker, in respect to wages, is due to the character of the work. In the case of embroidering, which is a separate trade of some importance in London, girls who have gone through a regular apprenticeship in a factory usually leave at the expiration of this time to become outworkers. The work

is not seasonal, and employers say the girls prefer outwork because it permits them to work longer hours. Earnings inside and outside the factory are said to be about equal for equal time. In this trade skill counts, as it does in making artificial flowers, but there is no division of the work by which only the poorly paid grades are done outside the factory. Similar in these respects to the embroidering trade is burnishing silver and fine metal goods, which at Birmingham is largely followed in their homes by girls and women who have served a long apprenticeship in a factory or under an experienced home worker. This trade pays good hands from 12s. to 20s. ($2.92 to $4.87) a week, or about the same as embroidering.

The industrial outworkers of Birmingham have been classified in two groups: Unskilled, who are chiefly employed in carding hooks and eyes, buttons, and small hardware, and in packing pins and hairpins and the many small articles of metal manufactured in that city; and skilled workers, who are engaged principally in paper-box making, leather work, brush making, polishing and burnishing, and sewing, and as sewing-machine operators. The unskilled work does not pay enough to support a family and is followed as a rule only where there are children helpers or where the husband provides part of the income of the home. The same is true in a considerable measure even of the skilled occupations, and except in burnishing and in one or two similar trades, where a long training at low wages is necessary, few outworkers earn over 10s. ($2.43) a week. In Birmingham outwork is said to be on the wane:

> Home work is decreasing in most trades. Unless the worker is an old factory hand who has left to get married, the employer of to-day grows ever more disinclined to take the risk of giving work to be done away from his supervision. It is an extravagant system, which has its advantages when adopted to meet a sudden press of work to accommodate which the factory premises are inadequate, but giving out the work in small quantities, and fetching and carrying involve a great waste of time and effort, which does not fall only on the employees, though it falls on them most heavily.

Some employers have experimented with a regular delivery system for sending out and collecting work done outside their factories. But this proved a failure, because the workers were so irregular that it could not be told when new work was wanted or when completed work was ready for return, and so many useless calls were made that the expense was too great for the employers.

Home work has some domestic advantages that ought not to be overlooked. Sanitary inspectors report that in corresponding districts the houses of outworkers are cleaner and neater and the children in them are better cared for than in the homes of women who work in factories. In Birmingham the report of a private investigation

shows that "the homes among these workers almost always attain a relatively high standard. The records of dirty or ill-kept houses are rare, though in the case of women who are dependent on their work there is naturally something to be desired in this respect." But quite a different story is told of the homes of many outworkers and sweat-shop premises in London. Infant mortality is said to be less among home workers than among factory workers, providing other conditions are equal. Among the glove makers of Yeovill this mortality is less than the average in England and Wales, or 89.74 as compared with 118 per thousand.

With regard to the low wages paid some outworkers, the defenders of the system say that the recipients—poorly off as they are—would be in a worse condition without this recourse. The proportion of aged and invalid persons in these trades is larger than in factories, and in some instances it is possible for a home worker to assist in supporting a blind or crippled relative, who would have to be cared for in a public institution if the worker were in a factory. And there are many cases where these low wages help to supplement the poor relief, which would be the only recourse of the worker, if the sole alternative to such relief were factory employment.

In England boot and shoe making has not yet been completely centralized as a factory occupation as it has been in America, and the condition of shoemakers in districts where outwork on an extensive scale still continues suggests some of the compensations that factory employment offers in place of the greater freedom of the older form of domestic industry. In the first place, the whole family works, the children from 7 or 8 years of age assisting in "closing" the boots. The work is carried back and forth between cottage and warehouse by women. Domestic duties are neglected, since wages naturally continue low where so many cooperate to support the family, and the wife, therefore, has to dismiss home duties to assist her husband. The home is half residence, half factory; food is bought at a cook shop, the clothing is ready-made and generally poor and expensive; the husband works irregular hours, usually rising late mornings and making up by plying his trade until the small hours of the night. "The living wage, instead of being earned by the head of the family, is split up into four, five, and six parts, and absorbs the energies of wife and children."

These are some of the many-sided aspects of home work in Great Britain. A selection might be made of evidence showing outworkers earning $4 or $5 a week who support families and keep comfortable homes by working at trades that are usually considered either fields of unalleviated industrial oppressions or unsuitable occupations for women. There is the old file cutter, from Birmingham, who testified before the parliamentary committee last summer that she had fol-

lowed this business in her home for 36 years, and while following it had grown from a weakly girl to a healthy woman with a family of sturdy children. She earned 4d. or 5d. (8 or 10 cents) an hour, and wanted only to be let alone. There is a Home Workers' League in England, founded 7 years ago to oppose legislation regulating this form of employment, containing some 3,000 worker members. These fear that wage boards and other proposed reforms will drive the work into the factories and thus deprive them of a livelihood. But meantime the earnings of large numbers of sweated workers are "insufficient to sustain life in the most meager manner"—and this condition the Government proposes to remedy so far as it can be done by public means.

Several suggestions have been made as to how a minimum wage for this class of workers might be determined and enforced; but all the proposals that have attracted serious attention provide for wage boards similar to those first organized in Victoria and now adopted in nearly all the Australian States. Each board would consist of an equal number of representatives of employers and employees, under an impartial chairman, with authority to establish prices of work, by time and by the piece, for the workers of a particular trade in a limited district. It is generally proposed that the factory and shop inspectors should enforce the wages and associated conditions of employment thus established. In Australia this system has upon the whole worked successfully, and in that country seems to be displacing the older method of compulsory arbitration, by which a court determines conditions of employment. In 1907 the British Government caused an investigation to be made of the working of the Australian laws, including compulsory arbitration, and the representative of the Government, while commending the influence of this legislation in the countries where it originated, did not advise its adoption in Great Britain. Passing by compulsory arbitration as going beyond present proposals, his objection to introducing wage boards, as existing in Australia, centered upon the difficulty of enforcing a legal minimum wage. This would be much greater in the mother country than in her colonies, because of the great population and vast urban districts, containing workers of every degree of aptitude and capacity, and of every industrial age, all of them subjected to unprotected competition from foreign workers. The practical impossibility of preventing collusion between masters and workers to evade the established wage—an embarassment even in Victoria—the whole problem of the incompetent worker and of juvenile hands and learners, the territorial differences of conditions within England itself affecting competition between districts, were all cited as obstacles to the successful application of the law. Nevertheless, it was thought that a system of

special boards to supervise conditions in each natural industrial and territorial unit, officially recognized and coordinated by the Government, might be established for the purpose of securing more uniform conditions of employment and preventing some of the greater evils of sweating. The report proposed that the determinations of these boards should not be legally binding, and that their intervention should be of an advisory rather than of a compulsory character.

This report was considered by the parliamentary committee, which investigated the condition of home workers in Great Britain and submitted its recommendations in 1908. The committee, supported by the Government, has come to the conclusion that wage boards, in spite of this adverse report, promise enough improvement to justify their being tried as an experiment in some industries. After reviewing the oppressive conditions affecting outworkers and the need of an immediate remedy or palliative, the committee made three recommendations for the correction of these evils—compulsory registration of workers, wage boards, and a minimum wage. The first measure would be in part preliminary to the others, because only registered workers could select the labor members of the wage boards in their respective trades, and the enforcement of the board recommendations would be made easier by thus knowing to whom they applied. The substance of the committee's report in this connection is:

That all home workers who are employed by other persons in producing or preparing articles for sale should be required to register their name, address, and class of work at, and receive a certificate of such registration from, the offices of the local authority, and that the keeping of accurate outworkers' lists by employers should be strictly enforced.

That it should be an offense for any person to employ any home worker to produce or prepare any articles for sale by another person unless the worker produce a certificate of registration.

The recommendations as to wage boards are essentially the same as those already suggested. The committee would make it an offense to pay or to offer to pay a lower rate than that prescribed by the board in that particular trade and district. The recommendation as to a minimum wage is further elaborated as follows:

That there should be legislation with regard to the rates of payment made to home workers who are employed in the production or preparation of articles for sale by other persons.

That such legislation should at first be tentative and experimental, and be limited in its scope to home workers engaged in the tailoring, shirt-making, underclothing, and baby-linen trades, and in the finishing processes of machine-made lace. The home secretary should be empowered after inquiry made to establish wage boards for other trades.

That the delivery and collection of work done at home should be done by persons in the direct employ and pay of the employer. Where that was not done, the amount which a worker could earn in a specified time should be calculated on a basis which included the time spent in fetching and returning the work as time occupied in doing the work.

The committee further recommends that the factory inspectors be made responsible for the enforcement of the law and of the wage-board determinations, as well as of the Truck Act and sanitary regulations applying to factories, which should be extended to all home workers and their tenements.

These recommendations mark the limit of proposed factory legislation, and, of course, are not yet realized in law and are still further from practical application. They purpose to attain by government intervention what in more highly skilled industries has been attained by trade unions and similar organizations. They recognize the responsibility of society for the welfare of the weakest workers, and the right of all to at least a living wage. Sooner or later the principle of these proposals, in this or another form, is pretty certain to be put into force in Great Britain.

SOCIAL AND ECONOMIC EFFECT OF LEGISLATION REGULATING THE EMPLOYMENT OF WOMEN AND CHILDREN.

In résumé, the present British legislation governing the working conditions of women and children consists of the factory and the mines acts, with coordinate local regulations affecting their application in particular districts, and the Employment of Children Act of 1903, relating to the work of children in occupations outside of factories and mines. Women engaged in occupations not regulated by the factory and mines acts (excepting shop assistants) are still without government supervision; but this it is proposed to remedy by wage boards. Outside of this main body of legislation are other industrial laws of great importance, notably the Workmen's Compensation Act, but these lie without the limits of the present discussion.

In considering the influence of this legislation upon the condition of workers, four groups of questions suggest themselves: What has been the effect in obtaining the specific object of particular provisions, such as shortening the hours of labor? What has been the effect upon conditions of employment not the direct object of legislation, such as the wages of women and children, and the relative employment of women and men in different industries? What has been the indirect and general influence upon the social well-being of women and children workers? And, finally, What has been the effect upon industry?

EFFECT OF PROVISIONS SHORTENING HOURS OF WORK.

No one questions that hours of work in factories are shorter at the present time than they ever were previously; but it is more difficult to determine whether they have been shortened by legislation, and if so, to what extent. And here two distinctions need to be made at the outset—between the average and the abnormal day in all establishments and between the average and the abnormal establishment. For instance, in a clothing factory the average working hours throughout the year may be 54 a week; but during the spring and autumn these hours, unless regulated, may rise to 66 or 72 a week. Likewise, of several boot and shoe factories a majority, and those generally the largest and best establishments, may have a 54-hour week, while a number of small shops, ranking as factories under the law, may work their hands 60 hours a week. Furthermore, of a number of clothing factories, several may be able to keep very near the 54-hour weekly average throughout the year, while supplying the same trade and competing successfully with factories that work short hours some months in the year and excessively long hours the remaining months.

These time variations, as well as the wage variations described later, found in competing industries in the same vicinity, indicate a margin within which the condition of workers might be improved without increasing the maximum labor cost of production, so as to raise the market price of the articles manufactured. For it is not reasonable to suppose that mills which regularly work fewer hours at higher wages than establishments which compete with them are working at a loss. Indeed, they are generally making a satisfactory profit. If so, it follows that the other establishments are either making an excessive profit out of their employees or that they are operating under uneconomic conditions. If the entire production of the articles in question could be centered in the best-organized mills, the articles could be sold at the same price, and the workers enjoy the advantages of shorter hours and higher wages. So far as legislation is able to hasten the uniform application of these superior conditions of production in any industry, by requiring the conditions observed in the best mills to be enforced in all, it is serving the workers without taxing the rest of the community, unless it be a few incompetent, overgrasping, or it may be merely unfortunate employers. English factory legislation—at least the modern acts—has followed the principle of bringing average conditions of employment up to the best conditions of employment in each industry. Consequently there are often a number of establishments that are not affected by the new amendments when these are made, because they represent the best existing

conditions. Workers in such factories are directly little affected by the law, but indirectly they may feel its influence through improved conditions in other factories, where they may have friends or relatives employed or where they may some time be forced to seek employment themselves.

Another preliminary qualification needs to be made before discussing in detail such evidence as exists as to the effect of the factory acts upon hours of work. During the past century there appear to have been a number of economic influences besides legislation tending to reduce working hours. An obvious one has been the efforts of organized labor. The maximum hours of organized trades not regulated by legislation are fewer than the maximum hours permitted in factories. The greatest number of hours worked in the building and engineering trades is 56½ weekly, and in some engineering occupations it nowhere exceeds 54; while in many towns in all these trades the hours are fewer than this maximum. In the various branches of furniture making the unions have reduced working hours to 56, though the factory act still allows 60; and in the printing trade, largely through the same influence, 54 hours now constitute the maximum working week. In some industries, notably the cotton trade, men and women belong to the same union. In London men and women cigar makers belong to the same union. In the Liverpool upholstery shops a strong women's union has reduced hours from 55 to 50 a week. Even where women and children do not belong to trade unions, they sometimes benefit by the shorter hours obtained by these organizations on account of the correlation of their own work with that of men. In Liverpool the men's unions in the printing trade, by reducing working hours from 59 to 51 a week, have caused the same reduction in the hours of women workers. Perhaps, also, there is an imitative tendency toward fewer hours, induced partly by competition for labor, so that when a short working day is established in several trades it becomes more difficult for other industries or factories in the same vicinity to maintain an excessive working day.

A second influence in favor of a shorter workday has been the improvement of machinery. Where highly perfected and rapidly working automatic mechanism is used, handling a large amount of material in a limited time, manufacturers find it unprofitable to overfatigue their workers. In industries as different as soap making, button making, and dry cleaning, too long a working day has proved uneconomic. If continuous processes are used three shifts of labor give better results than two shifts. In factory industries probably there are other direct causes of the voluntary tendency toward shorter hours, among which may be counted awakened social sympathies and an educated public opinion. But without attempting to enumerate

these further, the tendency itself is well established. It is sufficiently indicated by the fact that with every recent shortening of the legal hours of work by amendments to the factory act establishments have been found voluntarily working still fewer hours.

The probable effect of the factory acts has been to shorten average hours in most establishments in most industries and in all establishments in some industries, for, although some factories may work fewer than the legal hours, the possibility of their doing so depends upon competing factories not working more than the maximum of hours permitted by the law. When the law limits hours to 55½ a week, factory A may work 50 hours and factory B 55½ hours and still be in competitive equilibrium. But if it were legally possible for factory B to work 60 hours weekly, factory A would be compelled to work 54 or 55 hours to maintain the same equilibrium.

Shorter hours for women and children mean in many cases shorter hours for men also. It is because they perceived this that prior to 1850 workingmen supported so actively the movement for a ten-hour day for women and children in textile factories. But this result does not necessarily follow in all industries. In Liverpool a private investigation showed that in ropewalks, in small printing establishments, and in watch factories men sometimes carried on women's work after the legal hours of the latter had expired. Where work of men, women, and children is not correlated—that is, where they do not respectively conduct different portions of a continuous process of manufacture—the hours of men are affected only indirectly by those of their colaborers. Now, though the hours of work of men are not regulated by the factory act, they do not upon the whole differ materially from those of women; but there are several industries, such as printing, for instance, in which men and women work together in operations not always closely correlated, where men are employed (at least in the busy season) longer than women. Furthermore, formerly when, on account of the small number employed or for other reasons, some factories in a particular industry were exempted from inspection, the hours of labor were often longer in the exempted than in the inspected factories. Finally, more particularly in the earlier stages of this legislation, in some trades a provision of the factory act shortening hours has been observed to have a direct and immediate influence upon the working day throughout the industry.

In Liverpool an investigation of the conditions of women's work indicates that the factory laws ceased to be the main influence in shortening hours of labor after 1867, "and that since that time the reductions made in the normal hours of work are not to be ascribed to the factory acts, but to the manufacturers themselves, who, in many cases, recognize the economy of short hours, and to trade-union action." In Birmingham, during a similar investigation, it was found

"that the acts of 1864 and 1867 introduced changes, and did not merely enforce what was customary before, though in one or two cases the act was anticipated to some extent." But when the law of 1876 was introduced, still further reducing hours, "the evidence proves that generally the hours worked were less than the 56½ proposed by the new act." However, in that city (and we shall see that this applies as well to other places) the time prescribed by law, within which the hours of work should lie, caused the actual working day to be still further shortened, because it was impossible to get girls and women to the factories soon enough to work the full limit. As the Birmingham investigators say: "The conclusion seems to be that legislation has shortened hours by making women cease work earlier than they would have done, while they refused to start any earlier."

In Liverpool textile mills are the only establishments employing women on a large scale that do not work fewer hours than those permitted by law. Match factories work an hour daily less than this limit. It will be remembered that the legal hours in nontextile factories are now 60 a week, or 10½ hours on 5 days and 7½ on Saturday, while textile factories work 55½ hours a week. The conditions in some other trades are as follows: In clothing factories the London working hours average 8½ on 5 days, with the short Saturday, the girls usually going to the shop at 9 a. m. In Birmingham the working hours average about 9 a day, it being a matter of general experience "that longer hours deteriorate the quality of the work, and where power machines are used the power is too valuable to be provided for slack or tired workers." In Liverpool, in four clothing factories, the hours of work were as follows: 8.30 to 6, 9 to 6.30, 8 to 6, and 8.30 to 5.30. On Saturday work ceases at 1 or 2.30 p. m. An hour and a half is allowed for meals. In the tobacco trades, the London cigar makers, who are on piecework, average 8 hours a day; in Liverpool, where other forms of tobacco are also extensively manufactured, a 50-hour week is a long-established custom of the trade. In a number of London establishments manufacturing embroidery the hours are 9 to 9½ a day, with 4 or 5 hours on Saturday, work generally beginning at 9 in the morning and ending at from 6 to 7.30 in the evening, in different establishments, with 1½ hours for meals. In millinery shops the hours are often longer, extending from 9 a. m. till 8 p. m., except for apprentices, while a few places begin at 8.30 or 8.45 a. m. During the busy season some of the employees are kept till 9 p. m. In the Liverpool confectionery factories employees work 52½ hours a week. Women French polishers have hours "somewhat shorter than are allowed by law." In a large dry-cleaning and dyeing establishment, at Liverpool, the hours of women have been successively reduced from 56 a week to 53, and at last to 48, "not

from any philanthropic motive, but from a business point of view," because "the work people put more energy into their work and take more interest in it if their hours are short." Of two Liverpool soap factories, one reduced hours from 50 a week to 45 in 1897, though men still work 48 hours, and the other has worked its employees only 39 hours a week since its establishment over 30 years ago.

These factory hours, though not affected by law, form a remarkable comparison to those of saleswomen and other shop attendants, who generally work over 60 hours and often as much as 70 hours a week, and with those of home workers, who define "sitting all day" as steady work from 8 a. m. to 11 p. m., minus only the most necessary household interruptions.

Though in many factories the later laws have not reduced hours of work, they have exercised an important influence in making these hours more regular. Irregularity is due principally to two causes, both of which are in great part remediable. The first is the bad working habits of the operatives themselves. In the old days workmen would lay off the first part of the week and then try to make up wages by excessive hours just before pay day. This is still an evil where manufacturing is carried on in the homes. The second cause is the seasonal demand for goods in some industries, which presses manufacturers for heavy deliveries at certain times of the year. They used to meet this by putting on extra employees, sending work to outworkers, and by overtime. These were uneconomic expedients, and under the influence of the factory regulations a better distribution of work throughout the year has in many trades already been accomplished. Of course when factories are working fewer than the maximum number of hours allowed by law, they may employ women and children up to that maximum, in case of emergency, without restriction. This is done in many instances. In addition there is the overtime, above the normal hours prescribed by the act, for which special provision is made in the statute. The latter kind of overtime is becoming rare. For one thing, factory accommodations are more adequate than formerly, so that extra hands can be taken on when needed. This causes some irregularity of employment for these temporary employees; or rather it might be said that they are given an opportunity for employment that would not exist if the regular hands worked longer hours. In the second place, factory administration is now more intelligent than heretofore, elements of cost are more closely watched, future markets are more confidently and accurately estimated, all of which make it more economical to anticipate the stress season by preparing in advance for its demands than to allow work to accumulate and introduce confusion into the factory organization. This effect of the factory laws first began to be felt strongly after the act of 1867 was passed, and represents the

second phase of the influence of this legislation upon hours of work. The operation of that statute has been thus described:

The great effect of this act stipulating a normal day was to lessen irregularity rather than to lessen hours worked per week, for even before 1867 the hours of work in a week often would not exceed 60. The need for alteration was not so much due to the number of hours as to the irregularity of work. At times of pressure employers worked their employees any number of hours they pleased, and the irregular habits of the work people themselves often compelled employers to work long hours to make up for lost time.

In case of children the immediate effect of the early factory laws in shortening their period of labor was unquestioned, and these laws continue to be influential in preventing too long hours. Even recent amendments, applying to particular trades, have had a direct effect in lessening overwork. This applies more particularly to boys working in company only with men, where without legislation there would be a tendency to approximate their hours to those of unregulated male employees. The provisions applying to glass works, blast furnaces, paper mills, and printing houses, especially those governing night work, are of this character.

Even where hours of work are shorter than those permitted by law, the factory acts applying to them still serve a purpose. The poor economy of excessive factory hours is now understood; but it is a truth that has to be learned anew by so many employers, and there are so many particular and temporary exceptions to its general application that abuses, though infrequent, can be checked only by statute. Laundries have recently been made subject to factory regulation. Evidence showed that prior to this women were obliged to work in them beyond normal hours, and occasionally even to the limit of physical endurance. And while legislation is not the sole cause of the shorter working-day of women and children, and might not have secured this end without other assisting influences, it has been a potent cause, and without this legal intervention conditions in some industries might not have improved materially during the past century.

INFLUENCE OF THE FACTORY ACTS UPON THE WAGES OF WOMEN AND CHILDREN.

It is no longer argued by people familiar with industrial history that shorter hours necessarily mean lower wages. But this argument was used extensively when the earlier British acts were passed. Here again, as in case of the shortening of hours, it is difficult to separate the effect of state regulation from the effect of other causes, but the upward tendency of the wages of women and children during the past century is a matter of statistical verification. The following

table gives the most authoritative statement of the increase of the wages of women since 1820. The table shows the average relative wages of all women wage-earners, by decades, as stated in percentages of the average wage during the ten years ending with 1900. To show that there was more than a normal increase in women's wages, as compared with the wages of unregulated men's labor, the relative wages of workers of both sexes combined, using the decade ending with 1900 as the base, is given in a parallel column.

RELATIVE WAGES IN THE UNITED KINGDOM, 1820 TO 1900.

Decade ending—	Relative wages of—	
	Women employees.	Employees of both sexes.
1830	58	65
1840	56	60
1850	58	60
1860	62	65
1870	75	75
1880	93	95
1890	95	90
1900	100	100

Between 1830 and 1850 women's wages may have declined less than those of men because they were already near the subsistence level. An English authority, to whom these statistics are due, says: "Factory legislation has not lowered wages, but has been accompanied by a decided and progressive increase." It is not to be understood that factory laws are given as the cause of this increase, but they may have contributed to it by improving the efficiency of workers.

The wages of women in industries regulated by the factory acts are generally better than those in unregulated industries. Among the best paid women factory workers of England are the cotton operatives of Lancashire. This condition, however, is probably less an effect of the law than of the fact that the law happens to apply to a better grade of workers. There may be a more or less persistent ratio between the wages of men and those of women and children in the same industry (though this can not be shown in many industries), and if this is so the latter are indirect beneficiaries of the trade-union movement, which has raised the pay of men. Such results naturally follow when unions include both sexes, as in the Lancashire weaving factories. When the men's union and the women's union of London cigar makers amalgamated some years ago, women's wages were fixed on a scale the basis of which was the highest rate of pay then existing for women. Since amalgamation women's wages have risen 25 per cent or more, though the wages continue to be less than those of men. When women are unorganized there is less evidence that the presence

of men's unions in the same industry influences their wages, though this has probably been the case in some instances. The product of labor has been greatly increased by the improvement of machinery, and a share of this increased product has been received by the wage-earner. Without these two favoring conditions the reduction of hours caused by the factory acts might have been accompanied by stationary or falling wages; but this is a speculation impossible to verify. Trades may be mentioned, like some kinds of decorating and polishing, where neither machinery nor labor unions have influenced conditions, in which wages have risen as working hours grew fewer. But workers in these trades were benefited by the rising standard of living of their fellow-workers in other industries, and their rate of compensation was affected by the competition for labor caused by high wages in other occupations.

The statistics available indicate that the enactment of the successive laws shortening the hours of labor did not, in the particular industries affected, interrupt the progressive improvement of wages that has marked the last century. In 1819 the hours of children working in the Glasgow cotton mills were reduced from 12½ to 12 a day, but there is no evidence that wages were lowered. After the act of 1833 the rates of pay of children and women workers at Oldham increased; but this may have been due to a revival of manufacturing during the next three years. The act of 1844 was very important, as extending regulation to women and to all employees under 18 years old; and there was no material change in the prosperity of the cotton industry immediately afterward to increase or depress wages. The statistics show that the reduction of hours of these classes of operatives, from 72 to 69 a week, did not reduce their earnings and that in some cases, for example power-loom weavers, the earnings increased. The acts of 1847, 1850, and 1853, limiting the hours of women and young persons to 10 and 10½ a day, affected all operatives in the cotton manufacture. The reduction amounted to about one-seventh, or was from 69 hours to 58 or 60 weekly. Unfortunately during these years there was a serious trade depression, affecting all manufacturing industries quite independently of legislation. This caused the factory owners to make a general reduction of 10 per cent in the pay of employees. Though the earnings of cotton operatives at Manchester fell off in 1847, when this reduction went into force, they did not decrease permanently even the full 10 per cent the lessened piecework rate would have justified, to say nothing of the 16 per cent corresponding to the shorter time worked. In the report of the factory inspector for 1850 statistics of the earnings of 31 weavers are given, showing a reduction of average weekly earnings in 1847 from 11s. 8d. to 10s. 6d. ($2.84 to $2.56) a week. This is exactly what the 10 per cent reduction in piecework rates would amount to. But indicating the reduction of

earnings in weekly percentages, the difference between them and those earned before 1847 continues to grow less. In November, 1848, wages varied from 14.5 to 11.3 per cent under those paid in 1845, while in May, 1849, they ranged from 8.5 to 6.4 per cent less than under the former long hours and higher piecework rates. If the old and higher rate of payment had still remained in force, therefore, weavers would have earned more in 1849 working 58 hours than four years previously working 69 hours. Immediately after the passage of these acts operatives in Yorkshire and other woolen districts found their earnings reduced, but these earnings rapidly rose again as workers became adjusted to new conditions and increased the intensity of their labor.

The act of 1860, extending shorter hours to bleaching and dye works, was followed in Dundee, a center of the flax industry, by a reduction of earnings in 1861, but by an increase exceeding this reduction the next year, repeating the experience of the Manchester operatives in 1847 and 1848. Passing to the law of 1874, because the evidence as to the influence of intervening acts is clouded by trade conditions and unsupported by adequate statistics, there are abundant tables of wages showing that the reduction of hours from 60 to 56½ a week, which then took place, and raising the ages of full timers to 14 years, was not followed in Manchester by a fall in wages, and that even in the depression of 1880 earnings remained higher than when the act was passed. In the Dundee jute mills time wages were reduced as a result of the act of 1874, but this was followed by increases that amounted to 10 per cent by 1892. In these mills the pay of half timers rose immediately, apparently because the law reduced the supply of this labor.

If the factory acts lowered wages in any industry it probably would be in the textile mills; for these, as a rule, work nearest the maximum time allowed by law. An act reducing hours in an industry where neighboring factories present the time differential already noted might be expected to have less effect on wages, for employers already working as few or fewer hours than the new law allowed would have no motive in that law for reducing time wages, and piece-workers would not be affected. Speaking of Liverpool, Miss Harrison, who investigated the condition of women workers in that city, remarks: "It is said that the reduction of one hour by the act of 1901 in textile factories made no difference in wages which are paid by time and no perceptible difference in piecework earnings." Stitchers in a bookbindery receive 14s. or 15s. ($3.41 or $3.65), where formerly they received 8s. and 10s. ($1.95 and $2.43). In a large soap factory wages have risen about 12 per cent in the last 30 years. In rubber factories earnings have increased, while the piecework rate has for some years been stationary.

The fact that there is a wage differential, like the time differential mentioned, in neighboring and competing factories, also makes it less likely that a legal reduction of hours will affect wages. In the different Leicester boot and shoe factories the following variations occur in rates paid for similar work:

WAGE VARIATIONS AMONG WOMEN OPERATIVES IN THE LEICESTER SHOE FACTORIES.

Occupation.	Rates of wages of women in—	
	Best factories.	Poorer factories.
Operator on silking machine, piecework earnings per hour	$0.09	$0.03
Operator on vamping machine, piecework earnings per hour	.08	$0.02 to .05
Fitter, weekly wage	$3.65 to 4.87	2.19 to 3.41
Machinist, do	3.89 to 4.87	2.43 to 3.89
Silker, do	3.89 to 4.62	1.70 to 3.16
Vamper, do	3.89 to 4.87	2.43 to 3.65
Closer, do	3.65 to 4.38	1.70 to 2.92
Buttonholer, do	3.89 to 4.62	1.95 to 3.16

This lack of uniform wages occurs also in different textile factories. The Dundee Social Union, in investigating the condition of mill workers in that city, found that there was—

a considerable difference in the rates of wages paid by (different) employers. Further, it is common to find that where the general level of wages paid by two different employers is the same there is yet considerable disparity between the rates paid for particular processes. * * * The wages commonly paid in different mills for preparers varied from 14s. to 8s. 11d. [$3.41 to $2.17] for men, and from 12s. 2d. to 8s. 10d. [$2.96 to $2.15] for women; those for male shifters varied from 10s. 3d. to 8s. 9d. [$2.49 to $2.13]; for female shifters from 10s. 4d. to 7s. 2d. [$2.51 to $1.74]; and for spinners from 12s. to 9s. 7d. [$2.92 to $2.33]. (Higher rates paid for an extra number of spindles have been disregarded.) These variations can not be explained by age distribution, as the processes concerned are paid by time, and shifting serves as an apprenticeship to spinning.

The complex influences affecting wage movements never have been, and probably never will be, fully analyzed. But the following data and suggestions will help to show further how utterly wages fail to conform to a uniform standard, and therefore how little likelihood there is that they have been radically influenced by legislation.

In most industries the relative wages of men and women appear to be little affected by sex competition. Perhaps this occurs to a greater extent in the textile trades than elsewhere. A statistical inquiry has shown that in different cotton manufacturing districts men's and women's wages vary inversely to each other. The wages of men and boys are lowest, compared with the wages of men and boys in the same occupations in other places, where men form the largest fraction of the total number of cotton operatives; and in the same

districts the average wages of women and girls are highest. But the same rule does not apply to the entire cotton industry at different periods. The number of women and girls for every thousand operatives has risen from 567 in 1861 to 620 in 1881 and to 628 in 1901; but the wages of female operatives have not fallen as a consequence. The cause of this inverse wage ratio in some of the Lancashire cities is probably the competition of men among themselves, due to two causes: (1) The half-time system fills the labor market with youths who have served in the mills in low-paid occupations which they have outgrown, but who, having no skilled trade, crowd the unskilled labor market, which thereupon becomes the measurer of the remuneration of mill workers, and (2) the exclusive pursuit of a single industry in these particular cities limits the variety of demand for male labor and crowds it into a single occupation. The same conditions obtain in the flax and jute center at Dundee. In that city, however, there is a lack of definition between men's and women's occupations that brings the two sexes into competition and directly depresses the wage of the former. In Lancashire this is avoided to some extent by labor organizations. Mule spinning and throstle spinning are mostly confined to men, while the ring spinners are women. In weaving there is not the same separation, but the heaviest and most highly paid work is generally done by men. In describing conditions in this district an investigator says:

> The various organizations of weavers have, from the introduction of the power loom, always included women as members on the same terms as men. The piecework list of prices, to which all workers must conform, applies to men and women alike. But it is interesting to observe that the maintenance of a standard rate has resulted in a real though unobtrusive segregation. There is no attempt to discriminate between women's work and men's work as such. The uniform scale of piecework prices includes an almost infinite variety of articles, from the plain calico, woven on narrow looms, to the broad and heavy-figured counterpanes, which tax the strength of the strongest men. In every mill we see both men and women at work, often at identical tasks. But, taking the cotton-weaving trade as a whole, the great majority of the women will be found engaged on the comparatively light work, paid for at the lower rates. On the other hand, a majority of the men will be found practically monopolizing the heavy trade, priced at higher rates per yard and resulting in larger weekly earnings.

Men remain in this trade because earnings are comparatively high, and the earnings are high because there is a strong union maintained by men, though admitting women. In Yorkshire and other districts, where the union has broken down, men have largely left the industry. In cigar making, where the men's and women's unions have amal-

gamated, although there is competition between the sexes and piecework is universal, the women's scale is 25 per cent lower than that of the men. Tables of comparative earnings of the two sexes in this trade show that the women's maximum is the men's minimum. Women also compete with men as compositors in the printing trades, though display and news work and other more difficult kinds of composition usually go to the men. Yet where the work is of identical quality, women work in London for 5½d. and 6d. (11 and 12 cents) the thousand "ens," while the union rate for men is now about 8½d. (17 cents) for the same amount. Men and women compete in French polishing, with the same difference in wages for similar work. Women received from 3d. to 5d. (6 to 10 cents) an hour, as compared with a man's 9d. (18 cents). Inquiries as to why this difference in rates existed, made by a social worker to a nonunion employer having both men and women in his shop, elicited the following responses:

"That is a question you must solve; I'm often puzzled about it." "Is there any difference in the quality of the work?" "No; I prefer women's work; they are more conscientious and take a pride in their work; they often get a finer finish and have a greater perception of detail and more delicacy of work." "Do they work less quickly?" "A little, but not appreciably, and that is quite compensated for by the excellence of their work."

However, women are used for the less profitable jobs, that take the most time, such as finishing carved backs of chairs and other "fiddling" work.

These trades, however, are an exception, and most women engaged in industrial work do not compete with men.

In Birmingham it is very difficult to get instances where men and women do the same work. * * * In the jewelry trade, the printing trade, as well as in miscellaneous trades, such as making swivels, studs, links, and medals, women do the lighter and more mechanical jobs. The finer work in the hook and eye and chain making is left to men, and men do all the important and principal parts in lamp making and japanning. In harness making, again women work on certain well-defined articles, though this trade is in a state of transition and women are in many cases supplanting men. * * * It is generally in the case of a domestic workshop, where a man employs his own family, that the usual division is transgressed.

Another authority says:

In most trades in which women are employed in Liverpool there is no competition whatever between men and women; the manufacture of tobacco, cigar making, lucifer-match making, the enameling of copper letters and disks, cap making, paper-bag making, dressmaking, and millinery are almost entirely women's trades. In jam, soap, and paint making, and in confectionery, the manufacturing process is done by men, but girls are employed for packing,

labeling, etc., and for the lighter branches of work. In rope making the preparing, carding, and spinning machines are tended by women, and the men do the actual rope making. * * * In india rubber works men do the earlier processes of preparing, washing, and cleaning the new india rubber; they also do the cutting out. The women are employed in cementing, lasting, and making up the shoes.

Thus in most industries the demarcation between men and women's work is clear and impassable, but in those trades in which changes in the division of labor have taken place, the tendency has been for the proportion of women to increase.

Two phenomena, therefore, stand out more prominently than any others in connection with women's wages, the employment of women in distinct and generally less skilled and more poorly paid occupations than those of men in the same industry—and, it may be added, their almost exclusive employment in the poorest paid industries—and their relatively lower wages when they do the same work as men. No serious attempt has even been made to attribute either of these facts in the first instance to the factory laws, and there is little evidence that those laws have had even a subordinate influence upon the relative earnings of the two sexes.

The wages of women are low, apparently, because they are women; therefore, any influence of the law in replacing men by women and vice versa has had little effect on the rate of wages paid the former. A British investigator says:

In the inquiry as to wages one of the outstanding facts elicited was that whenever women had replaced men the former always received a much lower wage, and that this wage was not proportionate to the skill or intelligence required by the work, but approximated to a certain fixed level—about 10s. to 12s. [$2.43 to $2.98] per week. The wage that the men previously received gave no criterion as to what the women would get, though as a general statement approximately correct, we may say that a woman would get from one-third to one-half the wages of a man.

This is not due altogether to women having a lower standard of living, for occupations engaged in by refined women whose living is comparatively expensive are often more poorly paid than rougher employments followed by women of a lower class whose expenses are not so high. Neither is it due entirely to the fact that many women are subsidized by their families and not responsible for their own support or that of others; for widows and self-supporting girls are often willing to accept the lowest wages. Yet both of these conditions have something to do with the question. Custom (though that itself has to be explained) is probably one of the most important immediate factors in the problem. It should be remembered that in earlier times, and at present throughout the Tropics and in most countries where there is little industrial development, custom rather than the

economic consideration of each individual's value as a worker governs the rate of wages. For instance, throughout Mexico to-day such conventional wages rule, and are only beginning to be broken up by American competition for labor. This seems still to be true of the pay for women's labor in Great Britain.

Employers can usually give no other reason for the actual wage than the fact that such and such a figure is what women usually get in Birmingham. And in all cases piece rates are fixed by reference to this customary wage of the district, and the rates reduced or increased till the wage earned by piecework approximates to what the girls expect to get.

Like the Mexicans, Filipinos, and Negroes, some women workers do not aspire to earn more than the conventional wage, and will work shorter time if their rate is raised. A Liverpool employer complained that "the girls were satisfied with 8s. [$1.95] a week, and that if a girl made 12s. [$2.92] in one week she would not turn up till the end of the following week." A lady expert investigating the cigar making trade in London reported:

Although the women workers have a scale of pay by which they should be able to make 20s. [$4.87] and even 30s. [$7.30] a week, yet they often do not care to exert themselves after they have secured what they feel necessary. As one girl put it, "I don't see what a girl wants more than 15s. [$3.65] a week for. It's the men with families that want more. When I've earned my 15s. [$3.65] I've done." A remark corroborated by wage books.

Yet back of this attitude there are other causes.

So long as a considerable body of women workers retain this attitude toward their earnings, it is of course more difficult for the more ambitious to raise their wages. The rate of pay in one trade is affected by the general level in all trades, and the competition that affects women is essentially that of their own sex. In women's trades, where no men are employed, such as dressmaking, millinery, embroidery, laundry work, and flower making, all of which are skilled occupations, wages are equally low.

One reason why women in Great Britain have not yet arrived at an enlightened sex consciousness as workers is that they lack the ability to form successful organizations. This is explained in several ways. One prominent woman worker says: "This inability to combine itself arises largely from the arrangement of women's lives, and the fact that their work does not take the first place in their minds." This is an important clue. Women occupy so largely the less skilled occupations in factories because they do not train themselves for more responsible positions. And they do not train because they do not expect to make factory work a life vocation.

Most of them look forward to marriage, where they will (to say the least) not be entirely responsible for the family's support. Employers do not care to take the trouble of training girls, because they think the girls would leave about the time they became most efficient. The same lack of ambition that characterizes the attitude of many working girls toward wages manifests itself in their attitude toward apprenticeship. The lithographers' union favors girl press feeders, because they make no effort to pick up the trade. In industry woman generally "has preferred to remain incompetent." The great lack of permanence of women workers as compared with men and the fact that a greater proportion of these workers are young affect both their average skill and their ability to organize. In a Liverpool factory the proportion of employees remaining after 10 years was in case of women 7 per cent, and in case of men and boys 42 per cent; of those who remained after 5 years the proportion of women was 22 per cent, and of men 64 per cent; and of those on the pay rolls 3 years previously the proportion remaining was, women 51 per cent, men 61 per cent. This employer stated:

> The difference between the sexes in the matter of employment, so far as our experience goes, is that boys up to the age of 16 come and go with great frequency; after that age they remain permanent fixtures. With girls it is exactly the opposite. From 14 to 18 a very large proportion remain; after that age they are continually leaving, generally to get married, or for other domestic reasons.

The importance of this influence upon wages is suggested by the fact that married women, in spite of disabilities peculiar to their status, and especially that more of them relatively have to bear the burden of household duties after factory hours, generally receive higher wages. In the Birmingham cycle trade married women's earnings average 11s. ($2.68), while the general average for women above 21 is 10s. 6d. ($2.56). Employers state: "They are more independent and better skilled and therefore always get more on piecework;" and, "Married women are in responsible positions, and are steadier and more skilled and so get better wages." Also, the influence of married women has been toward shortening hours. In the Lancashire spinning districts the wages of women average highest where the percentage of married women among the employees is greatest.

The following classified wage averages are from the Board of Trade Report of 1886, and, though not recent, are fairly representative of those prevailing in the textile trades during the succeeding two decades. A trade dispute in the cotton industry at present (1908) has put out of date the most recent information from Lancashire.

WAGES PER WEEK OF WOMEN AND GIRLS IN TEXTILE INDUSTRIES.

[From the Board of Trade Report, 1886.]

Industry.	Average wages.	Per cent of all women and girls whose full-time earnings were—				
		Under $2.43.	$2.43 and under $3.65.	$3.65 and under $4.87.	$4.87 and under $6.08.	$6.08 and over.
Lancashire and Cheshire cotton	$3.51	10.7	44.9	32.0	12.1	0.3
Yorkshire and Lancashire woolen	3.20	10.6	64.0	25.3	.1	.....
Yorkshire woolen and stuff	2.78	36.6	62.8	.6	.....	.....
West England stuff	2.60	45.3	54.7	.....	.....	.....

The higher wages in Lancashire in the cotton industry are due in part at least to trade unions, and woolen wages may be indirectly affected by cotton wages in that district. Earnings are higher in districts where the textile manufactures are most centralized and highly organized, and lowest where they are only a subsidiary industry.

In Dundee an investigation made in 1904 showed the following wages paid women workers in the jute and flax mills of that city:

WOMEN'S WAGES PER WEEK IN DUNDEE TEXTILE MILLS, BY OCCUPATIONS, 1904.

Occupation.	Lowest wage.	Highest wage.	Median wage.	Predominant wage.	Number of observations.	Number receiving predominant wage.
Preparers	$1.44	$3.04	$2.15	$2.15	85	24
Shifters	1.76	2.33	2.03	2.01	26	4
Spinners	1.76	3.10	2.33	2.33	134	107
Winders (a)	1.70	3.35	2.68	2.68 2.92	31	[b] 7
Weavers (a)	1.22	3.65	2.92	2.92 3.41	46	[b] 10

[a] Pieceworkers. [b] At each predominant wage.

The weekly wages of 206 male preparers were secured, showing a median wage of 10s. 4d. ($2.51), and a predominant wage of the same amount; and 80 male shifters received a median wage of 9s. 5d. ($2.29), while the predominant rates, paid to 16 in each case, were 9s. 5d. ($2.29), and 10s. 3d. ($2.49). The half timers whose wages were investigated numbered 150, and they received a median wage of 4s. (97 cents), and a predominant rate, paid to 35, of 3s. 7d. (87 cents). The median earnings of men power loom operatives were 19s. ($4.62), while men working on carpet looms earned 12s. ($2.92). In a Liverpool rope factory, with over 100 women employees, the average earnings of the women were as follows in the occupations stated: Preparers, 10s. ($2.43); carders, 8s. 2½d. ($2); opening knots, 6s. 10½d. ($1.67); spinning green hemp, 9s. 7½d. ($2.34); machine

spinning, 12s. ($2.92); hand spinning, 13s. ($3.16). In another factory of the same kind the per cent of women and girls employed earning under 6s. ($1.46) was 39; those earning 6s. and under 8s. ($1.46 and under $1.95) was 19; those earning 8s. and under 10s. ($1.95 and under $2.43) was 11; those earning 10s. and under 12s. ($2.43 and under $2.92) was 11; and those earning 12s. and over ($2.92 and over) was 20.

One of the most complete recent investigations of the wages of women has been made in Birmingham. From these tables the following are quoted:

RANGE OF WEEKLY WAGES AND AVERAGE WAGE OF GIRLS AND OF WOMEN IN BIRMINGHAM, BY OCCUPATIONS.

Occupation.	Range of wages.	Average wage of—	
		Girls under 18.	Women 18 and over.
Metal working:			
Cartridge-case makers	$0.73	$2.13	$2.68
Bedstead lacquerers	$0.97 to 4.62	1.30	2.80
Brass polishers	1.22 to 4.38	1.68	3.28
Brass-core makers	1.46 to 7.30	.....	4.25
Chandelier lathe hands	1.22 to 3.41	1.83	2.49
Cycle press hands	1.10 to 4.10	2.01	2.43
Electric-switch makers	.97 to 6.08	2.01	3.98
Pen press hands	.73 to 3.41	1.55	2.25
Pen grinders	.73 to 3.89	2.16	2.80
Screw machinists	1.46 to 4.32	1.83	2.31
Clothing:			
Corset machinists	.73 to 3.16	1.70	2.19
Trousers hands	.24 to 3.89	1.46	3.04
Coat hands	.37 to 4.38	1.64	3.61
Confectionery: Candy wrappers	.97 to 2.43	1.32	2.19
Jewelry:			
Gold polishers	1.22 to 4.87	1.46	3.08
Watch-jewel turners and polishers	.73 to 3.89	.....	2.92
Gold-chain makers	.49 to 4.87	1.64	3.53
Silver-chain makers	.61 to 4.87	.97	2.68
Paper and printing:			
Bindery sewers	.97 to 3.65	1.70	2.92
Bindery folders	.97 to 2.92	1.95	2.37
Press feeders	.85 to 2.68	1.42	2.33
Leather:			
Boot machinists	.24 to 3.41	1.95	2.74
Harness stitchers	.73 to 4.38	1.95	2.56
Glass: Polishers	.85 to 4.14	1.46	2.92
Laundry:			
Washers	2.92	.....	2.07
Ironers	.73 to 4.87	1.76	2.41
Sorters and packers	.85 to 2.43	1.64	2.19

The two most significant facts shown by the above table, and they are confirmed by the much more elaborate table covering several hundred occupations upon which it is based, are the low maximum average wage, of about $4 a week, and the uniformity of average earnings in a great variety of trades requiring different grades of skill and responsibility. Whether a girl polishes glassware or watch jewels, her average wage is the same; but she earns a trifle more, possibly because the work is heavier or less genteel, if she polishes brass.

The London shop trades show the same tendency to a uniform wage. In clothing factories wages vary from 12s. to 20s. ($2.92 to $4.87) a week; embroiderers earn from 15s. to 18s. ($3.65 to $4.38)

weekly; jewel-case workers, 16s. ($3.89); milliners, from 15s. to 25s. ($3.65 to $6.08); upholsterers (sewing), 15s. ($3.65). There are exceptional instances of higher or lower earnings in all these trades, but the averages fall within the same limits. Women's wages in Great Britain, like their hour of arriving at their place of work, seem to be governed by custom, and though their level is rising from year to year they do not yet present the diversity characteristic of the pay of other workers.

INFLUENCE OF THE FACTORY ACTS UPON DISTRIBUTION OF EMPLOYMENT AMONG MEN, WOMEN, AND CHILDREN.

When the early factory laws of Great Britain went into force women workers opposed provisions in the factory acts limiting their hours of work for fear that such limitation would lead to the displacement of women by men. Women had been substituted for children in textile mills when the hours of the latter were first limited, and it was, perhaps, natural that the women should fear being in turn supplanted. But while the factory law has doubtless caused some redistribution of employment among workers of different age and sex it has not upon the whole lessened the demand for female labor.

It is true that there has been a decrease in the proportion of the female population working in industrial occupations since the factory acts first went into force, but there has been an increase precisely in those occupations where those acts might have been expected to have most influence. The following table gives the number of female employees in every thousand workers in several of the more important industries where the hours of labor have been restricted by factory legislation, by 10-year periods, from 1861 to 1901:

NUMBER OF FEMALES IN EVERY 1,000 EMPLOYEES, BY INDUSTRIES, 1861 TO 1901.

Industry.	1861.	1871.	1881.	1891.	1901.
Bookbinding	450	488	527	554	603
Boots and shoes	154	115	160	185	210
Cotton manufactures	567	598	620	609	628
Pottery and porcelain	311	354	384	385	392
Tailoring	208	254	330	427	471
Tobacco manufactures	221	296	435	548	601
Woolen and worsted manufactures	461	513	561	557	582

Meantime restrictive legislation, assisted by other favoring conditions, has lessened the employment of children. The per cent of the total number of children between the ages of 10 and 15 engaged

in gainful occupations in England and Wales was as follows for the corresponding 10-year periods:

PER CENT OF CHILDREN 10 AND UNDER 15 YEARS OF AGE ENGAGED IN GAINFUL OCCUPATIONS, BY SEX, 1861 TO 1901.

Sex.	Per cent engaged in gainful occupations in—				
	1861.	1871.	1881.	1891.	1901.
Males 10 and under 15 years of age	36.9	32.1	22.9	26.0	21.9
Females 10 and under 15 years of age	20.2	20.4	15.1	16.3	12.0

It appears that women still continue to take the children's places in the factories to some extent. The per cent of the total workers in the textile industries who were males of different ages and who were females is given in the following table:

PER CENT OF MALE AND OF FEMALE WORKERS IN THE TEXTILE INDUSTRIES, 1835, 1850, 1885, AND 1890.

Sex.	Per cent in textile industries in—			
	1835.	1850.	1885.	1890.
Children under 13 years of age	13	6	9	5
Males 13 to 18 years of age	13	11	8	8
Males over 18 years of age	25	27	27	28
Females over 13 years of age	49	56	56	59

More recent figures show a continued decrease of child employment in the cotton trade.

NUMBER OF EMPLOYEES IN THE COTTON INDUSTRY, CLASSIFIED AS HALF TIMERS, YOUNG PERSONS, AND ADULTS, 1895 AND 1905.

Classification.	1895.	1905.
Half timers (under 13 or 14 years)	55,625	31,744
Young persons (13 or 14 to 18 years)	238,078	208,003
Adults	782,048	786,631
Total	1,075,751	1,026,378

Therefore, while the total number of employees in the cotton industry in 1905 was nearly 50,000 less than the number employed in 1895, the number of adults employed was greater by more than 4,000. It has been previously mentioned that there has recently been an increase in the number of half timers employed in the north England textile districts, due to the great activity of manufactures, which created an unusual demand for labor. Probably this movement has now ceased. Under normal conditions the factory law discourages even where it

permits the employment of children. Many employers will not engage half timers because it is too much trouble to take care of school certificates, pay fees for medical examinations, and comply with the other formalities required. In a less degree there is the same disadvantage in employing young persons. A factory owner whose employees are all over 18 years of age is relieved of the worst embarrassments of government supervision. Half timers do not fit in with the routine of many factories, because they serve but part of the working hours. The influence of the factory law in discouraging child employment has been reenforced by the growing complexity of industry, which places a greater premium upon mature and intelligent workers.

To return to the employment of women, it was remarked that the proportion of the female population working in industrial occupations has declined during the past century. The following table shows the proportion of the total population of males and females, respectively, above 10 years of age reported as occupied at each census period:

PER CENT OF MALES AND OF FEMALES OVER 10 YEARS OLD REPORTED AS OCCUPIED IN THE UNITED KINGDOM, 1881, 1891, AND 1901.

Sex.	1881.	1891.	1901.
Males	82.7	82.7	83.4
Females	33.5	34.0	31.6

The slight increase in 1891, which is also shown in the figures relating to the employment of children, is ascribed to peculiar industrial conditions of a temporary nature. The proportion of women employed in Ireland is less than in England; the proportion employed in England is the same as the average for the United Kingdom, and the proportion in Scotland is considerably higher than in either of the other countries, being 33 per cent. In Scotland, possibly because the children are kept in school longer, women take the place of young people more than elsewhere in industrial life, and they engage in occupations followed in England by men.

There is a prevalent opinion in England that the proportion of women is increasing in the industries. Commenting upon this, the chief lady statistician of the Board of Trade says that this is due to the entry into the labor market of middle-class women, who engage in new occupations, and to the substitution of skilled workers employed full time for a larger number of unskilled workers intermittently employed.

Some of the chief industrial occupations where female labor is decreasing are coal mining, furniture making, lace making, and the manufacture of gloves. In lace making and also in the manufacture of paper fewer women are employed than formerly, because they have been displaced by machinery. Rag-cutting machinery more particularly has thrown them out of paper mills. They have been displaced to some extent in printing offices by folding machines, which are operated by men. In laundry work also there are relatively fewer women than formerly, though they still constitute over 95 per cent of the employees, because the introduction of machinery has made work for men that previously did not exist in these establishments.

Previous investigators had shown that even if the proportion of the total female population employed remained the same, the proportion of occupied females in industrial pursuits was falling, while the proportion engaged in domestic service, teaching, and other vocations rose. The later investigation of the Board of Trade emphasized the decline in industrial pursuits, as refuting the idea that women were driving men out of the trades. The conclusion of this report was that the employment of married women was decreasing; that casual employment was decreasing, but that there was an increase in the number of young women under 25 with definite occupations and of middle-class women. However, the employment of women was not increasing relatively to that of men. There was "not a single case of absolute decrease in the number of males in any groups (of occupations) which did not show an absolute decrease in the number of females." The greatest advance in female employment was in the case of tailoring, where there was also an absolute increase in the number of men. In textiles men and boys were gaining at the expense of women, and in boot and shoe manufactures the reverse was occurring. It needs to be remembered that in these comparisons it is necessary to make a distinction between absolute and relative increases in the number of either sex employed. In some occupations, such as tailoring, a man cutter may prepare goods for anywhere from 10 to 50 female workers. An expansion of the trade or its concentration in larger factories might increase the proportion of female workers, though the absolute number of male cutters employed was larger than before.

The relative employment of the two sexes shows some interesting variations in different cotton-manufacturing districts. In large urban centers, such as Wigan, Manchester, and Salford, where the greatest proportion of cotton operatives are women and girls, the greatest proportion of women and girl workers are not cotton operatives. In

Blackburn, Burnley, Preston, and Oldham, where the proportion of women and girl workers who are cotton operatives is highest, the proportion of men and boys who are cotton operatives is also highest.

The factory acts have not displaced women, according to the best testimony, partly because other influences are segregating men and women into noncompeting occupations, as was mentioned in connection with wages. Two principal causes for this have been the division of labor and the introduction of machinery. The latter, however, has acted in two directions, displacing women where it made possible continuous processes, carried on by complicated mechanism with little labor, or where the machinery introduced was heavy and required skill to operate, and displacing men where it substituted a simple repetition process for more complicated manipulation. The substitution in paper making of a continuous mechanical process for separate semi-mechanical operations and the introduction of heavy machines for lace making illustrate the former influence. Similarly in the United States men have replaced women in some branches of knitting since the introduction of machinery for making full-fashioned hose. On the other hand, machinery has increased the number of women employed in watch manufacture. In Lancashire the proportion of women in this industry rose from 4.6 per cent to 13.78 per cent during the decade ending with 1901. An increase of women in the tailoring trades and in the boot and shoe trade has followed the more extensive use of sewing machines. In Birmingham, where women are largely employed at metal presses and light lathe work, the introduction of machinery has caused them to displace men in the following industries: Brass lathe burnishing, chain making, cycle saddle making, general cycle work, enameling saucepans, piano frames, etc., harness stitching, cheap jewelry, lens grinding, making corset fasteners, wood box making, wire mattress weaving, military ornaments, printing press feeding, tailoring, tin plate and other press stamping, whip making, umbrella and umbrella frame making, book making, and core making in brass foundries. Machinery has in some cases simply transferred women's work from the home to the factory. File cutting and nail making are among such industries. At Birmingham pen making alone employs about 7,000 women, or 90 per cent of the employees in this industry. Women are employed in place of men because (1) they become more dexterous in the purely mechanical work, (2) they are less impatient over its monotony, and (3) they are cheaper. In the manufacture of jewelry there is the following distribution of occupations between men and women: Men do large and small work, refining and assaying, modeling, casting and alternative processes, electroplating, spoon and fork making, enameling,

engraving, chasing, and embossing, jewel cutting and polishing, and gem setting, while women do burnishing, hand polishing, and jewelry polishing. Both men and women are employed at chain making and piercing. Lathe polishing is done by men in London and by women in Birmingham. It seems not unusual for women to enter a new branch of a trade somewhat earlier in the provinces than in the metropolis, possibly because outside of London they meet less resistance from old customs and long-established unions. The entry of women into chain making was favored by the substitution of machinery for hand processes. Piercing, which resembles fretwork, is done with a file upon fine work or with a saw upon large pieces. Saw piercing is now a woman's trade in Birmingham, though still done by men in London. Sometimes the transition from men to women is very rapid. In one cycle factory, in 1902, 80 men were employed at from 30s. to 40s. ($7.30 to $9.73) a week; in 1905 the men numbered but 20, women on the same machines doing the rest of the work at a wage in no case exceeding 18s. ($4.38). "When the men were dismissed they were told to go home and send their wives back in their places." In a tin factory where in 1885 the proportion of men to women was as five to one it was in 1900 as one to two.

Even where machinery has not been introduced in an industry, a greater division of labor often makes openings for women. A generation or so ago the jewel cases of London were made by men, who constructed and finished the entire case, and earned up to 36s. ($8.76) a week. Now men make the carved wooden boxes, but women cover and line them for a wage seldom exceeding 18s. ($4.38) a week.

Trade unions have fought against the introduction of women in all industries where labor is organized and where women have become real competitors with men. This is notably true in the printing trades. In Edinburgh the introduction of women dates from a dispute between the employers and the compositors' union, in which girls were brought in as strike breakers. At several other places in Great Britain women compositors were introduced for the same purpose. As a result of a trade dispute, a Birmingham pot and kettle maker dismissed his union men in 1898 and replaced them with women. A dispute with union cigar makers as to the proportion of apprentices to be employed is said to have occasioned the first use of women in that occupation. They have practically replaced men as strippers and cigar makers in the outside cities, though men still control conditions in these trades in London.

After women have secured a foothold in a trade where there is sex competition, the proportion employed sometimes increases but slowly. For instance, from 1881 to 1901 the per cent of women and girls of

the total number employed in the industries just mentioned, in Liverpool, was as follows:

PER CENT OF FEMALES OF TOTAL EMPLOYEES IN BOOKBINDING, IN PRINTING, AND IN CIGAR MAKING, LIVERPOOL, 1881, 1891, AND 1901.

Industry.	1881.	1891.	1901.
Bookbinding	67.9	69.4	70.6
Printing and lithographing	3.3	5.6	9.7
Tobacco manufacturing	75.7	77.2	79.9

The proportion of women employed fluctuates in some industries, as indicated in the following table:

PER CENT OF FEMALES OF TOTAL EMPLOYEES IN THE MANUFACTURE OF EXPLOSIVES AND MATCHES AND OF SOAP, LIVERPOOL, 1881, 1891, AND 1901.

Industry.	1881.	1891.	1901.
Explosives and matches	79.1	89.4	75.9
Soap making	53.5	64.2	62.5

While the number of women engaged in industrial work is decreasing in proportion to the total number of women occupied and in proportion to the total population, it is possible—though the fact can not be verified by statistics—that the industrial product of women is not relatively declining. The total employment measured in days of work of woman labor even may have increased; for the number of women returned by the census as occupied in various industries is no index to the intensity and continuity of employment of each individual. A smaller number of women may be working more days than formerly. And all of our statistics, indicating increases of female labor in so many factory occupations and its extension into new fields, suggest that much industrial labor which even until recently was distributed among the homes is now becoming concentrated in larger manufacturing establishments. And this is a process which appears to have been, in its broad aspects, unhampered by the restriction of hours through factory legislation.

INFLUENCE OF THE FACTORY ACTS UPON THE GENERAL WELFARE OF WORKERS.

Apart from wages and hours of work, both of which fundamental conditions of workers' welfare have improved while the factory acts have been in force, and partly on account of them, some less direct and more general effects can be traced to these statutes. But this is a field that covers nearly all the ground for future reforms and extensions of this legislation, and the topic is one that in its larger inter-

pretation deals with the things left undone rather than with the things which have been done. Improved factory accommodation, better sanitation, separation of the sexes during labor, the guarding of dangerous machinery and processes, have all protected and perhaps bettered the health and morals of operatives. At least that has been the direct object of these regulations, and without them conditions would be vastly worse than they are at present. But supervision of life inside the factories has not after all reached the heart of the question. The home and family as affected by the factory afford a problem that can be only partly solved by legislation touching the factory alone.

Preliminary to considering this main question, there are some material and moral benefits to be traced directly to the factory laws. They have made the hours of work more regular, relieving workers of the tyranny of their own bad habits and of inefficient industrial administration, whereby formerly they experienced alternations of idleness and excessive labor injurious alike to their health and morals.

The requirement that a child shall have passed a certain educational standard, and that if a half timer he shall attend school the full five sessions every week, has helped to enforce compulsory education; and the necessity of physical certificates based upon an examination by a qualified surgeon in order to obtain employment has made parents more intelligently solicitous for the health of their children. Cases often occur where parents first learn of a child's latent disease or deformity when the child is examined for a physical certificate, and in some instances this leads to prompt and successful treatment.

The presence of factory inspectors in every district, and their periodical visits to factories, foster a sense of responsibility for the welfare of workers that makes many employers go beyond the requirements of the law. This affects the moral protection of women operatives as well as the comfort of their material surroundings. A woman worker can confide things to an inspector of her own sex that otherwise would never reach the ears of her employer, and such confidences are sometimes necessary in the interest of factory discipline and of the weightiest welfare of female operatives.

We now come to three of the most important questions relating to factory life—the employment of married women, infant mortality, and physical degeneration. All of these questions are interdependent. Legislation might directly influence only the first of them.

The industrial employment of women does not appear materially to affect their marriage rate. Statistics show the following per cent remaining single at different ages in England and Wales, in London and in East London separately, and in five of the textile cities where women are most largely employed in factories.

PER CENT OF SINGLE WOMEN AT DIFFERENT AGE PERIODS, BY LOCALITY.

Locality.	Age periods.			
	15 and under 20.	20 and under 25.	25 and under 35.	35 and under 45.
England and Wales	98	70	33	16
London	98	71	36	19
East London (a)	97	57	21	9
Blackburn	99	70	33	16
Bolton	99	72	32	15
Burnley	97	64	27	14
Oldham	98	68	29	12
Preston	98	71	35	19

[a] In East London there is a low per cent of women employed in factories, but of the women who are employed there is a high per cent married.

These figures show only normal variations, or differences which it would be difficult to explain on the ground of industrial employment. They dispose equally of the claim sometimes made that the high earnings of girls in the cotton districts lead them to make early and improvident marriages; or that when a woman becomes self-supporting at an early age she is less disposed to marry. The large per cent of women married among the East London poor is the most significant fact in the table.

Possibly one reason why cotton factory girls do not avoid marriage is that it makes little change in their manner of living. A lady factory inspector reports:

At 13 years of age a majority of these women have begun to work in a factory, to handle their own money, to mix with a large number of people with all the excitement and gossip of factory life. They thus in most cases grow up entirely ignorant of everything pertaining to domesticity. After marriage, therefore, it is hardly probable that they will willingly relinquish this life to undertake work of which they are in so large a measure ignorant, and which is robbed of all that is to them pleasant and exciting.

Another lady expert, comparing conditions in south England with those in these textile cities, says:

The women of the north have not been inclined to regard industrial employment merely as a means of a livelihood for a short period preceding marriage; they have regarded it as their occupation in life far more than domestic management. In the south of England, where factory industries are of but small magnitude and the demand for domestic servants is much greater, the attitude of working girls is entirely different. As a rule they look forward to marriage as releasing them from industry.

Yet the proportion of married women occupied varies widely in different parts of the textile counties. In 1901 it was 37.9 per cent in Blackburn, or considerably more than the proportion of all women returned as occupied in the United Kingdom, and only 15.1 per cent

in Bolton, in the same vicinity. However, Blackburn is a weaving town and Bolton a spinning center, which explains this discrepancy, married women being more largely employed in the former occupation. The following table gives more general figures for the textile districts:

PER CENT OF WOMEN OVER 18 YEARS OF AGE WHO ARE EMPLOYED AND PER CENT OF THOSE EMPLOYED WHO ARE MARRIED OR WIDOWED, BY TEXTILE DISTRICTS.

Textile district.	Per cent of women employed—	
	Who are over 18 years of age.	Over 18 years of age who are married or widowed.
Lancashire and Cheshire cotton mills	67.2	32.9
Yorkshire woolen mills	83.0	29.8
Yorkshire mixed woolen and worsted mills	76.9	23.6
Yorkshire worsted mills	62.9	21.2

It is found that relatively fewer married or widowed women work in mills in small towns than in mills situated in large cities. In the Dundee flax and jute mills the proportion of female employees over 18 years of age who are married is estimated (upon a basis of replies obtained from 3,269 women workers) to be 25 per cent. The census figures for 1901 indicate a wide variation in the proportion of married and widowed women occupied in various parts of the country, the extremes in industrial cities ranging from about 12 per cent to 40 per cent. A different per cent, that of all the occupied women who are married and widowed, according to the last census, in the Lancashire cities having over 100,000 population, is given in the last column of the following table:

NUMBER OF FEMALES OVER 10 YEARS OF AGE, NUMBER AND PER CENT WHO ARE OCCUPIED, AND NUMBER AND PER CENT OF THOSE OCCUPIED WHO ARE MARRIED, BY LOCALITY.

Locality.	Total female population over 10 years of age.	Total occupied females over 10.	Women occupied who are married or widowed.	Per cent of total females over 10 who are occupied.	Per cent of total occupied females who are married or widowed.
Blackburn	55,363	31,445	10,708	56.8	34.1
Bolton	70,461	30,283	5,411	43.0	17.9
Liverpool	275,094	85,058	21,457	30.9	25.2
Manchester	219,630	86,975	22,764	39.6	26.2
Oldham	58,050	28,049	6,285	48.3	22.4
Preston	48,583	25,284	7,438	52.0	29.4
Salford	88,681	33,640	7,919	37.9	23.5
Total	815,862	320,734	81,982	39.3	25.5

These percentages, however, are subject to a very important qualification on account of the varying extent to which young girls are employed in different industries. They disguise the fact that in Blackburn nearly one-fifth of the total female population over 10 years of age consists of occupied married women, while in Salford less than one-eleventh falls into this category. These latter are the important proportions from the sociological point of view.

In Birmingham the percentages are somewhat lower, the married or widowed forming 23 per cent of the occupied females and 21 per cent of those engaged in factories. In London, 23.7 per cent of the occupied women are widowed or married. A private investigation in Liverpool, covering several thousand women workers, indicated that the per cent of the female employees who were married or widowed, in different industries, was as follows: Cotton, 51.6; shirt makers and seamstresses, 41.9; hemp and rope works, 38.4; tailoresses, 27.5; milliners and dressmakers, 17.3; oil, grease, soap, and resin works, 11.7; tobacco factories, 10.6; food workers, 9.6; paper boxes and bags and stationery, 9.3; bookbinders, 8.7; bleaching, printing, and dye works, 5.4; printing and lithographing offices, 4.3; explosives and match factories, 2.9. As a rule married women are found more largely in trades followed partly in the homes. But they have an important place in factory industries both in the textile districts and in Birmingham. These figures are considerably higher in some industries than the average for the United States, where, in 1900, but 21.2 per cent of the female cotton mill operatives were married, widowed, or divorced, 28.8 per cent of the seamstresses, 14.2 per cent of the shirt makers, and 19.7 per cent of the tailoresses. But in some of the trades employing a smaller number of women the per cent of married employees is higher than in England. The proportion of married employees varies in different factories in the same city and industry. In two of eight pen factories at Birmingham half the female employees were married; in four, more than one-third were married; and in the two remaining, about one-third were married.

One of the most important economic effects of the employment of married women is its influence upon men's wages. In factory trades married women are said to be most extensively employed where women's wages are highest. This is not alone because married women usually receive higher wages, for the average wage of girls under 18 years is highest where the proportion of married operatives is greatest. In summing up these facts, the statistician of the Board of Trade attributes them—"(1) To the higher wages obtainable by girls and by women in this part of the cotton district, and (2) to the lower wages earned by men in this part of the cotton district, both circum-

stances rendering women reluctant to give up work after marriage." Here, at least, we find the two conditions of high female and low male wages combined, whichever may be the cause of the other. In a recent sociological study of Westham, one of the big London workingmen's suburbs, the investigators conclude: "There is a tendency for industries employing cheap women's and children's labor to arise in casual labor districts, and the casual laborer is often kept in a district by his family's occupation." The comment upon this condition is that "the women and children support the man, who degenerates into a loafer." In Dundee, where similar conditions obtain, investigators express the following opinion: "It is our impression that the married woman in Dundee is seldom continuously at work when the regular earnings of her husband are over £1 [$4.87]. Several of the married women expressed the opinion that men should be paid at least £1 [$4.87] a week, and wives would then have no need to work."

Among the most important social effects of the employment of married women is its influence upon housekeeping and diet, upon the care and control of children, and upon infant mortality. In many cases bad home conditions and the fact the wife is working may both alike be due to a third cause, which most frequently is a drunken husband. On the other hand, the drunken husband may be the product of the factory woman's ill-kept home. In Birmingham the homes of occupied women were found generally neater than was expected, though they did not compare favorably with those where the wife was not employed. But especially in the textile districts of north England the employment of wives in factories has led to lower standards of family comfort and to unwholesome diet. Factory surgeons, inspectors, and social workers in this part of England all comment upon the absence of wholesome and well-cooked food, for which less economical and less nutritious diet is substituted. Bread, sometimes butter or drippings, and boiled tea seem to be the staple fare. Children often have nothing but "bread and tap" (dry bread and hydrant water) for their luncheon. Sometimes the same fare is continued at night, while the parents have cold food with a pint of beer, strengthened with rum, at a public house. In Scotland kitchen economy is better understood. Here porridge supplements bread, and rice, potatoes, peas, and broth are more common on the tables.

Regularity of school attendance may be assumed as an index of the care of children. In Birmingham private investigation shows that from homes where the mother works only 27.8 per cent of the children attend school regularly, as compared with 50.5 per cent from homes where the mother is not employed. There are at hand no corresponding statistics from other places, but testimony supports the opinion that the condition is approximately the same elsewhere.

It is also the testimony that the employment of married women tends to diminish the birth rate, and it is reasonable to suppose that when the family income is dependent largely upon the work of the wife she will be indisposed to interrupt it by assuming the duties of a mother. One of the lady sanitary inspectors of Bradford writes: "I am sorry to say that motherhood interferes with wage-earning, and therefore any and every means are adopted to prevent this." The number of births per 1,000 women between the ages of 15 and 45, in Bradford and in England and Wales, was as follows during the 3-year periods indicated:

BIRTHS PER 1,000 WOMEN BETWEEN THE AGES OF 15 AND 45, IN CERTAIN 3-YEAR PERIODS AND IN 1906, BY LOCALITY.

Locality.	1880–1882.	1890–1892.	1900–1902.	1906.
Bradford	129.1	105.3	83.8	75.5
England and Wales	147.7	129.7	114.8	(a)

[a] Not reported.

The Dundee investigations suggest, though sufficient statistics were not obtained to confirm the point, that the employment of women in factories before childbirth may cause their children to be of light weight; and the deaths due to a number of causes attributable to the general condition of prematurity are probably larger than the average among the infants of this class of workers.

The relation of the factory employment of women to infant mortality seems well established, though there must be other important factors in the problem. In Bradford the mortality of children under 1 year is 160 per 1,000 among working mothers, as compared with 40.8 per 1,000 among those of mothers who are not working. The following table gives some suggestive figures pointing to similar results. "Infantile mortality" means number of deaths per 1,000 infants under 1 year of age.

INFANTILE MORTALITY, 1896 TO 1906, AND PER CENT OF OCCUPIED WOMEN 15 AND UNDER 35 YEARS OF AGE WHO ARE MARRIED OR WIDOWED, IN SPECIFIED LOCALITIES.

Locality.	Annual deaths per 1,000 infants under 1 year of age, 1896 to 1906.	Per cent of women 15 and under 35 years of age who are occupied.	
		Total.	Married or widowed.
England and Wales	133	(a)	(a)
Burnley	208	90.9	59.7
Preston	208	89.4	50.5
Blackburn	188	91.8	63.9
Oldham	170	87.3	33.4
Bolton	166	87.4	24.7

[a] Not reported.

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Factory employment of women seems to be the only condition common to these textile towns that sufficiently distinguishes them from England and Wales as a whole to account for their relatively high infant mortality. But the fact that the infant mortality does not vary in direct ratio to the proportion of married women employed suggests other contributory causes. This suspicion is strengthened by the fact that the ratio of infant mortality has recently risen in Preston and Blackburn, though the employment of women in those cities is declining. But this may be due to poorer heredity and the persistence of household customs, the outgrowth of previous employment. The following table relating to 331 families in Dundee adds to the force of the one already given:

CHILDREN, LIVING AND DEAD, IN CERTAIN FAMILIES INVESTIGATED IN DUNDEE WHERE MOTHERS WORK BEFORE AND AFTER CHILDBIRTH COMPARED WITH FAMILIES WHERE MOTHERS DO NOT WORK.

	Number of mothers.	Number of children—			
		Born.	Living.	Dead.	Died first year.
Mothers working	240	885	365	520	462
Mothers not working	91	460	265	195	168

Where mothers worked a majority of the children are dead, where they did not work a majority are alive (all the mothers are from the working classes), and the respective mortality per 1,000 births, during the first year, is 522 and 365. Commenting on this condition the Dundee investigators say: "The obligation to support a family and also to bring it up is an unnatural condition of life, which leads to the usual consequences—broken-down mothers in early life and ill-nourished, rickety children, who develop into weedy, unhealthy men and women." Though Dundee has not so high an infant mortality rate as several towns in the English textile districts, it has the highest of the 15 principal towns of Scotland, averaging for the last decade 176, as compared with 149 in Glasgow, which is the largest city in the country and has the next highest rate. The death rate has fallen slightly in Scotland, as it has in England. The average rate in Preston for the 11 years ending with 1906 was 208, and the following year it was but 158. This was caused in part by an exceptionally favorable season, the death rate all over England being less than the normal. In Preston the rate fluctuated between 263, in 1897, and 150, in 1905, the variations being irregular from year to year.

The higher death rate of infants whose mothers are employed in industrial work may be ascribed broadly to two general causes, (1) prenatal conditions and (2) neglect after birth. Where mothers work unfavorable prenatal conditions are nearly constant from year

to year, but neglect after birth causes deaths to fluctuate accordingly as the season is more or less favorable for the survival of infants receiving improper care. In Dundee the deaths within a week of birth are very large, and those due to "immaturity" are more frequent than in cities where fewer mothers work. "It is impossible to apportion the cases of immaturity to definite causes, but it may be broadly stated that premature birth and other causes of death classified with it under the head of immaturity are due to congenital weakness in the infant, and this congenital weakness it is usual to attribute to prenatal causes." One of the leading English experts reports: "The effects of poverty and hard work while the child is being formed in the womb do undoubtedly have the effect of producing weakly children, who either grow up weakly or die."

The first phase of material neglect, after the child is born, forced upon the mother by the necessity of working in a factory, is the cessation of breast feeding. And the relative mortality of infants not fed at the breast appears to be higher in case of women engaged in industrial work, even in their homes, than in case of other mothers. The Research Committee of the Christian Social Union made an investigation of the causes of infant mortality among the London working classes. Factory women were not included within the scope of the inquiries. The following table shows the relative deaths per 1,000 infants, during the first year, classified according to the occupations of the mothers and to the manner of feeding:

NUMBER OF DEATHS PER 1,000 INFANTS DURING THE FIRST YEAR, BY CLASSIFIED OCCUPATION OF MOTHERS AND BY METHOD OF FEEDING.

Occupation of mother.	Breast fed.	Hand fed.	Mixed feeding.
Household duties only	118.8	220.3	113.7
Industrial work (outworkers)	147.3	258.4	292.3
Charing or doing other janitor service	221.4	237.4	143.5

Taking the whole number of children in all three classes who died in infancy, the death rate of breast-fed children is 145.1 per thousand, as against 230.4 per thousand of hand-fed children. Factory work, often resumed by the mothers even before the legal period of 4 weeks has expired, makes breast feeding impossible, and this accounts for the wide fluctuations from year to year in the infant mortality of such factory towns as Preston. In a favorable season, when milk can be kept cool and there are no sudden changes or extremes of temperature, the mortality from gastric diseases, the consequence mostly of artificial feeding, suddenly declines, only to rise again the next unfavorable summer.

The ignorant and careless feeding of the factory workers' children is a principal cause of their higher mortality as compared with hand-fed infants in middle-class homes. The National League for Physical Education and Improvement, of London, issues a circular to working mothers, entitled "How to bring up a baby." Among the rules are: Never force food down a child's throat, nor feed it when it retches. Never give a baby teething powders, soothing syrups, tea, coffee, beer, wine, spirits, herrings or bloaters, new bread, pastry, cheese, nuts, or unripe fruits.

A subcommittee appointed to inquire into the high rate of infant mortality at Preston, where, in spite of the temporary improvement recently shown, the average rate by 5-year periods has risen, since 1885, from 208 to 236, reported:

(1) First among these causes is the employment of female labor in mills. (2) The return of the mother to her work within a short period after her confinement, necessitating the nursing out of infants, with its attendant evils of artificial feeding, and violent and sudden changes of temperature during their removal night and morning through the cold air of the streets. (3) Ignorance of household duties of the ordinary factory girl, resulting in the house air being continually foul and poisonous, and the baby being woefully neglected as regards cleanliness, and fed upon unwholesome and utterly wrong food.

A typical Lancashire mother thus describes the diet of a 3-months old baby: "It 'ad some sausages this morning; it does like sausages." "Do you ever give it 'chips' (i. e., Saratoga chips)?" "Oh, ay, it's a bobby for chips, especially wi' vinegar—it'll ait owt, will that child!" No milk was taken at this house. These ill-fed children, if they survive, grow up with appetites jaded by improper feeding, not by overfeeding and the natural consequence is a craving for stimulants. A physician with long experience as a certifying surgeon in the factory districts, now retired and engaged in social philanthropic work, described how he visited a department some friends had established for feeding at noontime some of the poorer or more neglected school children of a factory suburb. Curious to test the quality of the food that was given, he tasted the soup, but was obliged to reject the mouthful he had taken because it burned with pepper. But the children were enjoying it, and when he brought the matter to the attention of the cook, the latter informed him that the little ones were incapable of relishing any but such most highly seasoned dishes. From pepper to spirits is but a step in the gastronomic economy of the factory worker's household. Lighter stimulants, such as tea, so extensively used by factory women, are taken to satisfy the natural craving for something warm where the diet is composed so largely of cold or improperly prepared food. And all these things trace

back, in a direct and luminously distinct line, to the employment of prospective wives and of mothers in the factories.

Yet even the most enthusiastic social reformers do not call for amendments to the law to prevent women—or even to prevent mothers—from working in factories. This employment is recognized as an economic necessity for the working people at present. It is a condition that it would be far better for a country never to reach—even at the expense of less wealth and so-called industrial progress—but once incurred it can not be remedied abruptly. However, amendments forbidding the employment of mothers immediately before and for two or three months after childbirth, combined if necessary with temporary pensions to working mothers, to carry them over this critical period, are advocated by men who would not be called extremists. Meanwhile the municipal authorities, through their lady health visitors and private associations, are doing something to meet the worst evils arising from these causes. The Dundee Social Union is making efforts in three directions:

(1) To encourage the breast feeding of infants; (2) to discourage married women's work; and (3) to provide a center for educational work among women.

(1) Breast feeding is encouraged by the provision of good, nourishing dinners, consisting of soup, meat, potatoes, milk pudding, and bread, at a cost of 2d. [4 cents] each (or free in necessitous cases) for mothers who are nursing their own babies and who are unable to provide a proper meal for themselves. (2) To discourage married women's work a maternity club provides 1s. 6d. to 3s. [37 to 73 cents] weekly for three months—varying according to the mother's previous payments—to mothers who stay from work to nurse their babies. During this time the mothers receive also free dinners. (3) The educative work is at present limited to the weekly weighing of the infants, with advice as to feeding and management, and simple, practical lectures by a qualified nurse, with long experience, on how to feed and clothe the baby. This part of the work, combined with the home visiting of birth cases by two lady health visitors specially appointed for this duty, has been found of great value, but the hope is that at no distant date a complete "school for mothers" may be developed. Any mother may bring her baby to be weighed, and during last year 293 availed themselves of the privilege. The results in the lessening of the rate of infant mortality are most encouraging. Among the 130 entered on the books for the year preceding August, 1907, the death rate was only 6 per cent as compared with 20 per cent for the district. Eighty-four per cent of these mothers fed their babies from the breast until they returned to work.

INFLUENCE OF THE FACTORY ACTS UPON INDUSTRY.

The industrial progress of Great Britain during the past century has been too marked to have been retarded materially by legislation. In some cases it was found advisable, after an amendment of general application had been made to the factory law, to except from this

provision a particular industry; or else such exceptions have been made when the amendment was first enacted. For instance, the regulations as to hours of work for women and young persons have been modified in case of fruit canneries, fish-curing establishments, and other places where perishable products are handled. Wherever the factory act has seriously hampered an industry as a whole, it has been changed, so far as possible without sacrificing the obvious welfare of the workers, to consult the needs of that industry. Consequently there are few, if any, instances where an entire branch of manufacture has been checked by legislation for the protection of employees. Neither can the progress of any industry, unless by somewhat fanciful speculation, be traced to the influence of the factory laws. But these laws do appear to have at least three positive effects, due to their changing the competitive relation of the different manufacturers within single industries.

Most regulative acts, when they are fairly enforced, are more burdensome to the small manufacturer than to the large one. Other things being equal, in most industries large factories are more economical than small ones, and the latter even up competition by working longer hours, sometimes at lower wages. We have the extreme of this relation in the sweat shop as compared with the large factory. The influence of the factory acts, not immediate and revolutionary but gradual and progressive, seems to have been in three directions—to force work out of the smaller and ill-equipped factories into the large ones; to force it out of small factories into unregulated home industries; or to compel the introduction of labor-saving machinery. As the last influence is primary, it may be first considered. When the hours of work of children in ropewalks and in factories for manufacturing twist tobacco were limited, power twisting and winding machinery was substituted for child labor in turning the wheels. In match factories the substitution of automatic machinery in the processes preliminary to dipping are traced directly to restrictions on the hours of children. In small printing offices folding machines have been introduced since the overtime of female workers was limited by law, and in a Liverpool tin factory a soldering machine was introduced for the same reason.

The rules regulating dangerous trades are found in practice to bear more heavily upon small shops, where employees often work under unwholesome conditions. The cost of complying with sanitary requirements, installing ventilating plants, and making obligatory changes in apparatus, constitutes a much larger fraction of the entire capital employed by a small shop master than by a modern factory, which is usually in a building erected expressly for manufacturing purposes, and has an up-to-date equipment. The cost of the attending physician falls relatively heavier on the small employer.

So, cases have been noted where small works, such as match factories, have closed rather than comply with the requirements of the law.

Where the work is of such a character that it can be carried on in the home, the factory owner with small capital naturally seeks to extend his business first in this direction, partly to evade the regulations as to hours of work and overtime of women and children, and partly because his resources do not enable him to provide factory accommodations conforming to the statutory requirements.

An American needs to bear in mind, in considering the influence of factory laws upon British industry and the reaction of industrial conditions upon those laws, that working conditions are not sheltered by a protective tariff and that the manufacturer has always been able to appeal to the dangers of unrestricted foreign competition in opposing an extension of the act. Due regard has been had to the limitations to industrial regulation that this situation theoretically imposes, and partly for this reason Parliament has taken extreme care in these laws to consult the interests of employers as well as of workers.

The most vigorous opposition to the factory acts and their various amendments has been centered on the limitations to the employment of women and children. Though this opposition is no longer so active as formerly—and among better employers and those representing the largest employing interests has ceased entirely—the arguments used by its exponents are still of interest because they contain so many falsified predictions. Most of these predictions related to the effects of the proposed laws upon industry, which it was supposed would be ruined by official regulation. These prophecies proved untrue, partly, perhaps, because they were fundamentally wrong in their first assumptions, but chiefly because they regarded industry as static. The prophets failed to foresee the constant change in the methods, processes, and operations of manufacture and the organization of business that made predictions based on existing conditions out of date almost as soon as uttered. Factory legislation may modify the channels through which industry flows, but can hardly check, even momentarily, its course.

CONCLUSION.

The examination of the condition of woman and child wage-earners in Great Britain, and more especially the relation of the State to this class of workers, which is here concluded, has of necessity been cursory and fragmentary. Largely it is based upon documentary and other printed material, interpreted in the light of personal observation and corrected by interviews upon the ground. Credit has not been given to the various authors quoted, because much is

taken from fugitive (though not for that reason less valuable or authoritative) reports, from various municipal and local publications, and from the rich social periodical literature which does so much credit to British humanitarian movements. Two works, Women Workers in Liverpool and in Birmingham, have been used almost exclusively for information relating to female employment in those two cities. They do not touch upon the condition of children, except indirectly. The report of the Dundee Social Union, published in 1905, is particularly valuable as a local study of conditions of factory employment affecting the homes, and of the social condition of workers in general. The publications of the Women's Industrial Council of London, of the Royal Society of Arts, of the British Institute of Social Service, of the Women's Trade Union League, of the Anti-Sweating League, of the Committee on Wage-Earning Children, of the Industrial Law Committee, of the British Association for Labor Legislation, of the Research Committee of the Christian Social Union, and of other local or general societies all contain material supplementing the government reports, and covering fields not yet made the subject of official investigation.

One movement, tending perhaps to influence the condition of women workers more than that of men, deserves more than the passing mention that can be here given it. That is the increasing effort, fostered both by private societies and by public means, to provide for the apprenticing of young people or for their industrial training by other agencies. Girls are now apprenticed, though usually without indentures, in several trades, such as cigar making, embroidery, dressmaking, polishing, to some extent in printing, and in some clothing factories. An association is investigating the opening for girls in different branches of skilled work, cooperating with the educational authorities to secure training facilities in the technical departments in those occupations that promise the most opportunities, and educating the girls themselves both in the desirability of training for a particular line of employment and in the fields of industrial work most likely to afford them a livelihood. Similar work is being done in the case of boys, and in some cities the educational authorities, or societies cooperating with them, do not drop the boy as soon as he has left his studies, but follow him up during the first years of after life and direct and counsel him toward skilled trades and a definite career. In a word, it is recognized by practical measures that one of the first ways to improve the condition of wage-earners from the weaker industrial classes is to increase their efficiency.

Many of the conditions surrounding woman and child workers in Great Britain are very bad. They are here described and accounted for entirely on the basis of British evidence. The whole

complex of conditions in which the lives of these workers are passed seems to casual observation worse than that of similar workers in most parts of America. But the darkest spots in America are in many ways quite as dark as any of those in the older country. And the value of a study of British conditions lies in the more vivid appreciation it gives us of the ultimate evil tendencies of even regulated industrialism upon workers. Broader and more generous remedies must be discovered for these evils before it is too late. Such remedies are being experimented with in England. Present conditions in that country are an improvement upon those of the past; but it is coming to be understood that the influence of the law must exceed the bounds of the factory. Reforms must extend into the homes of workers, governing the intimate affairs of domestic life, and they can be accomplished only by gradually introducing higher efficiency, higher earnings, and a more intelligent distribution of home expenditures. Fundamentally, therefore, the problem has two aspects—economic and educational. The importance of both aspects is recognized, and the method of education is understood. Economic readjustment to make possible higher earnings is a yet untried field of legislation. England seems disposed to enter it experimentally, however, by establishing wage boards.

MINIMUM WAGE ACT, 1908, NEW SOUTH WALES.

AN ACT to provide a minimum wage for certain persons; to make better provision in certain cases for the payment of overtime and tea money; to amend the Factories and Shops Act, 1896; and for purposes consequent thereon and incidental thereto. [Assented to, 24th December, 1908.]

*Be it enacted by * * * Parliament assembled, and by the authority of the same, as follows:*

PRELIMINARY.

1. This act shall commence on the first day of January, one thousand nine hundred and nine, and may be cited as the "Minimum Wage Act, 1908."

2. In this act,—

"Early-closing acts" means the Early-closing Act, 1899, the Early-closing (Amendment) Act, 1900, and the Early-closing (Hairdressers'-shops) Act, 1906.

"Employer" means—

(*a*) Any person for whom a workman or shop assistant works, and includes any agent, manager, foreman, or other person acting, or apparently acting, in the control of any workman or shop assistant;

(*b*) Any person, company, or association employing persons in a factory, warehouse, or shop, or occupying any office, building, or place used as a factory, warehouse, or shop, and includes any agent, manager, foreman, or other person acting, or apparently acting, in the general management or control of a factory, warehouse, or shop.

"Factory" means factory as defined in the Factories and Shops Act, 1896.

"Shop assistant" and "shop" mean respectively shop assistant and shop as defined by the early-closing acts.

"Workman" means—

(*a*) Any person employed at any handicraft, or in preparing or manufacturing any article for trade or sale, and includes any person employed in a bakehouse, or laundry, or in dye works, but does not include any inmate of an institution of a charitable nature;

(*b*) Any person who is employed in a factory or who works in a factory at any kind of work whatever.

3. (1) A workman works overtime within the meaning of this act when he works more than forty-eight hours in any week or after six o'clock in the evening on any working day.

(2) A shop assistant works overtime within the meaning of this act when he works more than one half-hour after the closing time of the shop in terms of the early-closing acts.

MINIMUM WAGE.

4. No workman or shop assistant shall be employed unless in the receipt of a weekly wage of at least four shillings [97 cents], irrespective of any amount earned as overtime.

Whosoever employs any such person in contravention of this section shall be liable to a penalty not exceeding two pounds [$9.73].

5. Whosoever, either directly or indirectly, or by any pretence or device, requires or permits any person to pay or give, or receives from any person any consideration, premium, or bonus for the engaging or employing by him of any female in preparing, working at, dealing with, or manufacturing articles of clothing or wearing apparel for trade or sale shall be liable on conviction to a penalty not exceeding ten pounds [$48.67]; and the person who has paid or given such consideration, premium, or bonus may recover the same in any court of competent jurisdiction from the person who received the same.

OVERTIME AND TEA MONEY.

6. (1) Where a workman or shop assistant, being a male under sixteen years of age or a female, works overtime, his employer shall, unless exempted under this section, pay such workmen or shop assistant not less than three pence [6 cents] for every hour or portion of an hour of the overtime worked.

Such overtime shall be paid for at intervals of not more than one month.

(2) Provided that where it is proved to the satisfaction of the minister that, by reason of the customs or exigencies of any trade or employment, or for other reason, it is desirable to exempt such trade or employment with regard to males under sixteen years of age, either generally or in any particular locality, from the operation of this section, he may grant such exemption for such time as he thinks fit.

(3) Provided also that payment for overtime may be claimed either under this section or under section thirty-seven of the Factories and Shops Act, 1896.

(4) If any employer fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds [$9.73].

7. Section thirty-seven of the Factories and Shops Act, 1896, is amended by inserting after the words "at the rate of time and a half" the following words: "Such payment shall be made at intervals of not more than one month."

8. Where any workman or shop assistant, being a male under sixteen years of age or a female, is required by his employer to work overtime on any day, the employer shall on such day pay such workman or shop assistant a sum of not less than sixpence [12 cents] as tea money, and if he fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds [$9.73].

SUPPLEMENTAL.

9. (1) Every employer shall—

(*a*) Keep a record, in the form prescribed, of overtime worked by such of his workmen or shop assistants as are males under sixteen years of age or females;

(*b*) Produce such record and furnish extracts therefrom to an inspector appointed as hereinafter provided when called upon to do so.

(2) If any employer fails to carry out any of the provisions of this section, he shall be liable to a penalty not exceeding ten pounds [$48.67].

10. (1) An inspector appointed under the Factories and Shops Act, 1896, may, in addition to the powers thereby conferred on him,—

(*a*) At any reasonable hour, by day or night, enter any building, room, or place where he has reasonable cause to believe a workman or shop assistant is employed;

(*b*) Examine any workman or shop assistant, either alone or in the presence of any other person, with respect to any matter dealt with in this act, and require him to sign a declaration of the truth of the matters in respect of which he is so examined;

(*c*) Require the production of and examine and take extracts from any record required by this act to be kept.

(2) Any person who obstructs any such inspector in the exercise of his powers under this section, or who by word or act, or by concealing any person, prevents the examination as aforesid of any workman or shop assistant, shall be liable to a penalty not exceeding twenty pounds [$97.33].

11. The governor may at any time after the passing of this act make regulations for carrying out its provisions and prescribing the forms to be used in its administration, and may in such regulations impose any penalty not exceeding ten pounds [$48.67] for any breach of the same.

A copy of such regulations shall be laid before both Houses of Parliament without delay.

12. Contraventions or breaches of this act, or of the regulations made thereunder, shall be reported to the minister by inspectors, and no proceedings in respect thereof shall be instituted without the authority of the minister.

13. The penalty for any such contravention or breach may be recovered before a stipendiary or police magistrate, or any two justices of the peace in petty sessions: Provided that proceedings for recovering any such penalty must be commenced within three months after such contravention or breach.

SAVINGS.

14. This act shall not apply where all the persons employed as workmen and shop assistants are members of the employer's family, related in the first or second degree by blood or first degree by marriage to the employer.

RECENT REPORTS OF STATE BUREAUS OF LABOR STATISTICS.

ILLINOIS.

Fourteenth Biennial Report of the Bureau of Labor Statistics of the State of Illinois. 1906. David Ross, Secretary of Board of Commissioners of Labor. x, 358 pp.

This report consists of two parts, as follows: Part I, Manufactures of Illinois, 167 pages; Part II, Statistics of women working in factories, 190 pages.

MANUFACTURES.—This part presents a continuation of the statistics of manufactures in Illinois for the year 1904, collected by the United States Bureau of the Census and received too late for publication in the Thirteenth Biennial Report of the Illinois Bureau of Labor Statistics. Tables are given showing statistics for the 31 cities having a population of 8,000 and over and for the leading industries of the State.

WORKING WOMEN IN FACTORIES.—This investigation was conducted in the cities of Chicago, Elgin, Bloomington, and Springfield during the year 1906. Data obtained from the pay rolls of 86 establishments were amended and corroborated by schedules secured from 2,545 individual employees engaged in 460 occupations and in 37 industries. Of these employees 451 were engaged in the meat packing industry, 228 in the manufacture of watches, 217 in the manufacture of paper boxes, 199 in the manufacture of shoes, 174 in laundries, and 170 in the manufacture of binding twine.

The average earnings reported by 2,258 employees for one current week was $7.49. Of these employees 5.3 per cent earned less than $4 per week, 40.7 per cent earned from $4 to $7 per week, 37.3 per cent earned from $7 to $10 per week, and 16.7 per cent earned $10 and over per week. Of the total employees 1,303 or 57.7 per cent reported working a full year of from 50 to 52 weeks. These reported average earnings for the year of $356. Tables are also given showing the conditions of the homes, the amount paid for board, time of leaving home for work, car fare, health, previous occupations, age at beginning work, present age, years attending school, etc., together with tables showing in detail for 37 industries statistics of employment and of wages and earnings of working women.

MARYLAND.

Sixteenth Annual Report of the Bureau of Statistics and Information of Maryland, 1907. Charles J. Fox, Chief. 204 pp.

The following are the subjects presented in this report: The child-labor law and its enforcement, 58 pages; inspection of clothing and other manufactures, 15 pages; free employment agency, 12 pages; census of buildings in Baltimore city, 21 pages; agricultural statistics, 14 pages; cost of living, 9 pages; in labor circles, 9 pages; strikes and lockouts, 15 pages; new incorporations, 22 pages; immigration, 3 pages; conferences, 1 page; financial statement of the bureau, 1 page.

The Child-Labor Law and its Enforcement.—The work of enforcing what is generally known as the child-labor law was placed upon the labor bureau by the state legislature in 1906. In this chapter is given the results of the work under this law during 1907. To children between 12 and 16 years of age 9,634 labor permits were issued—5,953 to boys and 3,681 to girls. Of this total 342 labor permits were issued to colored boys and 71 to colored girls. In Baltimore city the labor permits issued numbered 8,206—5,026 to boys and 3,180 to girls, of which 306 were to colored boys and 60 to colored girls. Applications for permits to the number of 1,550 were refused. The arrests made during 1907 for the violation of the law numbered 42.

A summary of the work of the various district inspectors shows that there were employed in the manufacturing establishments and factories of various kinds inspected in Baltimore city 2,188 males and 1,781 females under 16 years of age. In wholesale and retail stores and in offices there were employed 1,313 males and 458 females under 16 years of age. The average wages for the whole city for children engaged in the manufacturing industries was $3.79 per week, and for children employed in stores, offices, etc., $3.32 per week. Also there is given the degree of intelligence of the children, hours of labor per day, sanitary condition of surroundings, etc.

The chapter, further, contains a report on the applications for relief investigated by the Charity Organization Society, the need of relief being based upon the alleged loss of wages of children to whom labor permits had been refused. There were 53 cases referred to the secretary of the society, and reports were received in regard to 44 of the cases so referred.

Inspection of Clothing and Other Manufactures.—During the year 1907 the work of inspecting establishments where clothing and other articles are made which come under the act commonly known

as the "sweat-shop law" was actively pursued and with satisfactory results. The old-time sweat shop has in large measure been eliminated from the manufacture of clothing in the city of Baltimore.

After inspection and report thereon, during the year 1907 there were 916 permits issued to proprietors to work and employ 18,690 people in the manufacture, chiefly, of various articles pertaining to the clothing trade. Of the total permits 527 were issued to proprietors of factories and workshops and 389 to proprietors who worked in tenements and dwellings. The number of people who were authorized to be employed in the factories and workshops aggregated 17,819 and in the tenements and dwellings 871. Of children under 16 years of age there were employed 129 males and 393 females; of those under 14 years of age there were employed 28 males and 57 females. Tables, by inspection districts, give in detail number of employees by age and sex, kind of articles made, and conditions, sanitary, social, etc., existing in connection with each tenement, dwelling, and factory inspected.

Free Employment Agency.—During 1907, the year covered by this report, there were 188 applications for positions—161 by males and 27 by females. Of the applicants, 36 were laborers, 25 were clerks, 14 were farm hands, and the remainder were distributed among 56 other occupations. Applications for help numbered 61—for male help 40 and for female help 21. There were 66 positions filled—42 by males and 24 by females. As to character of positions filled, 26 were clothing workers, 11 were farm hands, 11 were laborers, and the remainder secured positions in 5 other lines of employment.

Cost of Living.—Under this title comparative prices of various articles of food and fuel in the Baltimore markets are presented for the years 1892, 1895, 1905, 1906, and 1907. A table is also given showing the average monthly retail prices of the principal articles of food for eleven months (February to December) of 1907, compiled from prices quoted in the daily papers of Baltimore. In conjunction with the prices of food commodities, etc., there are presented for 502 persons engaged in 37 different occupations in 1907 hours worked and earnings per day, days worked during the year, and average yearly earnings. For persons engaged in a part of the occupations the average yearly earnings for 1907 are placed in comparison with those for 1906, 1905, and 1904.

In Labor Circles.—Under this caption is presented the returns for 1907 from 56 labor organizations, having a reported membership of 7,221. A list of the unions reporting is given, with name of each organization, name and address of secretary, membership, hours of labor per day, and minimum rate of wages per week. For the skilled trades, the lowest reported union wage per week was $7 for bindery

women, while the highest was $30 for plasterers. Of the total unions, 24 reported the hours of labor as 8 per day, 17 as 9 per day, 4 as 10 per day, while the remainder reported the hours as from 7 to 12 per day.

STRIKES AND LOCKOUTS.—There are given for the year 1907 statistics of 11 strikes, which threw out of employment 1,025 persons (1,024 males and 1 female), with an estimated wage loss of $91,537. Of the 11 strikes, 8 were ordered by organizations and 3 were not; 6 were for increase of wages, 1 was against reduction of wages, and 4 were for other causes; 1 strike was successful, 2 were partly successful, and 8 were unsuccessful. So far as could be ascertained, there was $5,500 given in assistance to those on strike. Of each strike a brief account is given. No lockouts were reported for the year.

NEW HAMPSHIRE.

Seventh Biennial Report of the Bureau of Labor of the State of New Hampshire, 1907–8. L. H. Carroll, Commissioner. 199 pp.

The following subjects are presented in this report: Leading industries, 5 pages; statistics of manufactures, 72 pages; unoccupied manufacturing plants and water-power privileges, 19 pages; manual training, 10 pages; strikes, 2 pages; labor laws, 29 pages, labor organizations, 38 pages.

LEADING INDUSTRIES.—The manufacture of cotton goods is the most important industry in the State. In the 21 establishments reported as manufacturing cotton cloth in 1907 employment was given to 12,167 males, to whom was paid $5,756,157 in wages; 12,901 females, to whom was paid $4,145,321 in wages; 330 children under 16 years of age, to whom $72,242 was paid in wages, and 245 salaried clerks, whose salaries amounted to $406,440. Invested capital amounted to $25,960,703, and goods to the amount of $38,254,160 were produced. Like statistics are given for each of the other 12 leading industries.

STATISTICS OF MANUFACTURES.—For the year 1907 reports were received from 1,762 establishments engaged in 49 specified industries and 62 establishments engaged in other industries, not specified. Tables are presented showing by industries and by location the capital invested, employees by classes, wages and salaries paid, and value of products. The following summary statement shows aggregate figures for the State:

Establishments reporting	1,824
Capital invested	$119,653,209
Value of product	$164,693,442

Average number of wage-earners:	
Males	62,568
Females	24,694
Children under 16 years of age	986
Total	88,248
Wages paid:	
Males	$30,048,077
Females	8,305,996
Children under 16 years of age	189,113
Total	38,543,186
Salaried employees	2,180
Salaries paid	$2,481,404

UNOCCUPIED MANUFACTURING PLANTS AND WATER-POWER PRIVILEGES.—This is a list of the manufacturing plants in the State unoccupied, as well as of water-power privileges, developed and undeveloped, with a statement of the dimensions and condition of the plants, industry for which each was originally intended, and location.

MANUAL TRAINING.—Under this head several papers by principals of schools and other educators are given, discussing the practical value of manual training in the public schools.

STRIKES.—Brief mention is made of one strike occurring in 1908, which was unsettled at the time of making the report.

LABOR LAWS.—This section reproduces the various laws of the State affecting labor.

LABOR ORGANIZATIONS.—This is a list of the labor organizations in the State, with date of organization, membership, names of officers, and dates of meetings of each.

NORTH CAROLINA.

Twenty-first Annual Report of the Bureau of Labor and Printing of the State of North Carolina for the year 1907. H. B. Varner, Commissioner. 344 pp.

This report consists of seven chapters, as follows: Condition of farmers, 80 pages; Condition of the trades, 21 pages; Miscellaneous factories, 87 pages; Cotton, woolen, and knitting mills, 62 pages; Furniture factories, 16 pages; Newspapers of the State, 46 pages; Railroad employees, 15 pages.

CONDITION OF FARMERS.—The report on this subject is compiled from returns made by representative farmers residing in different sections of the State. The data is presented, by counties, in five tables, which show condition of land and labor, wages, cost of living, etc., cost of production of principal crops, market price of

crops, and profit on production. In all (98) counties labor was reported scarce; 96 counties reported that Negro labor was unreliable, 1 that it was reliable, and 1 that there was no Negro labor; 52 counties favored immigration, 46 opposed it; cost of living was reported as having increased in 97 counties, and in 1 as not having increased. The highest and lowest monthly wages paid for farm laborers in each county were reported, and for men the average of the highest wages so reported was $25.03, and of the lowest $15.32; for women like averages were $15.47 and $10.23, and the average wages of children were $9.39. For all classes of farm labor an increase of wages was reported from 92 counties, 6 reporting no increase.

CONDITION OF THE TRADES.—The data from which the tables presented under this title were compiled were secured from representative men engaged in the various trades considered. These reports from the wage-earners of the State show daily wages and wage changes, working conditions and cost of living, hours of labor, conditions of apprenticeship, etc. Of the wage-earners making returns, 63 per cent reported an increase of wages and 37 per cent no change; 54 per cent made full time and 41 per cent part time; 88 per cent reported cost of living increased and 12 per cent no change; 40 per cent favored an 8-hour day, 10 per cent a 9-hour day, and 45 per cent a 10-hour day; 88 per cent favored fixing a day's work by law and 7 per cent opposed it. The average wages paid per day in the different trades were: Blacksmiths $2, brick masons $2.50, carpenters $2.01, harness makers $1.25, machinists $3.20, miners $1.75, painters $2.44, plasterers $4.50, printers $2.43, textile workers $1.27, and wheelwrights $1.93.

MISCELLANEOUS FACTORIES.—Under this classification the number of factories reporting was 587, of which 523 reported an invested capital of $42,085,790; 568 reported the number of employees as 30,991, and 579 reported the number of persons dependent on them for a livelihood as 92,081. An 8-hour day was reported by 6 factories, a 9-hour day by 7, a 9½-hour day by 4, a 10-hour day by 436, a 10½-hour day by 5, an 11-hour day by 48, a 12-hour day by 69, and a day ranging from 10 to 12 hours in length by 4. An increase in wages was reported by 74 per cent of the factories, no change by 17 per cent, while 9 per cent made no report. Of the adult employees 84 per cent were able to read and write and of the children 87 per cent. The highest daily wages paid was $2.47 and the lowest $0.93. In 69 per cent of the factories wages were paid weekly, in 17 per cent semimonthly, in 11 per cent monthly, in 1 per cent daily, and in 2 per cent by the piece. The tables presented show for each establishment the product manufactured, capital stock, horsepower, days in operation, hours of labor,

number of employees, and number of persons dependent on factory, highest and lowest wages, etc.

COTTON, WOOLEN, AND KNITTING MILLS.—The number of mills covered by this presentation is 329, with an aggregate invested capital of $45,807,535. The number of spindles in operation was 2,768,576, of looms 52,272, of knitting machines 5,161, together requiring 114,790 horsepower.

The number of employees reported by 97 per cent of 284 mills (281 cotton and woolen and 3 silk) was 25,353 adult males, 20,221 adult females, and 6,604 children, a total of 52,178. The number of persons dependent upon 83 per cent of these mills was 127,218. Of the adult employees 86 per cent, and of the children 80 per cent, were able to read and write. The average of the highest daily wages (based on the highest wages paid to any employee by each establishment) was $2.56, lowest $0.82, for men; for women the average highest wages were $1.31, lowest $0.67, and for children the average wages were about $0.60. An increase of wages was reported by 87 per cent of the establishments, 7 per cent reported no change, and 6 per cent made no report.

The number of employees reported by the 45 knitting mills was 1,271 adult males, 2,640 adult females, and 777 children, a total of 4,688. The number of persons dependent upon 59 per cent of these mills was 8,992. Of the adult employees 94 per cent, and of the children 93 per cent, were able to read and write. The average hours constituting a day's work was 10. For men the average of the highest daily wages was $2.09, the lowest $0.74; for women the average of the highest daily wages was $1.42, the lowest $0.53, while for children the average daily wages were $0.55. An increase of wages was reported by 68 per cent of the establishments, 18 per cent reported no change, and 14 per cent made no report.

Relative to the employment of children under 12 years of age in the factories, 86 per cent of the employers were opposed to it, while 5 per cent favored it and 9 per cent expressed no opinion; 80 per cent of the knitting-mill employers were opposed to it, while 9 per cent favored it and 11 per cent expressed no opinion.

FURNITURE FACTORIES.—There were 104 furniture factories which reported capital stock, power, class of goods manufactured, wages, hours of labor, days in operation, number of employees, persons dependent on factory, etc. The 104 factories had an aggregate capital of $3,457,767, used 10,880 horsepower, and employed 6,549 wage-earners. The average of the highest daily wages paid adults was $2.39; the lowest $0.91; the average daily wages paid children was $0.55. Of both the adult employees and of the children 88 per cent could read and write. An increase of wages was reported by 93 per cent of the factories, 3 per cent reported no change, and 4 per cent

made no report. Relative to the employment of children under 14 years of age, 78 per cent of the employers were opposed to it, while 11 per cent favored it and 11 per cent expressed no opinion.

RAILROAD EMPLOYEES.—In this chapter statistics are presented showing, by occupations, for each railroad reporting, the number of employees and average wages paid. The following table shows the number and average daily wages of persons employed on the steam railroads of the State:

NUMBER AND AVERAGE DAILY WAGES OF RAILROAD EMPLOYEES, BY OCCUPATIONS, 1907.

Occupation.	Number of employees.	Average daily wages.	Occupation.	Number of employees.	Average daily wages.
Station agents	701	$1.43	Other shopmen	1,831	$1.51
Other station men	2,091	1.04	Section foremen	609	1.53
Engineers	763	3.13	Other trackmen	5,440	1.02
Firemen	924	1.44	Switchmen, flagmen, and watchmen	515	1.27
Conductors	660	2.55	Telegraph operators	447	1.91
Other train men	1,947	1.29	Other employees	2,643	1.18
Machinists	500	2.61			
Carpenters	558	1.86			

Resulting from the movement of trains, there were during the year 322 accidents to passengers, 21 fatal and 301 nonfatal; 34 to postal clerks, express messengers, and Pullman employees, all nonfatal; 790 to employees, 53 fatal and 737 nonfatal, and 272 to other persons, 89 fatal and 183 nonfatal, making a total of 163 fatal and 1,255 nonfatal accidents. From other than the movement of trains there were 624 accidents to persons, none of which were fatal.

A presentation is made concerning the operation of each of ten street railways, giving mileage, capital stock, funded debt, gross earnings, operating expenses, income from operation and from other sources, number of passengers carried, and passengers carried per mile of track. A table is also given showing the capitalization, earnings and expenses of the telephone companies doing business in the State, with the number of telephones and the average monthly charge for each.

RECENT FOREIGN STATISTICAL PUBLICATIONS.

CANADA.

Report of the Department of Labor of the Dominion of Canada for the fiscal year (9 months) ended March 31, 1907. 170 pp.

The first of the fourteen sections which comprise this report consists of a general review of the material published during the year in the various issues of the Labor Gazette, a monthly devoted to industrial and labor conditions throughout Canada, and printed in both English and French.

From a statement showing in detail by industries the labor-organization movement in Canada, it appears that in 1904 there were 152 unions formed and 109 dissolved, in 1905 there were 103 unions formed and 101 dissolved, and in 1906 there were 154 unions formed and 85 dissolved. In 1905 in the several Provinces of the Dominion there were 220 employers' associations.

The section of the report devoted to conciliation and arbitration shows that the intervention of the Department of Labor, under the Conciliation Act of 1900, was requested in the settlement of labor disputes involving 900 working people on two occasions during the year 1906–7, and that since the passage of the act in July, 1900, intervention has been requested on 41 occasions.

An account is given of the inquiry by the Royal Commission into the dispute between the Bell Telephone Company and its operators at Toronto.(a)

Since the passage of the Railway Labor Disputes Act, in 1903, there has not been a strike on any of the railroads of the Dominion of such a nature as to seriously affect transportation. During the year 1906–7 there was not even occasion to apply the provisions of the act to a threatened strike.

Notice is given of the important features of the Industrial Disputes Investigation Act, 1907.(b)

During the fiscal year the " fair wages " officers of the department prepared fair-wages schedules for insertion in 150 separate contracts,

[a] For a digest of the report of this commission see Bulletin of the Bureau of Labor, No. 75, pp. 611–613.

[b] For the provisions of and comments upon this law see Bulletin of the Bureau of Labor, No. 76, pp. 657–740.

which were awarded, or were about to be awarded, during the year. Of this number, 53 were in connection with public buildings or works being executed under contract for the department of public works, 84 in connection with contracts or subsidy agreements entered into with the department of railways and canals, 10 for contracts awarded by the department of marine and fisheries, and 3 for insertion in contracts awarded by the commissioners of the Transcontinental Railway. In every case the rates of wages fixed in the fair-wages schedule were based upon what were considered fair and reasonable rates in the localities in which the work was to be undertaken. Since the establishment of the department of labor, in 1900, the fair-wages officers have prepared some 935 fair-wages schedules for public contract work.

During the calendar year 1906 there were 138 labor disputes in Canada, which involved 21,606 working people directly and 4,408 working people indirectly. The loss of time amounted approximately to 490,400 working days. The disputes affected 864 establishments directly and 79 indirectly. The principal causes of disputes were demands for increase in wages and against the employment of particular persons. Of the 130 disputes which were terminated during the year, 67 were settled by negotiations between the parties concerned, 28 by the resumption of work without negotiations, 18 by the employment of other work people in the places of the strikers, 4 by conciliation, 3 by arbitration, and the remainder by other methods. There were 50 strikes which resulted in favor of the employers, 41 in favor of the employees, 23 were compromised, 5 were partly successful for the strikers, and the results of the remaining strikes were indefinite or unknown. During the years 1901 to 1906 there were 715 trade disputes in Canada—104 in 1901, 123 in 1902, 160 in 1903, 103 in 1904, 87 in 1905, and 138 in 1906. Out of the total disputes during the period, the causes of 310 of them related to wages and hours of labor; 350 disputes were settled by negotiations between the parties concerned, and 61 by conciliation and arbitration; 244 disputes resulted in favor of employers, 214 in favor of employees, and 166 were settled by compromise.

There were in Canada during the calendar year 1906, 1,107 fatal and 2,745 nonfatal industrial accidents. Of fatal accidents the greatest number (252) was in the railway service, and of nonfatal accidents the greatest number (562) was in the metal trades. Mining had 119 fatal and 174 nonfatal accidents, while in lumbering there were 119 fatal and 156 nonfatal accidents.

Accounts are given in two sections of the report of the action of the department of labor in reference to false representations to induce or deter immigration to the Dominion and of the administration of the alien labor laws.

GERMANY.

Die Eingetragenen Genossenschaften im Königreich Bayern. Nach dem Stande in den Jahren 1902 und 1903 und mit einer vorläufigen Übersicht über den Stand von Ende 1905. Herausgegeben vom Kgl. Statistischen Bureau. Munich, 1906. 47+83* pp.

The rapid increase in the number of cooperative societies in the Kingdom of Bavaria during the last 15 years led the statistical bureau of that State to make this report on their scope and operations.

In the German Empire in 1902 there were 20,755 cooperative societies with 3,139,519 members; in Bavaria there were 3,433 societies with 349,328 members. The preliminary figures for the end of 1905 show that there were in that year in Bavaria 4,073 societies with 434,145 members. The average membership in Bavaria in 1902 was 102 per society. This figure shows a tendency for the smaller type of society to predominate. In the same year the average membership of societies in other German States was as follows: Prussia, 145; Saxony, 484; Wurttemberg, 157; Baden, 221; Hessen, 138. The ratio of membership to population is as follows: Out of each 100,000 population, the number of members for the whole Empire is 1,809; in Prussia it is 1,567; in Bavaria, 1,621; in Saxony, 3,027; in Wurttemberg, 3,323; in Baden, 3,231; in Hessen, 3,560, and in Alsace-Lorraine, 1,388. The three States of Bavaria, Prussia, and Alsace-Lorraine therefore show a smaller ratio to population than the average for the Empire.

The experience of Bavaria shows that the cooperative movement began in the cities and has extended gradually to the rural districts, and that at present the proportion of members to population is higher in the rural districts than it is in the cities. The development in the rural sections was at first less rapid, largely owing to the unrestricted liability of members. In 1889 the law regulating cooperative societies was revised and permitted limited liability of members, authorized the formation of federations of societies, and required periodical revisions of operations. In addition the Bavarian government took steps to encourage their creation, particularly agricultural societies. The most important of these were the creation of the Bavarian Federation of Cooperative Loan Societies and of the Central Loan Fund, with which only such societies as were members of the federation could affiliate. Recently the Government has encouraged the formation of the Bavarian Handworkers' Cooperative Society and of the Central Fund of the Handworkers' Cooperative Society in Munich. The latter has expended considerable sums in supporting individual societies, such as those for the conduct of supply depots.

On the question of liability of members the returns show that in 1902, of the 3,433 societies, 3,046 societies with 266,545 members had unlimited liability, and 387 societies with 81,779 members had limited liability. On the basis of membership 76.3 per cent of the members had unlimited liability, 23.4 per cent had limited liability, and 0.3 per cent could not be definitely placed in either group. The character of work undertaken has a close relation to the question of the limitation of the liability of the members, as is shown by the fact that the societies with unlimited liability are almost exclusively cooperative loan societies.

The number and membership of the cooperative societies, classified according to their principal objects, in 1902 and 1903, are as follows:

NUMBER, MEMBERSHIP, AND OBJECT OF COOPERATIVE SOCIETIES IN BAVARIA, 1902 AND 1903.

Object of society.	1902.		1903.	
	Number of societies.	Number of members.	Number of societies.	Number of members
Loan societies	2,593	262,800	2,746	283,186
Societies for purchase of raw materials:				
(a) Industrial	13	399	23	645
(b) Agricultural	210	22,000	214	22,780
Retail dealers' societies for the purchase of commodities	5	558	7	728
Societies for procuring machinery:				
(a) Industrial	20	909	21	982
(b) Agricultural	92	2,606	107	2,928
Warehouse, elevator, etc., societies:				
(a) Industrial	10	686	10	686
(b) Agricultural	12	536	13	545
Raw material and warehouse societies:				
(a) Industrial	19	843	24	1,030
(b) Agricultural	5	234	7	316
Productive societies:				
(a) Industrial	8	208	8	216
(b) Agricultural—				
1. Creameries, dairies, etc	228	10,604	279	13,237
2. Other	37	2,152	42	2,588
Societies for procuring and maintaining brood animals	7	834	8	928
Consumers' societies	128	38,302	146	47,356
Dwelling and building societies	37	5,333	36	5,185
Miscellaneous societies	9	324	9	487
Total	3,433	349,328	3,700	383,823

The most prominent feature of the preceding table is the predominance of the loan societies. Of these the agricultural loan societies are by far the most numerous, 2,459 such societies in 1902 having a membership of 192,564, and 2,606 in 1903 having a membership of 212,891. The forms of society next in frequency are the agricultural societies for carrying on productive operations and for the purchase of raw materials. The consumers' societies are fourth in number and second in membership.

The federal law of 1889 regulating cooperative societies requires them to submit their operations and financial condition to an examination at least once every 2 years. This examination must be made

by an expert accountant who may not be connected with the society. To meet this requirement the societies have organized federations for the employment of expert accountants to conduct these examinations. In 1902 there were 15 such federations legally authorized by the Government to conduct this work. Only 15 per cent of the societies were not affiliated with these federations at this date.

The relation of the individual members to the total liability of the society is an important feature of the cooperation problem. According to the law on cooperative societies the liability of each member is equal to his share in the society, and a limit must be placed by the constitution on the amount of stock held by any one person. The statistics for Bavaria show that in 1902 the highest individual liability was 10,000 marks ($2,380) in the case of 1 society; 5,000 marks ($1,190) for 3 societies; 4,000 marks ($952) for 1 society; 3,000 marks ($714) for 1 society; 2,500 marks ($595) for 1 society; 2,000 marks ($476) for 5 societies; 1,500 marks ($357) for 1 society, and 1,200 marks ($285.60) for 3 societies. These are the highest ranges and the others grade down to very small amounts. The class of business conducted by the societies also influences the range of liability of the members. Thus in the case of loan societies with limited liability there was a tendency to have shares of larger amounts, as, for instance, shares and corresponding liability of 1,000 marks ($238) each. On the other hand, in the case of the societies conducting retail stores, there was only one instance of the shares being 200 marks ($47.60), all the others being less than 50 marks ($11.90) each.

The formation of federations of cooperative societies was made possible by that section of the law of 1889 which permitted societies to be formed with limited liability. Previous to that date members of societies objected to the creation of federations because the rule requiring unlimited liability would lay upon them possible obligations of larger amounts than they cared to be responsible for. On December 31, 1902, there were 15 such federations; 5 of them were composed of loan societies; 2 were composed of agricultural, and 1 of industrial societies for the purchase of raw materials, and 7 were composed of societies for the marketing of agricultural products.

An appendix to the report shows the preliminary statistical data for the year 1905.

Die Arbeits- und Lohnverhältnisse in den städtischen Betrieben 1906. Mittheilungen des Statistischen Amts der Stadt Magdeburg. Magdeburg, 1906. 74 pp.

This volume presents the facts concerning the conditions of employment and the wages of the employees of the city of Magdeburg. The report states the contract of employment, terms upon which

employees are engaged, methods of dismissal, of furlough, etc. The hours of labor by the day, the duration of night work, the regulations for overtime, Sunday work, etc., for the various classes of occupations are given. The methods of wage payments, time wages, piece wages, payments in kind, etc., are stated in detail. The provisions for sickness, accident, invalidity, and death are specified. Statistical tables on these subjects are also given.

GREAT BRITAIN.

Annual Report of the Chief Inspector of Factories and Workshops for the year 1907. Report to the Secretary of State for the Home Department. xliii, 321 pp.

At the end of the year 1907 there were upon the registers of the factory department 107,321 factories, 7,210 laundries (with and without power), and 142,662 workshops, or a total of 257,193 establishments, an increase over 1906 of 2,004 establishments. The works under inspection did not include docks, warehouses, buildings, etc., or home-work premises. The number of persons employed in factories, including laundries with power was (approximately) 4,750,000, and in workshops, including laundries without power, 750,000.

For purposes of inspection the United Kingdom is divided into five inspection districts, each under a superintending inspector, as follows: Southern division, midland division, northeastern division, northwestern division, and the Scotland and Ireland division. The report of each supervising inspector comprises for his district an account of the organization of the working staff and the scope of the work of inspection; complaints from officials, operatives, and others respecting sanitation, safety measures, hours of labor, illegal employment, etc.; industrial developments and state of trade in the district; sanitary conditions and improvements; industrial accidents; safety devices, their efficiency and defects, etc.; industrial poisoning (anthrax, arsenic, mercury, and lead poisoning, etc.); dangerous trades; employment and hours of labor, especially relating to children and women; holidays, overtime, half time, night work, and meal times; the employment of children as half timers and of those not exempt from school; action of the local sanitary authorities in connection with the factory department; administration of the law relating to particulars for piecework; operation of the truck acts; prosecutions for violations of the factory laws; inquest notices, etc. In addition there are reports from the superintending inspector for the dangerous trades, the principal lady inspector, the inspector of textile particulars, the electrical inspector, and the medical inspector. Special reports are also given on the manufacture of shuttles from African box-

wood, on lace dressing, on shipbuilding accidents, and on the manufacture of matches. Tables presenting in detail and in summary form statistics pertaining to the various features of factory and workshop employment accompany the inspection reports.

The establishments added to the registers of the factory department during 1907 numbered 28,445 (510 textile and 8,838 nontextile factories, 274 laundries with power and 528 without power, and 18,295 workshops), while those of the different classes removed from the registers numbered 26,441, resulting in a net gain in the establishments added of 0.8 per cent.

During 1907 there were 124,325 industrial accidents reported, 80,847 being reported to inspectors only, and 43,478 to certifying surgeons. Those reported to inspectors only were nonfatal in result and of a minor character. In the table following the accidents reported to certifying surgeons are shown by degree of injury (fatal and nonfatal) and by sex and age:

ACCIDENTS REPORTED TO CERTIFYING SURGEONS, 1907.

Sex and age of persons injured.	Fatal accidents.	Increase over 1906.	Nonfatal accidents.	Increase over 1906.	Total accidents.	Increase over 1906.
Males	1,157	59	37,129	6,748	38,286	6,807
Females	22	4	5,170	971	5,192	975
Total	1,179	63	42,299	7,719	43,478	7,782
Adults (over 18)	1,071	60	33,148	5,835	34,219	5,895
Young persons (13 to 18)	108	4	8,962	1,846	9,070	1,850
Children (12 to 14)	.....	a 1	189	38	189	37

a Decrease.

In the textile industries there were 6,542 accidents, of which 95 were fatal and 6,447 nonfatal; in the nontextile industries there were 33,768 accidents, of which 755 were fatal and 33,013 nonfatal; and in laundries, docks, buildings under construction, etc., there were 3,168 accidents, of which 329 were fatal and 2,839 nonfatal. In the textile industries the greatest number of accidents was in cotton spinning and weaving, with 49 fatal and 3,899 nonfatal accidents, followed by wool, worsted, and shoddy, with 30 fatal and 1,461 nonfatal accidents; in the nontextile industries the greatest number of accidents was in shipbuilding, machines and machinery, and the metal trades, with 442 fatal and 21,021 nonfatal accidents.

The cases of industrial poisoning reported in 1907 numbered 653, of which 40 resulted fatally. Of the total 619 were cases affecting adults, of which 39 were fatal, and 34 were cases affecting young persons and children, of which 1 was fatal. There were 578 cases of lead poisoning, of which 26 were fatal, 7 cases of mercury poisoning,

1 case of phosphorus poisoning, 9 cases of arsenic poisoning, of which 2 were fatal, and 58 cases of anthrax, of which 11 were fatal.

The report of the superintending inspector for dangerous trades shows that during 1907 there were in the United Kingdom, where particular dangers arise and special precautions are necessary, 18,697 industrial establishments operating under special rules and regulations.

Generally the employment of children as half timers is becoming less frequent, though in certain towns the numbers have increased, especially in districts largely devoted to the cotton industry.

Compensation for Industrial Diseases. Report to the Secretary of State for the Home Department. 1908. 4+73 pp.

This document is a supplementary report of the committee appointed to inquire and report what diseases and injuries, other than injuries by accident, were due to industrial occupations, were distinguishable as such, and could properly be added to the diseases enumerated in the third schedule of the Workmen's Compensation Act, 1906.

In the main report of the committee it was stated, with respect to the addition of glass workers' cataract to the schedule, that the question was one in which statistics were of the first importance. In the present report is given the results of an investigation made by the medical member of the committee with a view to determining the incidence of cataract among glass workers generally. He examined the eyes of 513 persons exposed to furnace glare in glass works and, for comparison, of 278 persons not so exposed. He found that all classes of glass-furnace workers appeared to suffer, and that among them between the ages of 30 and 40 opacities of one kind or another in the lens were about five times, between 41 and 50 about twice, and at 51 years of age and over more than three times as frequent as in those engaged in other work.

After devoting careful consideration to the question the conclusion was arrived at that if glass workers' cataract were added to the schedule in the same manner as other industrial diseases, the work people would lose more than they would gain, as employers would be likely to impose a medical examination of the eyes and those who revealed symptoms of opacity in the lens would find their chances of obtaining employment seriously prejudiced. It was recommended therefore that the disease be added to the first column of the schedule of industrial diseases for which compensation may be claimed; that "Processes in the manufacture of glass involving exposure to the glare of molten glass" be added to the second column; but that the compensation should be made payable only in cases

where an operation is undergone and for a period not exceeding six months. The period is thus limited to the time immediately preceding and succeeding the operation. The operation for the removal of cataract, it is stated, is attended by practically no danger.

Consideration was also given to the disease known as "telegraphists' cramp." This disease was referred to as an occupational neurosis or fatigue spasm. It shows itself by the production of jerkiness and illegibility in operating and a disability for work limited to the particular movements involved. The committee was of the opinion that the disease should be considered specific to the employment and that it should be added to the schedule as a subject for compensation.

Report from the Select Committee on Home Work, August 8, 1907. 1908. x, 290 pp.

This report was made August 8, 1907, and presents the evidence taken before a committee of the House of Commons appointed June 4, 1907, "to consider and report upon the conditions of labor in trades in which home work is prevalent, and the proposals, including those for the establishment of wages boards and the licensing of work places, which have been proposed for the remedying of existing abuses." The committee in its report makes no comment on the evidence and recommends that a committee on the same subject be appointed at the next session of Parliament.

WAGES BOARDS.—Much valuable testimony was brought out by the questions of the committee. Among others, Mr. G. R. Askwith, a barrister who had acted as an arbitrator, umpire, and conciliator during a number of years in many trades disputes, appeared in favor of the establishment of wages boards. This witness believed that difficulties would be met with in the establishment of minimum rates of payment, but that they were difficulties which a practical wages board could overcome. The cost of such boards was not considered by him to be a serious factor in comparison with the volume of business done by the interested trades and leaving out of consideration the cost of strikes.

LICENSING.—Another witness who gave valuable testimony was Miss Clara Collett, an official of the Board of Trade, the senior investigator of women's industries. During the previous year, under her direction over 1,700 home workers in the making of women's clothing were visited, principally in the north of Ireland and in London. This witness was of the opinion that the proposal to license work places would be of little benefit to the workers. A refusal to issue a license for sanitary reasons would only result in depriving the worker of possible earnings without improving conditions. According to her testimony, the majority of home workers live in well-

kept houses and do not need the sanitary inspection. They are not well to do from the standpoint of the middle classes, but they feel that there are a great many people poorer than themselves. In London 60 per cent of the home workers visited were married women, hence not entirely dependent upon their earnings. Such persons will not work for the low rates that a widow with two or three children would accept. According to the witness, the cases where the earnings are very small and the conditions distressing are greatly in the minority. Numerically there may be many such cases, but these, when particularly noticed, produce an exaggerated impression.

Under the Factory and Workshop Act, 1901, a room in which as few as two persons are employed may be designated a "tenement workshop." The statement that there were "very few foreign workers amongst the home workers" is therefore hardly comparable with American conditions.

The number of women and girls registered under the Factory and Workshop Act is about 400,000. This number deducted from the number shown by the census as employed in the clothing trades gives 300,000 as the approximate number of women and girls engaged in the clothing trades and not in the factories and workshops.

Report from the Select Committee on Home Work, July 22, 1908. 1908. xlix, 216 pp.

This document contains the report of a committee of the House of Commons, appointed February 11, 1908, in accordance with the recommendation of the committee on home work which reported in August, 1907. The duties of the committee of 1908 as outlined in the order of reference, were the same as those of the committee appointed in the preceding year. The present report was made July 22, 1908.

Home workers in Great Britain are divided into three main groups. In the first and second are those who are under the protection of the Factory and Workshop Act, by reason of their employing either members of their own families or outsiders. The third group consists of those who employ no assistants, but undertake work for others and do it in their own homes. It is with this group that the committee was mainly concerned. In this group are those women who are dependent upon their work for support, those who obtain outside work only when their husbands are out of employment, and the wives and daughters of men in regular employment who wish to increase the family income.

The committee was convinced that the earnings of a large number of people—mainly women who work in their homes—are so small as alone to be insufficient to sustain life in the most meager manner, even when they toil hard for extremely long hours. The consequence is that when those earnings are their sole source of income the con-

ditions under which they live are often not only crowded and insanitary, but altogether pitiable and distressing. More or less similar conditions are stated to prevail, not only in all the great countries on the continent of Europe, but also in the United States and in Australasia.

WHY THEIR EARNINGS ARE SMALL.—The reasons why the earnings of many home workers are small are many and varied. Among them are the following:

Much of the work is sewing, which requires but little previous training and can be done at irregular hours and in the intervals of household duties. Since those persons who are quickest, most regular, and most reliable are given preference by employers when selecting factory workers, those who are slow, owing to age, feeble health, inexperience, incompetence, or lack of power, energy, or disposition to work, drift into home work to earn a livelihood. These conditions and influences tend to make the supply of home workers very large and elastic.

A large proportion of the home workers are engaged in the production of articles in competition with machinery, and the cost of making the articles by machinery fixes the rate which can be paid to them. If the same rate per article be paid to the two classes of workers, the home worker will be able to earn only one-fourth as much per hour as the factory worker. In such cases, the trouble is not that the rate of pay is unduly low, but that the home worker is handicapped by her conditions and appliances. Many articles made by the home workers are such that a very large number of those who require them can make them for themselves. Unless the price at which these articles are sold is low, those who would otherwise be the purchasers will buy the materials and make the articles at home. In some classes of work the competition of foreign-made articles was said to be an important factor in depressing the price paid.

In many trades middlemen intervene between the factory and the home worker, making a charge for distributing and collecting the work, so that the worker does not obtain even the low price paid.

Since the women home workers are very poor and helpless and work separately, they are unorganized. Hence they can not act together to promote common interests and are powerless to resist the tendency to reduce rates, caused by the keen competition of the employers.

The imposition by law of conditions and obligations upon owners and occupiers of factories and workshops tends to encourage employers to resort to home work in order to avoid compliance with the requirements of Parliament and the visits and supervision of the inspectors appointed to enforce them. The more numerous and stringent those regulations become the greater is the temptation to evade

them by employing persons who work under conditions to which they do not apply.

PROVISIONS OF THE EXISTING LAW REGARDING HOME WORK.—Home workers' premises come under the operation of the general law of public health relating to sanitation, etc., of dwellings and under special provisions in the Factory and Workshop Act, 1901. The most important is that contained in section 108. This gives power to the district council to prohibit the giving out of work to be done in premises which are injurious or dangerous to the health of the persons employed therein. For the purpose of furnishing the information necessary to enable the local authority to exercise this power persons giving out work are required to keep a list of all persons to whom work is given out, and to send copies of such lists semiannually to the local authority. In practice these lists are found to be usually incomplete and furnish no sufficient indication of the number of outworkers in any trade.

An important provision in connection with the payment for work is contained in the "Particulars" section of the Factory and Workshop Act, 1901. This provision, the enforcement of which is placed upon the inspectors of factories, is intended to secure to the outworker information beforehand as to the price he is to receive and to protect him against arbitrary alterations or reductions.

The committee was of the opinion that the provisions of existing law had failed to produce any real amelioration of the condition of home workers, and that legislation of a far-reaching character was required.

AUSTRALASIAN EXPERIENCE.—Careful attention was given to the report of a commissioner appointed by the home department to investigate the working of the systems adopted in Australia and New Zealand. This report made it clear that, apart from the valuable suggestions which are to be derived from the application of general principles and novel legislation to widely different conditions, there was not much information or guidance with regard to the difficulties which surround the problem of home work to be derived from the conditions, legislation, and experience of these countries. In the first place, there the home worker is a very small element of the population. Secondly, the demand for women workers exceeds the supply. Lastly, the various wages and other boards have left the home workers almost entirely untouched.

SUGGESTED REMEDIES.—The two suggestions which attracted the most attention were:

That it should be made illegal to give work to an outworker unless she had previously obtained a license from a factory inspector, authorizing her to do work for a specified time in the premises named in the license.

That in certain trades a wages board, consisting of representatives of employers and working people and a neutral chairman, should be established, with power to fix the minimum rate of wages to be paid, the payment of a lower rate to be a punishable offense.

LICENSING.—Owing to the enormous increase in the number of inspectors that would be necessary should the licensing of the workers be required and to the difficulty that the poor might experience in obtaining such license, the committee did not approve of the first suggestion. It was recommended that home workers be required to secure certificates of registration from the local authorities, such certificates to be issued without fee or condition, with the aim of obtaining complete and accurate registration.

WAGES BOARDS.—The second suggestion was considered by the committee to go to the root of the matter—the poverty, the miserably inadequate income of so many of the home workers being the great difficulty of the situation. It was recognized that the difficulties which such boards would have to surmount would be very great. There is in some trades an enormous number and complication of articles, processes, subdivisions, and patterns. Then there are the constant changes, especially in those trades where fashion is the dominating factor, and different employers have a vast number of different methods and designs. Any attempt to fix prices for every process, size, pattern, and variation would appear to be almost interminable. There is also the difficulty of submitting new ideas and designs to rival employers who may be members of the board. The question also arises, Should the piece rate be based upon the time in which a worker can complete the article in a factory with modern machinery or is it to be based upon the time taken in the conditions with which he works at home?

Much importance was attached to the experience and opinion of one who had served for many years as arbitrator and conciliator in trade disputes of various kinds. This gentleman was of the opinion that "wages boards are workable and practicable, and would be beneficial, and ought to be tried."

Upon the question of the general policy of Parliament providing for the fixing of a minimum rate of payment for work the committee was of the opinion that it was quite as legitimate to establish by legislation a minimum standard of remuneration as it was to establish such a standard of sanitation, cleanliness, ventilation, air space, and hours of work. It was considered that it would be better that any trade which could not exist if such a minimum of decent and humane conditions were insisted upon should cease. It was believed that the establishment by law of minimum rates of payment for such classes of workers as are unable to obtain for themselves such rates of pay-

ment as may be reasonably regarded as the lowest upon which they can exist would result in benefit to employers, work people, and the general public.

RECOMMENDATIONS AS TO WAGES BOARDS.—The committee recommended that each wage board should fix a general minimum rate of time payment for an average home worker in the trade for which it acts, and also for any branch or process in the trade for which a different rate might be desirable, such rate to be not less than the general minimum rate. The boards should also fix minimum piece rates for any work done by home workers, these piece rates to be such as would enable an average worker to earn not less than the minimum time rate.

SUMMARY OF CONCLUSIONS.—The committee reported that it was desirable:

(1) That there should be legislation with regard to the rates of payment made to home workers who are employed in the production or preparation of articles for sale by other persons.

(2) That such legislation should at first be tentative and experimental, and be limited in its scope to home workers engaged in the tailoring, shirt making, underclothing, and baby-linen trades, and in the finishing processes of machine-made lace. The home secretary should be empowered, after inquiry made, to establish wages boards for any other trades.

(3) That wages boards should be established in selected trades to fix minimum time and piece rates of payment for home workers in those trades.

(4) That it should be an offense to pay or offer lower rates of payment to home workers in those trades than the minimum rates which had been fixed for that district by the wages board.

(5) That the delivery and collection of work done at home should be done by persons in the direct employ and pay of the employer. Where that was not done, the amount which a worker could earn in a specified time should be calculated on a basis which included the time spent in fetching and returning the work as time occupied in doing the work.

(6) That all home workers who are employed by other persons in producing or preparing articles for sale should be required to register their name, address, and class of work at, and receive a certificate of such registration from, the offices of the local authority, and that the keeping of accurate outworkers' lists by employers should be strictly enforced.

(7) That it should be an offense for any person to employ any home worker to produce or prepare any articles for sale by another person unless the worker produce a certificate of registration.

(8) That the provisions of section 9 of the Public Health Act, 1875, with regard to factories and workshops which are not kept clean or are ill-ventilated or overcrowded should be extended to rooms in which home work is done, and power should be given to sanitary

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and factory inspectors to inspect them and secure the enforcement of the law.

(9) That the full protection of the Truck Act should be secured to home workers.

The Wages Boards and Industrial Conciliation and Arbitration Acts of Australia and New Zealand. Report to the Secretary of State for the Home Department. 226 pp.

In this volume is contained the report of Mr. Ernest Aves, a commissioner appointed for the purpose of conducting an investigation into "(1) the system of wages boards which have been established in some of the Australian colonies; their working; the measure of success attained, with reference especially to the prevention of sweating; and the conditions which have made success possible; (2) the systems of compulsory arbitration in industrial disputes which have been established in Australia and New Zealand; their working; the measure of success attained; and the conditions which have made success possible; (3) the working of the acts for the regulation of hours of employment in shops in force in Australia and New Zealand."

WAGES BOARDS.—In Victoria, which may be taken as representative of the States having wages boards, 49 special boards were found to have been established. They consisted of representatives of both employers and work people, appointed for three years, and determined questions of wages, overtime, hours, and the proportion of "improvers" to adults, in their respective trades.

With respect to the fear that the minimum wage rate established by the boards might become the standard rate in each trade, the commissioner states that "absolute uniformity of rating in any occupation appears to be quite the exception."

The replies received upon forms circulated among both employers and work people indicate a widespread feeling that under the wages boards general conditions have improved, but that the boards have had no appreciable effect on the quality or the price of the product or on the regularity or certainty of employment. There is also a widespread belief that the boards have been instrumental in abolishing, or at least in modifying the evils of "sweating."

This experience, however, has been for the most part confined to the clothing trades. These trades have been carried on in a small, rich, highly centralized, and comparatively homogeneous community, free, save in isolated instances, from the extremes either of poverty or wealth. They have flourished during times of increasing prosperity, under conditions in which labor has frequently been scarce, and in markets that are protected both by legislation and by geographical

position. The experience of Victoria, valuable and interesting though it is, is thus not conclusive, if only because too brief, too simple, and too exclusively connected with an era of prosperous trade.

INDUSTRIAL CONCILIATION AND ARBITRATION.—In New Zealand registered societies consisting of two or more employers or of seven or more workers may bring any dispute arising as to industrial matters before a board of conciliation. These boards are composed of both employers and workmen engaged in the industry in which the dispute arises. The board of conciliation may refer the case direct to the arbitration court; or after taking evidence the board may make recommendations which if accepted by the parties have the force of law. If the recommendations are ignored for a month they become law, but if rejected the dispute is carried to the court of arbitration. The decisions of this court are binding and if within the scope of the law are without appeal. Many cases have come before the court, and those are given in which increased wages and (in most cases) shorter hours have been fixed.

It is stated, however, that it is too soon to draw final conclusions as to the effect of the act—on efficiency, alike of employers and employed; on industrial character; on the suitability of choice exercised by the young in the selection of a trade; on industrial training; on the stability of industrial conditions; and, perhaps above all, on the question of relationship between employers and employed.

In an appendix are laws and decisions of the courts upon the subjects treated, specimen determinations and awards, copies of forms circulated, and replies received.

ITALY.

La Donna nell' Industria Italiana. 1905. Ufficio del Lavoro, Ministero di Agricoltura, Industria e Commercio. 59, 157 pp.

This report, issued by the Bureau of Labor of the Italian Department of Agriculture, Industry, and Commerce, relates to the employment of women in industry.

The present report, which bears a close relationship to a preceding one on maternity funds, consists of two parts, the first of which contains a text analysis and statistical summaries of the information presented, and the second part consists of detailed statistical tables.

The material used in the preparation of this report was transmitted to the department by the prefects of the various provinces to whom employers of women and children are required to make annual returns in conformity with the law of June 19, 1902, regulating the employment of women and children.

During the year ending June 30, 1904, returns were made by 14,150 establishments. The number of males and females of various ages employed in these establishments, with the percentage of total employees found in each group, was as follows:

NUMBER AND PER CENT OF MALES AND FEMALES EMPLOYED IN 14,150 ESTABLISHMENTS MAKING RETURNS DURING THE YEAR ENDING JUNE 30, 1904, BY AGE GROUPS:

Age.	Males.		Females.		Total.	
	Number.	Per cent of total employees.	Number.	Per cent of total employees.	Number.	Per cent of total employees.
Under 12 years	4,379	0.5	12,185	1.5	16,564	2.0
12 and under 15 years	37,419	4.5	69,926	8.5	107,345	13.0
15 and under 21 years	79,975	9.6	151,506	18.3	231,481	27.9
21 years and over	293,142	35.4	180,619	21.7	473,761	57.1
Total	414,915	50.0	414,236	50.0	829,151	100.0

From the foregoing table it will be seen that in the establishments reporting 15 per cent of the employees were below the age of 15 years. Of these one-third were males and two-thirds were females. Among the employees 15 and under 21 years of age the ratio was 9.6 males to 18.3 females. For employees 21 years of age and over the ratio was 35.4 males to 21.7 females. The number of males of all ages employed in these establishments was slightly in excess of the total number of females.

In the textile industry, which furnished 49 per cent of the employees reported, the number of persons of both sexes below the age of 15 years equaled 19.5 per cent of the total number of employees. The ratio between the two sexes was 2.2 males to 17.3 females. For the different age groups represented in the textile industry the proportion of males and females was as follows: Below 12 years, 0.2 males to 2.7 females; 12 to 15 years, 2.0 males to 14.6 females; 15 to 21 years, 4.1 males to 29.4 females; 21 years and over, 14.9 males to 32.1 females; all ages, 21.2 males to 78.8 females.

In the table which follows a classification is made, by industry and earning capacity, of 38,273 females below the age of 15 years employed in 1,906 establishments on November 30, 1903, the percentage of such persons among all females employed being shown for each industry:

CLASSIFICATION, BY INDUSTRY AND EARNING CAPACITY, OF 38,273 FEMALES UNDER FIFTEEN YEARS OF AGE EMPLOYED AT GAINFUL OCCUPATIONS AND PER CENT OF TOTAL FEMALE EMPLOYEES REPORTING.

Industry.	Establishments.	Female employees under 15 years of age.		Per cent of females under 15 years of age earning daily—			
		Number.	Per cent of total female employees reporting.	50 centesimi ($0.0965) and less.	51 to 75 centesimi ($0.0984 to $0.1448).	76 to 100 centesimi ($0.1467 to $0.1930).	101 centesimi ($0.1949) and more.
Agriculture	12	37	5.8	16.2	81.1	2.7	.....
Extraction of minerals and manufacture of mineral products	56	210	11.1	35.7	48.1	14.8	1.4
Metal working and machine construction	61	245	14.3	53.9	29.8	14.3	2.0
Work in wood, straw, and similar materials	39	231	12.9	42.0	38.5	16.9	2.6
Chemical products	66	279	5.6	44.8	36.2	17.6	1.4
Paper, printing, and publishing	195	568	11.0	37.0	48.4	13.9	.7
Textiles	1,223	35,239	23.1	34.0	49.5	14.0	2.5
Clothing, hides, etc	160	780	12.0	60.8	32.2	6.0	1.0
Food products	58	168	12.1	40.5	44.1	14.3	1.1
Tobacco	16	283	2.2	31.8	68.2	.....	.....
Other industries	20	233	18.5	52.4	40.8	6.8	.....
Total	1,906	38,273	20.0	34.9	48.9	13.8	2.4

Of the 38,273 female employees below the age of 15 years shown in the table it will be observed that nearly 35 per cent earned 50 centesimi ($0.0965) and less per day. The number earning from 51 centesimi ($0.0984) to 100 centesimi ($0.1930) per day constituted 62.7 per cent of the total number, while the number of those whose earnings amounted to 101 centesimi ($0.1949) and more was 2.4 per cent of the total.

The following table shows, with slight modifications, similar statistics for 197,482 females 15 years of age and over:

CLASSIFICATION, BY INDUSTRY AND EARNING CAPACITY, OF 197,482 FEMALES 15 YEARS OF AGE AND OVER EMPLOYED AT GAINFUL OCCUPATIONS ON NOVEMBER 30, 1903.

Industry.	Establishments.	Females 15 years of age and over.	Per cent of females 15 years of age and over earning daily—						
			50 centesimi ($0.0965) and less.	51 to 75 centesimi ($0.0984 to $0.1448).	76 to 100 centesimi ($0.1467 to $0.1930).	101 to 150 centesimi ($0.1949 to $0.2895).	151 to 200 centesimi ($0.2914 to $0.3860).	201 to 250 centesimi ($0.3879 to $0.4825).	251 centesimi ($0.4844) and over.
Agriculture	25	859	0.2	59.1	34.5	5.6	0.6	.....	.....
Extraction of minerals and manufacture of mineral products	76	1,860	2.5	22.9	33.0	29.7	7.6	2.9	1.4
Metal working and machine construction	100	1,953	2.5	9.0	25.4	49.0	10.5	2.9	.7
Work in wood, straw, and similar materials	64	2,188	4.0	11.4	34.7	39.9	8.1	1.6	.3
Chemical products	88	5,662	2.4	5.8	20.0	48.0	20.3	3.0	.5
Paper, printing, and publishing	305	5,835	5.7	19.8	27.8	36.2	7.8	2.3	.4
Textiles	1,758	155,150	1.1	11.1	30.9	43.7	10.0	2.4	.8
Clothing, hides, etc.	264	8,585	5.5	8.7	19.3	37.1	17.8	7.9	3.7
Food products	91	1,691	4.3	10.7	27.1	33.4	21.5	2.8	.2
Tobacco	16	12,577	.6	.8	.9	12.7	52.9	29.3	2.8
Other industries	22	1,122	6.4	9.5	9.6	25.8	28.3	13.0	7.4
Total	2,809	197,482	1.6	10.7	28.0	40.7	13.4	4.5	1.1

From the returns submitted by 2,809 establishments a table was prepared which shows, by industries, the percentage of births occurring among 191,947 women employees of those establishments during the year ending November 30, 1903. In this table, which is reproduced in part herewith, the actual number of women 15 and under 55 years of age employed during the year has been replaced by the computed number of full-time workers required to do the same amount of work in the time specified. The latter, and not the actual number of employees, forms the basis of the computations.

PERCENTAGE OF CHILDBIRTHS AMONG WORKING WOMEN IN VARIOUS INDUSTRIES FOR THE YEAR ENDING NOVEMBER 30, 1903.

Industry.	Establishments.	Working women considered.		Per cent of married women in computed number of full-time workers.	Childbirths per 100 full-time workers.			
		Actual number.	Equivalent (computed) number of full-time workers.		15 to 20 years of age.	20 to 35 years of age.	35 to 55 years of age.	Of all ages.
Agriculture	25	836	555	34.8	0.6	11.9	5.1	7.4
Extraction of minerals and manufacture of mineral products	76	1,806	1,531	21.3	.2	4.4	1.3	2.1
Metal working and machine construction	100	1,988	1,540	21.6	.2	3.3	1.4	4.4
Work in wood, straw, and similar materials	64	2,162	1,792	28.8	.8	9.3	1.1	4.7
Chemical products	88	5,565	5,017	42.9	.7	12.6	5.1	7.8
Paper, printing, and publishing	305	5,568	4,729	33.6	.5	8.4	3.1	4.5
Textiles	1,758	152,225	137,416	24.0	.2	7.5	2.9	3.8
Clothing, hides, etc	264	8,481	6,925	29.9	.6	9.7	4.0	5.6
Food products	91	1,658	1,289	34.6	.4	6.0	1.1	3.3
Tobacco	16	10,632	10,466	59.4	3.3	17.6	5.1	10.4
Other industries	22	1,076	909	59.0	.....	8.2	2.8	5.3
Total	2,809	191,947	172,149	27.5	.3	8.4	3.4	4.5

L' Industria dei Fiammiferi Fosforici in Italia e la Lotta contro il Fosforismo. 1905. Ufficio del Lavoro, Ministero di Agricoltura, Industria e Commercio. 44 pp.

This report relates to the match industry of Italy and was compiled primarily for the use of the Italian delegates to the international conference for the legal protection of working people, held in Berne, Switzerland, May 8 to 18, 1905.

The volume comprises two parts. In the first part is given a history of the match industry in Italy from the introduction of the lucifer match, about 1830, to the present time. This is followed by tables showing the total production, importation, exportation, and consumption of the several kinds of matches for the years 1896–97 to 1903–4. Figures are also presented showing, by years, the quantity of wood splints and of phosphorus imported into the Kingdom during the period from 1888 to 1904.

A chapter on employees and conditions of labor shows, by Provinces, the number of match factories in operation during the year 1903–4, the days of operation, the hours of labor per day, and the average wages paid. Of 60 establishments for which the number of days of operation in 1904 was reported, 18 factories, employing 909 persons, worked 300 days and more; 25 factories, with 3,410 employees, worked from 280 to 298 days; and 17 factories, having 429 employees, were in operation 275 days and less.

The number of hours of labor per day was reported for 73 establishments. In 49 of these, in which were employed 5,058 persons, or nearly 94 per cent of all persons employed in the industry, the daily working time ranged from 10 to 11 hours. In one factory, with 10 employees, the hours were 11½ per day, while in 4 factories, with 34 employees, a maximum of 12 hours per day was reported. The number of establishments in which the daily working hours were 9½ and less was 19, with 282 employees. A detailed tabular statement shows for the different Provinces the average daily wages paid male and female employees belonging to various age groups.

The second part of the report is devoted to a discussion of the harmful effects upon the health of the working people which result from the inhalation of phosphorus fumes during the various processes employed in the manufacture of matches. A bibliography of works relating to the subject of phosphorus poisoning and other trade diseases is given, as are also certain statistics concerning the match industry of various countries. This is followed by a brief description of the materials which enter into the composition used in the manufacture of matches in the different countries and of the legislative measures taken for the protection of the working people in this industry.

Among the provisions suggested for lessening the evils of phosphorus poisoning are the following:

1. The forbidding of children and minor females to be employed at preparing the paste, dipping the heads, working in the exsiccators, or filling boxes and making up first packages.

2. A limitation of the hours of labor.

3. The complete isolation of the rooms in which the more unhealthy operations are carried on, in order that the toxic gases may not invade the other parts of the building.

4. The provision of larger workrooms, in order to obtain a greater supply of respirable air with a minimum percentage of vapor or irrespirable gas.

5. The procuring of a thorough artificial ventilation of workrooms.

6. The prescribing of a maximum limit of 38° C. (100° F.) of temperature in the exsiccators, in order to prevent an excessive evaporation of phosphorus.

7. The daily cleaning of the floors, machines, and crucibles in which the chemical operations are performed, with renewal of the paint on walls every six months.

8. The furnishing of working clothes to employees, with the obligation that they change their garments in dressing rooms amply provided with facilities for washing the hands and face.

9. The prescribing of a maximum limit for the percentage of yellow phosphorus employed in the preparation of the paste for match heads.

10. The diffusion of vapors of turpentine through atmosphere charged with considerable quantities of phosphorus gas.

11. A requirement that employees rinse the mouth with dentifrice or a solution of permanganate of potash, furnished at the expense of the proprietor of the establishment.

12. A requirement that upon the opening of all new plants or modifications of existing establishments, the new features, or such as are departures from the practices hitherto existing, be subjected to the examination of the inspector of industry, to whom is conceded the right to make suggestions and impose regulations with regard to hygienic conditions.

13. Periodic medical visits to employees, with the obligation upon employers not to put at work persons predisposed to phosphorus poisoning or dental caries, and to remove sick persons.

14. A requirement that physicians report cases of necrosis and of phosphorus poisoning.

15. The provision of security against fire.

16. The provision of security against accidents.

The substitution of red or amorphous phosphorus for the variety in common use is also recommended.

The report concludes with a statement of what has been accomplished in the way of curtailing the use of yellow phosphorus in other countries and of the probable effects which would follow the prohibition of its employment in Italian industries. An appendix contains a brief summary of the proceedings of the international conference for the protection of workingmen held in Berne, Switzerland, May 8 to 18, 1905.

SPAIN.

Preparacion de las Bases para un Proyecto de Ley de Casas para Obreros. Casas baratas.—Published by Instituto de Reformas Sociales. Seccion primera. Madrid, 1907. 459 pp.

The Spanish Institute of Social Reforms, which includes the functions of a bureau of labor, approved, on April 27, 1908, a draft of a bill for the encouragement of the building of cheap and hygienic

workingmen's dwellings and of their ownership by the wage-earners. The text of this draft is published in the Boletin del Instituto de Reformas Sociales for May, 1908. This draft is based upon a very exhaustive investigation of the whole problem of the housing of wage-earners, the results of which are published in the present report prepared by the "first" or "economic" section of the institute. This report represents a very comprehensive study and analysis of the most important literature on the housing problem throughout western Europe.

The report consists of three parts. The first part, under the caption of "factors which must be considered in the problem of cheap dwellings," begins with a compilation of facts pertaining to the results of private efforts in Germany, Belgium, France, and England, such as building societies, charitable funds, large employers' efforts to provide dwellings for their employees, the relation between the building societies and government savings banks, etc.

This is followed by a study of the problem of state intervention. To trace the development of the idea of intervention of public authority, whether central, provincial, or municipal—a very careful digest is given of the proceedings of the seven international congresses on housing held in Paris (1889), Antwerp (1894), Bordeaux (1895), Brussels (1897), Paris (1900), Düsseldorf (1902), and Liege (1905). The authors of the report endeavor to show the rapid growth of the idea of direct government intervention within the last decade, the first congress adopting resolutions against any intervention of the state or the local authorities which would compete with private enterprise or influence the level of rents, while at the congress of Liege a resolution was passed unanimously that public authorities should favor and encourage the building and purchase by the workingmen of healthful and cheap dwellings by means of tax exemptions and all proper measures calculated to develop loans on real estate. The concluding chapter of the first part contains a digest of legislation on housing conditions in Great Britain, Belgium, France, Italy, Germany, Austria, and Denmark. The text of the most important laws is given in the appendix.

The second part of the report (76 pages) is devoted to a discussion of housing conditions and the housing problem in Spain. The sources of information in regard to the housing conditions are, first, the investigation into the conditions of the working classes made by the Commission on Social Reforms in 1884; and second, several local investigations made by the Institute of Social Reforms on various occasions in 1904–1906. The data obtained by the first investigation are scarcely recent enough to be of any but historical interest.

The local housing investigations made by the institute within the recent years refer (1) to the mines of Vizcaya, (2) the tile makers in Madrid, (3) the mines of Villanueva.

The mines of Vizcaya are mostly located at some distance from the settlements, and the employers had found it necessary to construct frame barracks of a temporary nature for the accommodation of their employees. The accommodations provided by these structures were stated to be very unsatisfactory. The houses were rented to the foremen at the mines, who often use the authority obtained from this fact to their own advantage. While the barrack type of building has largely disappeared, being replaced by smaller buildings with separate apartments, the power of letting them is still left to the foremen of the mines. These conditions have frequently led to strikes of the miners.

The hygienic conditions are described as not what they ought to be. The dwellings usually consist of bedrooms, a kitchen, and a dining room, though the latter is often absent. Subletting is the rule. Everything is sacrificed to the chance of putting in extra bedsteads. Two workingmen usually sleep in each bed. The provisions for ventilation at night are very bad, the bedding very poor, and linen seldom clean, being changed but once a month. A place in a bed is rented at 7.50 or 10 pesetas ($1.45 or $1.93) per month, the higher priced bed being somewhat wider and better provided with bedding. On the other hand, much better conditions were found in the mines of Villanueva (Seville) during an investigation in 1904. In these mines the workingmen lived in hovels before the employers provided housing accommodations for them. The mining company built special suburbs on an elevated situation, with wide and clean streets, well-ventilated houses, with large doors and windows, and small yards. Drinking water is free, and is transported on horseback to the houses in small casks at the expense of the company. The houses built are of two types; the smaller of two rooms rent for 3 pesetas ($0.58) per month, the larger for 7.50 pesetas ($1.45) per month.

The housing conditions of the tile makers in Madrid were investigated by the institute in 1904. They were found to live in small hovels, more fit for animals than for human beings. These hovels were about 1½ meters (59 inches) long and wide, and 1.60 meters (63 inches) high, contained only one room, and had no ventilation except through the door.

These three isolated examples are not sufficient to draw any general conclusions as to the housing conditions of the working classes. In 1906 the third ("technical administrative") section of the Institute of Social Reforms undertook a general inquiry into the housing conditions, by means of correspondence; but while the answers cover a larger part of the Kingdom, the inquiry was not comprehensive enough to give more than a very general idea of the situation. Ac-

cording to statements of public officials, the housing conditions of workingmen were good in 56 localities out of 221 reporting, or 25.34 per cent; they were fair in 21 localities, or 9.5 per cent; bad in 41 localities, or 18.55 per cent; they needed improvement in 49 localities, or 22.17 per cent; in 12 localities, or 5.42 per cent, the employees mostly owned the dwellings they lived in; in 9, or 4.07 per cent, suburbs were especially constructed for workmen; in 3 localities, or 1.36 per cent, the employers provided their wage-earners with housing facilities free; societies for construction of dwellings and their sale to workingmen under favorable conditions existed in 13 localities, or 5.88 per cent; and in 10 localities, or 4.52 per cent, the local authorities were considering plans for construction of workingmen's houses to be conveyed to wage-workers on favorable conditions.

Many efforts have been made in Spain by the Government toward a more active participation of public authority in the improvement of housing conditions during the last 30 years, and these are reviewed in the report; among the results actually accomplished the most important was the enactment of a law in 1877 conferring tax exemption and other privileges upon the society La Constructora Benéfica, an organization for the construction of workingmen's dwellings, and the investigation of housing conditions by the commission of 1884.

The description of the private social efforts toward stimulating ownership of homes among the working classes claims a chapter in this part of the report. The results of these private efforts are very meager. The most important organizations in this class are La Constructora Benéfica, above mentioned, La Compañía Madrileña de Urbanización, and a few others, mostly operating in Madrid, but the scope of the activity of most of these is very limited. A few trade-union pension funds and mutual credit associations, such as Caja de Ahorros de los Empleados de Ferrocarriles and the Montepío General Obrero de España, are permitted to invest their funds in loans for the construction of dwellings by their members.

The third part of the report contains a detailed discussion of the principles upon which a law for improvements of housing conditions among working classes must be based in Spain; this part contains all the conclusions of the economic section of the institute, while the first two parts are simply a careful compilation of information available.

In the opinion of the section the housing problem in Spain may not be so acute as in some other European countries, mainly because of the milder climatic conditions; nevertheless it is growing in importance because of the same factors which have created the housing problem in other countries, namely, the development of industry and the growth of urban centers at the expense of the rural population. The private and social efforts toward improving the housing condi-

tions of the working classes, few as they are, are evidence that such improvement is recognized by public opinion as a social need. Without discussing the problem of the intervention of the State from a theoretical point of view, the section points out that such intervention in some form is indicated by the study of the proceedings of the international housing congresses and foreign legislation, and is supported by a large variety of social, hygienic, and economic reasons.

While very little has as yet been accomplished in Spain in the line of state intervention, proposals for such intervention have been frequently made, and the Spanish law contains no principle which would interfere with such intervention. On the contrary, the accident-compensation act and similar legislation is quoted as constituting important precedents of the power of the State to intervene in the solution of important social problems. Such state intervention must not reduce itself to a mere grant of fiscal privileges or of financial subsidies. It must be well planned and of educational value, and must cooperate with existing private efforts. The principal objects of such intervention should be, first, to regulate social efforts, and, second, to stimulate, develop, and extend such social action. To reach these aims the State may promote the organization of societies in which should be represented various social elements; it also must provide the means to enable the societies to exercise this activity.

In the opinion of the section, a law for the improvement of housing conditions among wage-earners and small-salaried employees must be based upon the following principles: (1) The creation of an educational institution charged with the duty of stimulating the growth of cheap and hygienic dwellings and directing social efforts toward the same end, harmonizing these social efforts with those of the State. In this institution all social elements interested in the problem should be represented. (2) The determination of the ways and means by which the State can encourage private social efforts. (3) The intervention of the municipal authorities in the improvement of neighborhoods inhabited mainly by working people. (4) Determination of the guaranties which the builders of cheap dwellings must offer and the economic and hygienic conditions which these dwellings must satisfy. (5) The establishment of the legal regulations which would insure the proper working of the law by maintaining the ownership of the buildings and preventing the loss of such ownership by the family in case of death of the proprietor.

In elaboration of these general principles, the section recommends the establishment of local housing committees (*juntas*), following the Belgian example. The functions of these local committees are briefly stated as follows: General encouragement of building of workingmen's dwellings, by aiding the formation of private charitable or cooperative societies for that purpose and helping them in obtaining

the necessary credit, by offering suggestions to the public authorities, and by other similar methods; general educational activity in this field by prize competitions; the study of housing conditions, etc.

According to the recommendations of the section, the establishment of such committees should rest with the Government. In order to represent all interested social elements, they should include representatives of the municipal government, of the property-owning classes, and of working classes. There should also be on these committees members of the medical and architectural professions, who possess the technical knowledge required. To be of any positive influence, the committees must be granted all rights of legal persons, such as to hold property and to receive donations and legacies and subsidies and appropriations from the State, the provinces, and the municipalities. It would be useless to establish these committees without providing them with the necessary funds for expenses; and the municipalities should provide them with a moderate appropriation to cover the necessary cost of administration, such as rent, office expenditures, and the remuneration of the secretary. The general administrative supervision of these committees should be lodged in the Institute of Social Reforms.

In addition to the establishment of these "juntas," the report recommends a more direct state intervention for the encouragement of the construction of cheap dwellings. Such intervention may avail itself of the following three methods: (1) Stimulation of building by tax exemptions, (2) promotion of private and social efforts by means of financial assistance, (3) encouragement of private capital.

Tax exemptions are freely used for similar purposes in the other European countries, and there are many precedents for their use in Spain. To be efficacious, such exemptions must be ample and generous. A total exemption from taxation for 20 years for buildings complying with the requirements of the law and exemption from the inheritance tax, when the house passes over to direct heirs and there is no other real estate in the legacy, are suggested.

In addition to such privilege as tax exemptions present the report considers direct financial subsidies especially necessary in Spain, either in definite amounts of money or in grants of land—since as compared with other countries, building societies are almost unknown in Spain, and their formation must be encouraged. Building societies should be subsidized in the following order of preference: (1) Cooperative societies consisting of wage-earners and salaried employees, (2) charitable societies, endowed with donations and legacies, and (3) other building societies which seek the benefits conferred by the law. There should be a legal limit to such subsidies in proportion to the original capital investments of the societies. Subsidies may also be granted to municipalities for the construction of cheap

dwellings. The report follows the precedents established by the Belgian, French, and Italian laws, in recommending that savings banks be permitted to invest a certain part of their assets, under strict guarantees, in loans to societies for the construction of cheap dwellings or in the direct construction of such dwellings for sale or lease. Furthermore, an introduction of a method of combining insurance with the sale of cheap dwellings, following the Belgian example, is considered very desirable, in order to secure to the family the possession of the home in case of the death of the breadwinner, for the fear of such death with the consequent inability to meet the recurrent payments, often deters a workingman's family from purchasing a home.

The form of insurance recommended is called in the report "seguro mixto," and is practically an endowment insurance for the amount of the loan made in order to purchase the house. The endowment insurance matures at the same time as the loan. In case of death the loan is liquidated immediately by the value of the policy. The purchaser of the house pays insurance premiums on the policy instead of installments and interest on the loan. The section did not think itself justified, however, to urge the introduction of this measure, for the reason that the Instituto Nacional de Previsión (National Insurance Institute) recommended by the Institute of Social Reforms was not yet established, and there was no institution which could be charged with the administration of this new form of popular insurance.[a]

The question of the relation of the municipalities to the housing problem is next taken up. The municipalities are most closely concerned in this problem, and they can influence it in two ways—by control and inspection of workmen's dwellings, a municipal function delegated to it by the authority of the State, and by direct encouragement or intervention in the construction of cheap dwellings with a possibility of municipalization of such dwellings. After a brief review of foreign legislation pertaining to this problem, the section arrived at the following conclusions: There should be effective cooperation between the municipalities and the local housing committees to be established. The committees would be best qualified to control the proper inspection and enforcement of sanitary laws by systematic investigation of conditions; they would also formulate the plans for municipal activity. The necessary means for carrying out these plans might be obtained from state subsidies, from the sale of old materials, from special taxes, approved by the State, from the sale

[a] Since the report was published the National Insurance Institute was established by the law of February 27, 1908, and subsequently this insurance scheme was included in the draft of the proposed housing law.

of municipal real estate, and from rentals of buildings owned by the municipalities.

These are the main principles upon which a law for the encouragement of cheap dwellings should be based in the opinion of the first (economic) section of the Institute of Social Reforms; and these were all embodied in the draft of the law as approved by the institute as a whole.

The report closes with several appendixes containing the following documentary material: (1) Text of proposed Spanish laws for the encouragement of workingmen's dwellings introduced in the Chamber of Deputies in 1878, and in the Senate in 1906 (10 pages); (2) constitutions, by-laws, and regulations of the principal Spanish societies for the improvement of housing conditions (70 pages); (3) Spanish translations of the most important European laws for the improvement of housing conditions (56 pages), and (4) a comprehensive bibliography (34 pages).

DECISIONS OF COURTS AFFECTING LABOR.

[Except in cases of special interest, the decisions here presented are restricted to those rendered by the Federal courts and the higher courts of the States and Territories. Only material portions of such decisions are reproduced, introductory and explanatory matter being given in the words of the editor. Decisions under statute law are indexed under the proper headings in the cumulative index, page 195.]

DECISIONS UNDER STATUTE LAW.

BOYCOTT—INJUNCTION—CONTEMPT—EVIDENCE—*The Buck Stove and Range Company v. The American Federation of Labor, Supreme Court of the District of Columbia, 36 Washington Law Reporter, page 822.*—The corporation named had secured an injunction against the officers and members of the American Federation of Labor to prohibit the publication of the corporation as "unfair" or otherwise boycotting or interfering with its business. (See 35 Washington Law Reporter, p. 797; Bulletin No. 74, p. 246.) The case came before the court at this time on a rule against certain defendants to show cause why they should not be punished for contempt as having violated the injunctive order. These defendants were Samuel Gompers, president, and Frank Morrison, secretary, of the American Federation of Labor, and John Mitchell, a vice-president and member of the executive council of the Federation, and up to April, 1908, president of the United Mine Workers of America. These defendants were found guilty of contempt as charged and were sentenced accordingly.

The opinion of the court was delivered by Judge Wright, who reviewed at length the conditions antecedent to the injunction, the announced attitude of the defendants toward it during and after the hearing on the subject, and their subsequent actions. Documents and quotations from published articles as well as parts of the evidence are reproduced, showing quite fully the condition of the case from its beginning until the time of the trial. Judge Wright spoke in part as follows:

Plaintiff was a member of an association of stove manufacturers, called The Stove Founders' National Defense Association. There existed an agreement of long standing between the Stove Founders' National Defense Association and the Metal Polishers, Buffers, Platers, Brass Molders, and Brass and Silver Workers' International Union of North America providing for the settlement of all disputes between a member of the Stove Founders' National Defense Association and a member of the union by a conference committee, and

that the decision should be binding upon each party for a term of twelve months, and providing further "that pending the adjudication by the presidents and conference committee, neither party to the dispute shall discontinue operations, but shall proceed with business in the ordinary manner." Many grievances have been adjusted under this agreement, its provisions having been faithfully observed and kept by the Stove Founders' National Defense Association, and by the plaintiff as a member.

The thirty-six metal polishers in the employ of the plaintiff were "pieceworkers;" that is, they were paid by the piece, and earned from $4.00 to $5.25 per day, according to their individual skill and the number of hours worked.

In November, 1905, it first came to the attention of J. W. Van Cleave, president of the plaintiff, that metal polishers were leaving their work before quitting time, some of them as early as an hour and a half before, at whatever time they happened to finish a job. Shortly afterward the works were closed down for annual repairs and inventory, and upon the day of closing the president, Van Cleave, called together all polishers in the polishing department and addressed them thus: "I called their attention to what had come to my notice, and told them that we would not permit that; that our shop was then and always had been running ten hours; that all of our machinery ran ten hours; and that I called them there for the purpose of informing them that when we started up in the beginning of 1906, that every department would have to work, and every man in every department would have to work ten hours.

"I also called their attention to the fact that it had been reported to me that the Polishers' Union had put on a wage limit; that is to say, the amount per day that each man should earn and then quit work. I told them that if that was true, and that the men were submitting to that, that that was robbing their own wives and children, and that we would not submit to it; that God had never made any two men with the same ability, and, therefore, each man must earn all he could in the shop, doing all the work he could, and, it being piecework, he would thereby earn more or less, according to his ability.

"I told these men also, that if they were not satisfied with our rules and our shop conditions, that I would give them six days' notice three weeks before we opened shop in 1906, in order that they might get other places if they wanted to; but, if they returned to work they would have to return under the rules of our shop, and not under any rules that they might make."

Upon the reopening of the works in January, 1906, notices were posted in its polishing department by the plaintiff that all its employees were required to work ten hours a day during the year 1906. All of these men returned to work, accepted their old places and worked continuously ten hours a day until August 27th, earning large wages.

On this date the men struck, picketing being subsequently provided for, until at length a conference between the president of the company and committee from the unions was arranged for.

A stenographic report of this conference, spreading over nine typewritten pages, is appended to this opinion; its significance is to show that before these three labor unions endorsed the boycott that they knew that the metal polishers had never secured the nine-hour day, and were informed of the falsity of its position; that they understood that the thirty-six metal polishers had violated the shop rules and broken the agreement with the Defense Association; and its further significance is to tie the International Iron Molders' Union of North America to the distortion appearing in its statement of grievances laid before the executive council of the American Federation of Labor as a basis for its endorsement of the boycott, and signed by this same Bechtold himself as its secretary and treasurer, as follows:

"About August 1st, 1906, the Buck's Stove and Range Company attempted to force the metal polishers to resume the ten-hour workday, after enjoying the nine-hour workday for a period of eighteen months, and are still making every effort within their power to adjust their grievance. Mr. J. W. Van Cleave, president of the Citizens' Industrial Alliance, also president of the Manufacturers' Association, enjoys a reputation equal to that of Parry and Post. He is president of the Buck's Stove and Range Company, and absolutely refused to deal with a committee composed of David Kreyling, business agent of the Central Trades and Labor Union of St. Louis, Edward Lucas, a member of the Metal Polishers', and myself, stating that he was a member of the Founders' National Defense Association, and that his association acted for him in such matters."

The boycott was endorsed by each of these three unions shortly after this conference.

No question is made about the truth of any of the foregoing. No evidence was offered by the defendants in gainsay or in contradiction. Manifestly, no boycott based on such a foundation could ever hope for even the toleration, much less the support, of the friends of organized labor or even the mass of labor men themselves, as seems to have been foreseen by the promoters of this particular enterprise; for the thousands of circulars distributed amongst the public and the customers of the plaintiff generally, stated a case of deceit and falsity, a case that had no existence and never had had.

Then follows an account of the publication of various circulars and notices and of the cooperation of various affiliated organizations, including that of the American Federation by its committees and officers and through the columns of the organ of the Federation, the American Federationist. The methods and effectiveness of the boycott were fully shown, and the court, continuing, said:

Such is a meager portrayal of the status at the time of the preliminary injunction; such the procession of evils which it sought to reach and to arrest awhile, until the merits of the controversy could be judicially ascertained, according to due process of the law of the land; its sketching though tedious and laborious has seemed essential here, in order to an understanding of the relationship which the doings and contrivances of the respondents subsequent to the injunction, bear to the execution of the preestablished interdiction and the uninterrupted consummation of its ends.

Prior to the enactment of the "Sherman Act," by the Congress of the United States, it was at common law a crime for two or more persons to combine for the purpose of consummating an unlawful act, whether that unlawful act was the ultimate object of the combination or whether the unlawful act was but a step to the achievement of an ultimate lawful design; were an unlawful act anywhere projected in the agreement the crime was complete in the mere agreement itself, although no steps were ever taken toward its execution and although its ultimate purpose was good. That an individual should pay his debts was commendable; but an agreement to attain that desirable end through the method of beating him over the head, was a crime; and yet "unlawful acts," are not only those which are so grievously unlawful as to be public crimes; a violation of any civil right of another is none the less "unlawful" because it happens to be less than a crime.

When persons enter into a "contract" their status with respect to each other and the balance of mankind is straightway altered; each is vested with rights which he did not have before, in that each is entitled from the other to the performance of the obligations of that contract; the right to the performance of these obligations the balance of mankind are required to respect; not even the lawmaking power of all the States of the Union severally assembled is potent to deprive either by even a jot or tittle and with these obligations can not interfere; for in the Constitution is it written, "No State shall * * * pass any law impairing the obligation of contracts." When came labor unions to be of greater power and majesty than these? The breach of a contract by a party to it being "unlawful" (not unlawful in the sense of criminality, but unlawful in the sense of a violation of the "civil" right to its performance), the act of a third person in persuading him into the breach is equally "unlawful;" and if a combination of two or more persons contemplates the breach of a contract through even the persuasion of a party to the contract, the combination comprises an "unlawful act" and the combination alone and in itself is a common law crime.

Second. A business, be it mercantile, manufacturing or other, which has for a long time been successfully operated and developed possesses a greater value than a like business newly launched, although the latter be exactly equivalent in respect of stock, equipment, moneys and all other physical possessions; the basis of the excess in value of the one over the other is termed the "good will;" it is the advantage which exists in established trade relations with not only habitual customers but with the trading public generally; the advantages of an established public repute for punctuality in dealing, or superior excellence of goods or product; finally, in last analysis, a "good will," when it exists is one return for the expenditure of time, money, energy, and effort, in development; it is a thing of value in the sense that it is a subject of bargain and sale; ofttimes of a value which exceeds that of all physical assets taken together; in that it may possess exchange value, it may be "property;" when it does possess "exchange value," property it is; and a combination for the purpose of destroying it is for an "unlawful act," whether you call the combination a "labor union" or a "trust." There is no room here for

confusion with cases of business competition between individuals, or individual firms; competition gives to the public the advantage of choice, and thereby conduces to the public advantage by stimulating a betterment of product; elimination either promotes monopoly or drives utterly from the markets and from the reach of the public a product which perchance may be generally necessary or universally desired; these ends an individual single handed is impotent to achieve, but a combination if sufficiently far-reaching may bring them readily to pass; therein is the combination unlawful, while the single-handed project of an individual is not.

Third. Congress has seen fit to enact (1 Sup., 762):

"An act to protect trade and commerce against unlawful restraints and monopolies.

"SEC. 1. Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal.

"Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments in the discretion of the court."

The plaintiff's trade was "among the several States;" its product an article of "commerce" among them; the confederation of the various defendants was a "conspiracy" in restraint of both (Loewe *v.* Lawlor, 205 U. S. 274), although if fault with that word is found, it may be laid aside and "combination" substituted; for respecting the case here it is all one.

From the foregoing it ought to seem apparent to thoughtful men that the defendants to the bill, each and all of them, have combined together for the purposes of—

1. Bringing about the breach of plaintiff's existing contracts with others;
2. Depriving plaintiff of property (the value of the good will of its business) without due process of law;
3. Restraining trade among the several States;
4. Restraining commerce among the several States.

And if either conclusion 1 or 2 is accurate, are guilty of the common law crime, "conspiracy;" if either conclusion 3 or 4 is accurate, guilty of the crime defined by the statute; there is, in my judgment, no escape from either conclusion of the four; under either aspect of the matter their ultimate purpose is unlawful, their concerted project an offense against the law, and they are guilty of crime.

It was to stay the unlawful impairment of the plantiff's contracts; stay the destruction of the value of its business "good will;" stay the restraint of trade among the several States; stay the restraint of commerce among them and preserve an existing status until the case could finally be heard, that the injunction was designed; in so far as the devices and instrumentalities employed by the plot were numerous and elaborate, the plot itself was responsible for the extent to which the injunction must proceed to those details if it would reach plot and plotters.

Then follows the injunction order, a part of which is reproduced in Bulletin No. 74, p. 254.

That Gompers and others had in advance of the injunction determined to violate it if issued, and had in advance of the injunction counseled all members of labor unions and of the American Federation of Labor and the public generally to violate it in case it should be issued, appears from the following, which references point out also the general plan and mutual understanding of the organizations and their various members:

Extract from Report of the Proceedings of the Convention of the American Federation of Labor, 1906, page 14:

"Report of Samuel Gompers, president.

"CITY CENTRAL BODIES—THEIR IMPORTANCE AND DUTY.

"* * * Our international trade unions and the American Federation of Labor are dependent upon local central bodies to carry out the program or policy decreed by the general labor movement. * * * but the practical assistance they can and do render the labor movement in executing the plans devised for the protection and promotion of the interests and rights of the toiling masses is incalculable. They are not only the local municipal council of industry dealing with sociological problems, but they are also the concrete power to enforce and execute within the jurisdiction of their existence the judgment of the highest court in the realms of labor of America, the American Federation of Labor. * * *

"When, however, the final word has been spoken by the court of last resort of labor, composed of the representatives of the intelligent organized wage-earners of America, to these at least conformity by our central bodies is essential to the safety and the well-being of the labor movement. * * *."

In his report as president, to the 1907 convention of the American Federation of Labor, he stated:

"In the meantime we should proceed as we have of old, and wherever a court shall issue an injunction restraining any of our fellow-workers from placing a concern hostile to labor's interest on our unfair list; enjoining the workers from issuing notices of this character, the further suggestion is made that upon any letter or circular issued upon a matter of this character, after stating the name of the unfair firm and the grievance complained of, the words 'We have been enjoined by the courts from boycotting this concern' could be added with advantage."

And when on the stand as a witness in this cause, on January 30, 1908, his attention was called to that portion of his report, he replied in respect to it:

"Q. Have you ever recalled that suggestion?

"A. No, sir; I would rather reaffirm it."

In the November, 1902, number of the Federationist, in its editorial columns, he printed and published:

"We beg to say plainly and distinctly to Mr. Merritt and fellow-sympathizers that the American Federation of Labor will never abandon the boycott, and that the threats against the Federation are idle, impotent and impudent."

A day or two after the filing of the bill herein he publicly stated in an interview with three representatives of prominent newspapers:

"When it comes to a choice between surrendering my rights as a free American citizen or violating the injunction of the courts, I do not hesitate to say that I shall exercise my rights as between the two."

On September 5, 1907, at the Jamestown Exposition, in the course of a Labor Day speech, delivered as a public address, he said:

"An injunction is now being sought from the supreme court of the District of Columbia against myself and my colleagues of the executive council of the American Federation of Labor. It seeks to enjoin us from doing perfectly lawful acts; to deprive us of our lawful and constitutional rights. So far as I am concerned, let me say that never have I, nor ever will I, violate a law. I desire it to be clearly understood that when any court undertakes without warrant of law by the injunction process to deprive me of my personal rights and my personal liberty guaranteed by the Constitution, I shall have no hesitancy in asserting and exercising those rights."

In the October, 1907, issue of the Federationist he published the same at length in the editorial columns, and in the same columns of the same number stated:

"So long as the right of free speech and free press obtains, we shall publish the truth in regard to all matters. If any person or association challenges the accuracy of any of our statements, we are willing to meet him or them in the courts and defend ourselves. So long as we do not print anything which is libelous and seditious, we propose to maintain our rights and exercise liberty of speech and liberty of the press. If for any reason, at any time, the name of the Buck's Stove and Range Company does not appear upon the 'We Don't Patronize' list of the American Federationist (unless that company becomes fair in its dealings toward labor), all will understand that the right of free speech and free press are denied us; but even then this will not deprive us, or our fellow-workmen and those who sympathize with our cause, from exercising their lawful right and privilege of withholding their patronage from the Van Cleave Company—The Buck's Stove and Range Company of St. Louis.

"So far as we are personally and officially concerned, we have fully stated our position in the American Federationist and elsewhere.

"Do not fail to keep the Buck's Stove and Range Company of St. Louis in mind and remember that it is on the unfair list of organized labor of America."

In a column in the same issue headed "Editorial Notes," he used the following language:

"So labor must not use its patronage as it will—that is, if Van Cleave of Buck's Stove and Range Company fame has his way. But what vested right has that company in the patronage of labor or of labor's friends? It is their own to withhold or bestow as their interest or fancy may direct.

"They have a lawful right to do as they wish, all the Van Cleaves, all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

"Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair product?

" Until a law is passed making it compulsory upon labor men to buy Van Cleave's stoves we need not buy them, we won't buy them and we will persuade other fair-minded, sympathetic friends to cooperate with us and leave the blamed things alone.

" Go to ——— with your injunctions."

(He has taken an oath in this case here, that he did not mean " Go to hell with your injunctions.")

" The Buck's Stove and Range Company of St. Louis (of which Mr. Van Cleave is president) will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor. And this, too, whether or not it appears on the ' We Don't Patronize ' list."

After the motion for the injunction had been heard and submitted to the court, and pending its decision there were prepared, published and despatched to each secretary of the 25,000 or 30,000 unions an " Urgent Appeal " for funds, accompanied by a circular letter signed by Gompers and Morrison as " president " and " secretary " respectively, which contained:

" The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove & Range Company upon the ' We Don't Patronize ' list. Should we be enjoined by the court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases.

" Bear in mind that you have a right to decide how your money shall be expended.

" You may or may not buy the products of The Buck's Stove & Range Company.

" There is no law or edict of court that can compel you to buy a Buck's stove or range.

" You can not be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove & Range Company's products of its unfair attitude toward its employees and ask them to give their sympathy and aid in influencing the Buck's Stove & Range Company to deal fairly with its employees and come to an honorable agreement with the union primarily at interest.

" It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to the The Buck's Stove & Range Company of St. Louis, urging it to make an honorable adjustment of its relations with organized labor. Act energetically and act at once. Report the result of your effort to the undersigned."

Since the Injunction.

Having in mind what may be in the foregoing delineation which indicates that either of the three respondents did before the issuance of the injunction deliberately determine to willfully violate it and did counsel others to do the same, let me now turn to their sayings and doings since the decision of Mr. Justice Gould was formally announced, and the order of injunction itself put into technical opera-

tion by the giving of the injunction bond. On December 17, 1907, the opinion of the court was filed in the case; the order of injunction was entered on December 18th; the giving of the undertaking required by it was consummated on December 23rd, and I am disposed now to look at the separate conduct of each respondent with a view of recording his individual responsibility in sufficient detail.

GOMPERS.

He testified that the January number of the American Federationist, edited by him as president of the American Federation of Labor, still contained the name of the plaintiff upon its " Unfair List," and contained also the following:

"A limited number of the American Federationist for 1907, bound in two volumes, may be had on application to this office. The 1907 volumes are bound in the same style as the preceding years.

" The official printed proceedings of the Norfolk convention of the A. F. of L. are now ready and can be had upon application by mail, 25 cents per single copy, $20 per hundred. Postage prepaid by the A. F. of L."

" The said proceedings of the Norfolk convention contain, at page 91, the name of petitioner as being on the 'Unfair' list of the American Federation of Labor."

He testifies that more than 10,000 copies were hurriedly printed in Washington:

" Q. When were they received?

"A. About December 20th or 21st.

" Q. That is, they were received from the printer about December 20th or 21st?

"A. About that; I am not sure as to the date, but I made it a special purpose to get it out a day or two earlier, and if that is the purpose of your question, I will tell you.

" Q. What is it?

" A. It was to issue the American Federationist before the undertaking had been made, so as to make the injunction of Justice Gould effective.

" Q. You knew at the time the order had been made?

" A. Yes, sir. . . .

" Q. Were these 10,000 copies distributed?

" A. Yes, sir.

" Q. From the office?

" A. Yes, sir.

" Q. In what way?

"A. Through the mails, through carriers, through direct purchases. . . .

" Q. Have you unions in California?

" A. Affiliated?

" Q. Yes.

" A. We have local unions affiliated to international unions.

" Q. Yes; and to whom these were sent?

" A. Yes, sir; but I suppose they were in transit.

" Q. That they would be in transit on the 23d?

" A. More than likely, sir. I did not give it a thought, but I suppose so now you ask me the question. I never gave it a thought. . . .

"Q. At the time you sent these out through the mails you supposed they would be in transit?

"A. I did not suppose anything of the kind. I did not give the matter a thought as to whether it was California, or Kalamazoo, or the District of Columbia."

In this he overreached himself; for the mails were his agents, chosen by him as the medium for delivery to distant points; and if, after the injunction became operative he violated it through the instrumentality of his own hands or through the instrumentality of another medium of his own preference, is all one. Had he carried the copies to California himself, what difference from sending another with his errand?

In the February number of the 1908 American Federationist he published over his own name a lengthy editorial concerning the order, which amongst other things stated:

"With all due respect to the court, it is impossible for us to see how we can comply with all the terms of this injunction," and further stated there:

"This injunction cannot compel union men or their friends to buy the Buck's stoves and ranges. For this reason, the injunction will fail to bolster up the business of this firm, which it claims is so swiftly declining.

"Individuals, as members of organized labor, will still exercise the right to buy or not to buy the Buck's stoves and ranges. It is an exemplification of the saying that 'You can lead a horse to water, but you can't make him drink,' and more than likely these men of organized labor and their friends will continue to exercise their right to purchase or not purchase the Buck's stoves and ranges."

On other pages of the same issue of the American Federationist he published the order itself at length prefacing it by a heading printed in larger type of which the following is a facsimile, as far as the quotation goes:

"ORDER GRANTING INJUNCTION.

"In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove and Range Company declares that punishment for violation of the injunction issued by Justice Gould, against the American Federation of Labor, applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction. That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the court's order is accurate."

THE INJUNCTION—BUCK'S STOVE AND RANGE CO. VS. AMERICAN FEDERATION OF LABOR.

"This cause coming on to be heard upon the petition of the complainant for an injunction pendente lite as prayed in the bill, and the defendant's return to the rule to show cause issued upon the said petition, having been argued by the solicitors for the respective parties, and duly considered, it is, thereupon by the court, this 18th day of

December, A. D. 1907, ordered of the defendant or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term 'Unfair' or with the 'We Don't Patronize' list, or with any other phrase, word or words of similar import, and from publishing or * * *."

The evidence is so suggestful of a finding by the court that this was for the purpose of inducing persons beyond the District of Columbia to violate the injunction and for the purpose of defeating it, that that finding is now made.

In the March, 1908, number of the American Federationist he published in the editorial columns this:

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

In the April, 1908, number this:

"The temporary injunction issued by Justice Gould, of the court of equity, of the District of Columbia, in the (Van Cleave) Buck's Stove and Range Company of St. Louis against the American Federation of Labor, its officers and all others, has been made permanent. The case will now be carried to the court of appeals of the District of Columbia.

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

And in another column of that issue, this:

"Bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company of St. Louis.

"Fellow workers, be true and helpful to yourselves and to each other. Remember that united effort in cause of right and just must triumph."

Other quotations from addresses and published matter are reproduced, and Judge Wright said:

The court finds from the evidence that all of which was said, all of which was done, all of which was published, all of which was circulated in willful disobedience and deliberate violation of the injunction, and for the purpose of inciting and accomplishing the violation generally, and in pursuance of the original common design of himself and confederates, to

1. Bring about the breach of plaintiff's existing contracts with others;

2. Deprive plaintiff of property (the good will of its business) without due process of law;

3. Restrain trade among the several States;

4. Restrain commerce among the several States.

Since the filing of these very charges in contempt against him, in the September, 1908, Federationist, Gompers published:

"* * * Money makes the mare go, and Mr. Van Cleave's money is making this contempt case go. * * * But labor will rise in its might and crush Mr. Van Cleave and all his money that may work

now or in the future for restricting labor in its fundamental rights of free speech and free press."

In that same number was the following in editorial:

"We have also witnessed in the past year most serious judicial invasion and usurpation of individual liberty and human freedom by the abuse of the writ of injunction.

"* * * An attempt has been made by the abuse of the writ of injunction to deny and prohibit the freedom of speech and the freedom of the press; and men have been cited to show cause why they should not be punished purely for the right of free press and free speech—rights not only natural and inherent in themselves, but guaranteed by the Constitution of our country, and which our forefathers fought to save, and which a free people never dreamed would ever be placed in jeopardy."

And in a public address in Indianapolis on September 29, 1908, said:

"* * * I want to say this to you and to all that it may concern, that so long as I retain my health and my sanity I am going to speak upon any subject on God's green earth, and as a citizen of this country and as editor of the American Federationist, the official monthly magazine of the American Federation of Labor, so long as I am endorsed by the labor of the United States with the performance of duties of that office, I will discuss every subject which forms itself to my judgment as being just and right. * * * The injunction which Judge Taft issued while upon the bench is now the basis for the injunction against the American Federation of Labor and its officers and the great rank and file of the labor organizations of the country, just as in issuing the injunction of the Buck Stove & Range Co. quoted Judge Taft injunction in support of his, Judge Gould's position. Do you know that about two weeks ago John Mitchell, Frank Morrison, and I were three of us haled to court to show cause why we should not be punished, why we should not be sent to jail for contempt of court. * * * I want to say to you that if the injunction is strictly construed and enforced, I am in contempt of court again for telling you that, but I propose to discuss this thing, and I do not want to be in contempt of court, but I propose to discuss it. The injunction prohibits me from mentioning the above stove and range company in this case to anybody, either by word of mouth or by letter, or either in letter or circular or any way, but I can't help that. I must discuss it."

MORRISON.

Frank Morrison is, and has been, secretary of the American Federation of Labor, stationed at its headquarters in Washington, and as such appeared and took part in the proceedings of the annual conventions of the American Federation of Labor.

With knowledge of its contents he aided in the preparation, circulation and distribution, prior to December 23, 1907, of the same copies of the January, 1908, number of the American Federationist that are hereinbefore specified against Gompers and with the same purpose and intent.

He signed and took part in the preparation of and dispatched to each secretary of the 25,000 to 30,000 unions, along with the "urgent

appeal," the circular letter hereinbefore specified against Gompers, with full knowledge of its contents and with the same purpose and intent.

He took part in the preparation, publication, circulation and distribution of the April, 1908, number of the American Federationist, with full knowledge of its contents as hereinbefore specified against Gompers and with the same purpose and intent.

With knowledge and approval of the other writings and speakings hereinbefore specified against Gompers he took part in the circulation and distribution in large numbers of each and every issue of the Federationist containing them, as hereinbefore specified against Gompers and with the same purpose and intent.

JOHN MITCHELL.

John Mitchell is and was one of the vice-presidents of the American Federation of Labor, one of the members of its executive council and until April, 1908, was president of the United Mine Workers of North America.

He signed with full knowledge of its contents the "urgent appeal," which accompanied the twenty-seven odd thousand circular letters to the various secretaries as hereinbefore specified against Gompers and Morrison; and with full knowledge of their contents, counseling their distribution; and with the same purpose and intent.

On the 25th of January, 1908, at the annual convention of the United Mine Workers of America, Mitchell, its president, being in the chair, the following resolution was passed:

"RESOLUTION NO. 73.

"Whereas, the Buck's Stove and Range Company, of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and executive committee of the A. F. of L., in particular, from advertising the above-named firm as being on the 'Unfair' or 'We Don't Patronize List' and

"Whereas, by the issue of such an injunction or restraining order as prayed for by the above-named firm, organized labor will be deprived of one of its most effective weapons, and

"Whereas, J. W. Van Cleave, the president of above-named firm, also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore, be it

"Resolved, That the U. M. W. of A., in nineteenth annual convention assembled, place the Buck's stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make be fined $5.00, and failing to pay the same be expelled from the organization."

Mitchell testifies:

"I cannot recall anything of the introduction of or passing of the resolution. By referring to the transcript of the record I see I was in the chair when the resolution was adopted.

"Q. But you have no independent recollection in regard to it?

"A. I have not."

We accept his statement that he has forgotten; but what of that? The fact that he undertook and discharged the duties of a presiding officer alone raises a presumption that he attended to the affairs of the assembly over which he was presiding; a presumption which no mere "non me recordo" is sufficiently weighty to overcome; moreover, the testimony of the others, the nature of the subject, the identity of the plaintiff and the then position of organized labor respecting it, and the publicity then given to the situation render it indubitable that Mitchell was fully conscious of the details of the resolution and willfully took part in its passage at the time.

On the 9th day of January, 1908, the resolution was printed in the United Mine Workers Journal, as Mitchell knew it would be, and by that organ alone disseminated amongst the 300,000 members of the association whose chief officer and head he was.

In defense of the charges now at bar, neither apology nor extenuation is deemed fit to be embraced; no claim of unmeant contumacy is heard; persisting in contemptuous violation of the order, no defense is offered save these.

That the injunction:

"1. Infringed the constitutional guaranty of freedom of the press.

"2. Infringed the constitutional guaranty of freedom of speech."

These defenses do not fill the measure of the case; the injunction was designed to stay the general conspiracy of which the publication of the "Unfair" and "We Don't Patronize" lists were but incidents; the injunction interferes with no legitimate right of criticism or comment that law has ever sanctioned and the respondents' intimation that it does so is a mockery and a pretense.

It is no more suspected by the observant that courts of equity enjoin the commission of mere threatened crimes, than they are suspected to hesitate in enjoining certain infractions of property rights although happening to be conceived or involved in crime; these infractions are limited to infractions of such a particular nature as that after their perpetration the law has no remedy adequate against their results.

Finding in the common law that not all writings, not all speakings are lawful, that some are unlawful, and looking about for the particular rule which is competent to distinguish the lawful from the unlawful I deduce it from all considerations to be this: Whatever in writing, print or speech violates a legal right of another, is unlawful; whether in itself alone it accommodates that result, or whether it be but one instrument in a concert tuned to that end. If such a writing, printing or speaking is unlawful, the rest is clear; it ought to be enjoined in advance, if either it alone, or the concert, so invades rights of property as that the law affords no remedy adequate to compensate for the results; nor would I yet be thought to consider that the process of injunction of right should go no further; that the inestimable advantage of a good name may not thus be rescued from preconceived despoilment; but of such questions when they come.

Counsel are heard claiming that no one needed to obey the order, although no reason is brought save those already looked at; no discussion of the technical distinction between "void" and "erroneous" orders was undertaken although invited, wherefore my conceptions

of this particular are destitute of the advantage to be had by considering the views of my brethren of the bar.

That the order was "void," according to the technical criteria by which the law determines "voidness" no one has shown me a pretense; yet under technical "voidness" alone, can parties escape the duty and the necessity of obedience; were it concededly "erroneous," in the sense that the tribunal had fallen into an error in the determination of a cause which it was invested with jurisdiction to "hear and determine," the duty and necessity of obedience remains nevertheless the same. And I place the decision of the matter at bar distinctly on the proposition, that were the order confessedly erroneous, yet it must have been obeyed. (Worden *v.* Searls, 121 U. S. 14.)

It is between the supremacy of law over the rabble or its prostration under the feet of the disordered throng.

The interpretation of the law of a matter by an appropriate judicial tribunal settles that matter between the parties; else there is not anywhere to be had a settlement which takes impartial account of both sides; even if it be said that tribunals now and then fall into error in particular matters, yet this error lies in the incomplete and finite nature of worldly things and should not overturn the rule; for the rule being the best attainable by finite man, holds better results for the social fabric, more promotes the general welfare than would any other rule; for any other rule would be not the best rule, but somewhat worse. It is to the end that errors so falling may be minimized by possible correction, that tribunals for review are established for the advantage of a party who has such claim to make; but meanwhile the decree fixes the law's seal upon the matter, there to remain until removed, if at all, in the manner of order; not by riotous hands.

It would seem not inappropriate for such a penalty as will serve to deter others from following after such outlawed examples; will serve physically to impose obedience even though late; will serve to vindicate the orderly power of judicial tribunals, and to establish over this litigation the supremacy of law.

COMBINATIONS TO FIX PRICES—RESTRAINT OF TRADE—POOLS AND TRUSTS—CONSTRUCTION AND APPLICATION OF STATUTE—*Rohlf v. Kasemeier et al., Supreme Court of Iowa, 118 Northwestern Reporter, page 276.*—Dr. W. A. Rohlf, a practicing physician, was, with thirteen others of like profession, indicted for fixing fees and charges for medical and surgical services, in alleged violation of section 5060 of the Code of Iowa, which reads as follows:

Any corporation organized under the laws of this or any other State or country for transacting or conducting any kind of business in this State, or any partnership, association or individual, creating, entering into or becoming a member of, or party to any pool, trust, agreement, contract, combination, confederation or understanding with any other corporation, partnership, association, or individual, to regulate or fix the price of any article of merchandise or commodity, or to fix or limit the amount or quantity of any article, commodity, or merchandise to be manufactured, mined, produced, or sold in this State, shall be guilty of conspiracy.

Habeas corpus proceedings were instituted in the district court of Bremer County to secure the release of Rohlf from custody of the sheriff by whom he had been arrested and held, and his discharge was ordered. An appeal was taken to the supreme court, where the judgment of the court below was affirmed.

The case is of interest as discussing the principles governing combinations generally, including labor combinations, and their status where such laws as the above exist. The opinion of the court, which was delivered by Judge Deemer, is, excepting the preliminary statements, reproduced herewith:

The first point to be decided is: Do the acts charged constitute a crime under this section of the code? It will be noticed that it forbids a combination, agreement, or understanding to regulate or fix the price of any article of merchandise, or commodity, or of merchandise to be manufactured, mined, produced, or sold in this State. The primary inquiry is: Are the charges of a physician or surgeon for his medical skill or ability an article of merchandise or commodity to be produced or sold in this State. For appellant it is contended that the word "commodity" is broad enough to cover the charge made for professional services or skill, and that the trial court was in error in holding to the contrary. It must be remembered that the word is found in a criminal statute, and that in the interpretation of such statutes different rules apply from those which obtain in civil matters, or where contracts are involved. Nothing is to be added to such statutes by intendment, and, as a rule, they are to have a strict construction. Moreover, it is well settled that, in construing any statute, all the language shall be considered, and such interpretation placed upon any word appearing therein as was within the manifest intent of the body which enacted the law. Much of necessity depends upon the context and upon the usual and ordinary significance of the language used. Now, the word "commodity" is derived from the Latin "commodetas," and means primarily a convenience, profit, benefit, or advantage; but in referring to commerce it comprehends everything movable—that is, bought or sold—except animals. (See Webster's International Dictionary; Best *v.* Bauder, 29 How. Prac. (N. Y.) 489; Barnett *v.* Powell, 16 Ky. 409; Queen Ins. Co. *v.* State, 86 Tex. 250, 24 S. W. 397, 22 L. R. A. 483.) This word appearing in another statute (McClain's Code, ¶ 5454) was held to cover insurance, and it was decided that a combination to fix insurance rates was illegal. (See Beechley *v.* Mulville, 102 Iowa, 602, 70 N. W. 107, 71 N. W. 428, 63 Am. St. Rep. 479.) But in that case the parties were not selling their own services. They were, as the opinion says, selling insurance, which was regarded as a commodity as used in the statute then under consideration. Here the indicted defendants were for a price giving their own services, or perhaps selling them, and the question is: Were these personal services a commodity?

As already indicated, the word must be taken in connection with the others used in the statute, and it is manifest that the commodity referred to must have been such as could be manufactured, mined, produced, or sold in the state, and the price was to be of an article or merchandise or commodity. If the contention of appellant be correct, the statute covers all kinds of personal labor, both skilled

and unskilled, under the term "commodity." Indeed, this is the broad claim made by counsel. Now, whilst there is a class of political economists who treat labor as so much merchandise, the wage being regulated simply by supply and demand, there is another class, which, taking account of the personal equation, sees in it something more than a commodity, and refuses to subscribe to the doctrine that supply and demand alone regulate the price. This latter class of economists refuses to accept the doctrine that a man is rich because he has stored away within him many days' work, and are convinced that his necessities, quite as often as the demand for his labor, fixes the stipend which he is to receive. In other words, the laborer, skilled or unskilled, is not regarded as standing on an equality with him who barters in goods and merchandise. It is not, of course, within the province of courts of justice to adopt or promulgate any particular system of political science; but in the interpretation of statutes they must take notice of current political theory and conviction. If we were to adopt the view so strongly presented by appellant's counsel, it would be on the assumption that the associated words "merchandise" and "commodity" include the wages to be paid for labor, because labor is a sort of merchandise, subject to barter and sale as other goods. A fundamental rule of construction is that, where particular words are followed by general ones, the general are restricted in meaning to objects of a like kind with those specified. (State *v.* Stoller, 38 Iowa, 321; People *v.* Railroad, 84 N. Y. 565; McDade *v.* People, 29 Mich. 50.) Now, the term "merchandise" is special rather than general, and has reference primarily to those things which merchants sell either at wholesale or retail. (Jewell *v.* Board, 113 Iowa, 47, 84 N. W. 973.) "Commodity" is a broader term, and, when used as in the statute now under consideration, means almost any description of article called movable or personal estate. (Barnett *v.* Powell, 16 Ky. 409; Shuttleworth *v.* State, 35 Ala. 415; State *v.* Henke, 19 Mo. 225.)

Used in connection with the term "merchandise," and qualified as it is in the latter part of the section of the words "manufactured, mined, produced, or sold," it is manifest that the statute was not intended to, and did not, include labor either skilled or unskilled. It must be remembered that the statute is a criminal one, and that such statutes must be strictly construed; and, in case of doubt, the construction must be adopted most favorable to the party charged. The only ground upon which appellant can stand with any show of plausibility is that labor is a commodity to be bought, sold, or produced as merchandise. This is a strained and unnatural construction, and gives to the word "commodity" a meaning which is perhaps permissible, but is not the commonly accepted one. Under our statutes, words and phrases are to be construed according to the context and the approved usage of the language. (Code, ¶48.) With this in mind, we are constrained to hold that labor is not a commodity within the meaning of the act now in question. As supporting this conclusion, see Hunt *v.* Riverside Club, 140 Mich. 538, 104 N. W. 40, 12 Detroit Leg. N. 264; Queen *v.* State, 86 Tex. 250, 24 S. W. 397, 22 L. R. A. 483. It seems to be the almost universal holding that it is no crime for any number of persons without an unlawful object in view to associate themselves together, and agree that they will not

work for or deal with certain classes of men, or work under a certain price or without certain conditions. (Carew *v.* Rutherford, 106 Mass. 14, 8 Am. Rep. 287; Commonwealth *v.* Hunt, 4 Metc. 134, 38 Am. Dec. 346; Rogers *v.* Everts, 17 N. Y. Supp. 268; United States *v.* Moore (C. C.) 129 Fed. 630.)

The statute in question was aimed at unlawful conspiracies or combinations in restraint of trade, and was manifestly not intended to cover labor unions. It is the right of miners, artisans, laborers, or professional men to unite for their own improvement or advancement or for any other lawful purpose, and it has never been held, so far as we are able to discover, that a union for the purpose of advancing wages is unlawful under any statutes which have been called to our attention. As said by Judge Taft in Phelans Case (C. C.) 62 Fed. 803: "Such unions, when rightly conducted, are beneficial in character." And it would be a strained and unnatural conclusion to hold that a statute aimed at pools and trusts should be held to include agreements as to prices for labor because the word "commodity" is used therein. As the right to combine for the purpose of securing higher wages is recognized as lawful at common law, a statute enacted to prohibit pools and trusts should not be held to apply to combinations to fix the wages for labor, unless it clearly appears that such was the legislative intent. Whatever of doubt there may be regarding the power of the legislature to do so, we do not think that the act in question covers combinations to fix the labor price whether that labor be skilled or unskilled.

Appellants rely largely upon the celebrated cases of Loewe *v.* Lawlor et al, 208 U. S. 274, 52 L. Ed. 488, 28 Sup. Ct. 301, and In re Debs, 158 U. S. 564, 15 Sup. Ct. 900, 39 L. Ed. 1092, and other like cases in support of their construction of the statute; but in our opinion none of these cases are applicable. The Debs Case is not in point. Others involved a pool between manufacturers and still other[s] boycotts. In the Loewe Case defendants were engaged in a boycott of plaintiff and its customers, and were in the performance of acts calculated to destroy plaintiff's business by driving away customers, by threats and coercion were driving away plaintiff's employees, and circulating false reports regarding plaintiff and its business, the effect of which was to destroy its interstate trade. These acts were held to be an unlawful interference with interstate commerce, and a violation of the antitrust law known as the "Sherman Act" (Act July 2, 1890, c. 647, 26 Stat. 209 [U. S. Comp. St. 1901, p. 3200]). The statute before us has nothing to do with commerce; nor does it have to do with restraint of trade or commerce as does the Sherman act. It has to do with pools and trusts organized in this State to fix or regulate the price of any article or commodity, or to fix or limit the amount or quality of any article, commodity or merchandise to be produced or sold in the State. Surely it has no reference to the amount or quality of labor to be produced or sold. Such a construction would be ridiculous. And, if it will not bear that interpretation, it follows that the word "commodity," when used with reference to prices, should not be held to include labor. No case has been cited which supports appellant's contention, and we have not been able to find any. On the other hand, the following lend

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support to our conclusions: Cleland *v.* Anderson, 66 Neb. 252, 92 N. W. 307, 5 L. R. A. (N. S.) 136; Downing *v.* Lewis, 56 Neb. 386, 76 N. W. 900; State *v.* Associated Press, 159 Mo. 410, 60 S. W. 91, 51 L. R. A. 151, 81 Am. St. Rep. 368. It would be stretching the statute entirely too far to hold that it covers combinations to fix the price of labor. That the practice of medicine and surgery is labor no one, we think, will question.

The trial court was right in discharging the plaintiff, and its judgment must be, and it is, affirmed.

EMPLOYMENT OF CHILDREN—AGE LIMIT—CLEANING MOVING MACHINERY—*Sullivan v. Hanover Cordage Co., Supreme Court of Pennsylvania, 70 Atlantic Reporter, page 909.*—Paul Sullivan was injured while cleaning a machine in the company's factory, and sued by his next friend to recover damages. He was under 16 years of age, and the law prohibits such employment until the age of 16 years is attained. The machine was not in operation, and its only object in being put in motion at the time the injury was received was to aid in the work of cleaning it, and it was contended that this purpose removed the case from the operation of the law. Judgment had been against the company in the court of common pleas of York County, and, on appeal, it was affirmed by the supreme court. The principal point in the opinion, which was delivered by Judge Elkin, is contained in the following paragraph quoted therefrom:

It is argued with much force that the prohibition of the statute is directed against an attempt to clean a dangerous machine while it is in motion in the usual method of operation. In a sense this may be true, but it is the kind of motion, not the purpose, the statute guards against. It does not matter whether the attempt to clean is made when the machine is in motion for the purpose of operation, or whether it is in motion for the purpose of cleaning, if, in point of fact, the motion is of the same dangerous character in both instances. What the statute intended to prohibit was the employment of a boy of immature judgment, without experience and lacking in discretion to perform such dangerous work. We agree that if the machine at the time of the cleaning was not in dangerous motion, such as was usual in its operation, and if the motion, or revolution, at the time of the cleaning, was not dangerous, but simply consisted in partial revolutions made from time to time in order to facilitate the cleaning, the prohibition of the statute would very properly be held inapplicable. On the other hand, if the machine was propelled in the usual manner, and by the same force or power, while being cleaned as was usual when in operation, and if the motion or revolutions were of the same dangerous character, differing only in degree, the court would not be warranted in holding as a matter of law that the prohibition of the statute did not apply. Under such circumstances, it would at least be for the jury to determine whether at the time of the injury the machine was in dangerous motion. All

of these questions were submitted to the jury by the learned trial judge in such manner as to enable them to justly determine the rights of the parties to the controversy, and in our opinion appellant has no just cause to complain.

EMPLOYMENT OF CHILDREN—CERTIFICATE OF AGE—VIOLATION OF STATUTE—PERSONS LIABLE—*People v. Taylor, Court of Appeals of New York, 85 Northeastern Reporter, page 759.*—George H. Taylor was convicted in the court of special sessions of New York City of violating that provision of the labor law (Acts of 1897, c. 415, section 70, amended by Acts of 1903, c. 184) which prohibits the employment of children between the ages of 14 and 16 years without having filed a certificate in the employer's office. Taylor was treasurer of the Kursheedt Manufacturing Company, and the superintendent of its factory. One of the state inspectors found a girl employed in the factory who was under 16 years of age and without the required certificate. When Taylor was informed of the fact he stated that he had no knowledge of the violation of the law, and the girl, who had claimed to be over 16 when she was employed, was immediately discharged. Mr. Taylor was then arrested and convicted as above stated. This judgment was affirmed by the appellate division, but was reversed by the court of appeals and the defendant discharged as not being the person liable under the law for its violation.

The opinion of the court, which was delivered by Judge Chase, reads in part as follows:

The defendant was not individually an employer of labor. He was an officer, agent, and employee of the corporation, and responsible to it for the conduct of its business, but, so far as appears, in no way beneficially interested therein. Such an officer, agent, and employee has such powers and performs such duties in the management of the property and affairs of the corporation as may be prescribed by the directors or in the by-laws of the corporation. We assume that the person who owns a factory is liable for a violation of said section of the labor law, if contrary to the provisions thereof a child is employed by such owner, either directly or through an officer, agent, or employee, and wholly without regard to whether the employment is an intentional and willful violation of the statute. The term "person" includes a corporation. The owner, by or for whom the child is employed in violation of the statute, is liable, because such employment is prohibited. The question of intent is immaterial. The person actually entering into the contract by which a child is employed contrary to the provisions of the said section of the labor law is liable therefor, although such person acts as the agent or employee of another, because his act is also contrary to such provision of the statute.

The question directly before us, however, is as to whether an employee of a corporation, who is the superior in authority of another

employee of such corporation, is individually liable for such employment in the interest of and for the beneficial purposes of the corporation, when such employment is made by the subordinate without the knowledge or consent of the person charged with the crime, and contrary to his express direction. We think not. The labor law relating to factories does not treat the owner of a factory and the superintendent or manager thereof as equally responsible in all cases for carrying out its provisions.

An examination of all of the sections in the article of the labor law relating to factories shows that it was the intention of the legislature to make an owner, as the person beneficially interested, generally liable for violations of the article, and also to place upon the persons immediately or personally connected with the acts prohibited the responsibility for carrying out the provisions thereof.

There is no provision of the labor law which makes the superintendent of a factory of a corporation liable for the employment of a child under 16 years of age by a foreman or other employee, contrary to express directions given in good faith by such superintendent. The defendant is not in any sense a person who aids or abets such employment in violation of the statutes, or who counsels, commands, induces, or procures such employment. He was not a person who employed, permitted, or suffered the girl mentioned to work in the Kursheedt Manufacturing Company.

The judgment convicting the defendant of the crime violating section 70 of the labor law should therefore be reversed, and the defendant discharged.

HOURS OF LABOR OF EMPLOYEES ON RAILROADS—REGULATION OF COMMERCE—STATE AND FEDERAL STATUTES—CONSTITUTIONALITY—*State v. Missouri Pacific Railway Company, Supreme Court of Missouri, 111 Southwestern Reporter, page 500.*—The company named was indicted in the circuit court of Johnson County for a violation of the law of April 12, 1907 (page 332, Acts of 1907), which limits to eight per day the hours of labor of telegraph operators and train dispatchers in the State of Missouri. The indictment was quashed on the ground of the unconstitutionality of the statute, and the State appealed, the appeal resulting in the judgment of the lower court being affirmed. The federal law, fixing nine hours as the limit for the class of employees involved, was of prior enactment, but was not to take effect until March 4, 1908, and the State's counsel argued, (a) that the state law was controlling for employees engaged in intrastate commerce, and (b) that in any case it was valid from the time for its coming into effect (June 14, 1907) until the federal law should become operative. Various grounds were offered by the company for quashing the indictment, but as the decision of the court rested entirely on the answer to these two claims, the others need not be noted. The court denied both the contentions noted, for rea-

sons which appear in the following extract from its opinion, which was delivered by Judge Lamm:

(1) Assuming for the moment that fairly, i. e., equitably construed in their true spirit and intent, both laws were in effect at the same time, then the question is, may the state law stand as legislation upon intrastate commerce alone? We think not. The exact question in another form was before the Supreme Court of the United States in two cases just decided. (Howard *v.* Railroad, 207 U. S. 463, 28 Sup. Ct. 141; Brooks *v.* Railroad, id.) In those cases that court was construing a federal fellow-servant act, so drawn as not to distinguish between interstate commerce and intrastate commerce. The cases proceed on the theory that the Federal Congress might enact a fellow-servant act which was solely applicable to interstate commerce, but that an act so drawn as not to distinguish between the commercial power of Congress over interstate commerce and those strictly so engaged, and the power of the States to legislate upon intrastate commerce and those strictly engaged in that, could not stand. An analytical examination of the [Missouri] act of 1907 shows that it does not discriminate between telegraph operators assisting in the operation of interstate commerce trains and traffic, and those similarly employed in local trains and traffic. The provisions of the act are interdependent and not separable—it must stand as a whole as written, or fall as a whole. It follows, we think, that on the doctrine of the Howard case and the Brooks case, supra, the state law can no more stand in this case than did the federal law in those cases—provided, of course, the federal act and state law (in just intendment) were in force at the same time, and to that novel question we now address ourselves.

(2) We must construe the federal act by reading into its dry letter its manifest spirit and purpose. Its dry letter reads that it shall not go into effect for one year. What was the meaning of, the object to be subserved by, that suspension of the operation of the law? What, except to preserve the equities of the situation by impliedly giving common carriers engaged in interstate commerce one year in which to get a supply of experienced telegraph and telephone operators and trainmen to carry on their business without interruption and hindrance, and otherwise adjust their business affairs to the shorter hours required by that act? When broadly judged, the federal law must be construed as a notice (in the nature of a caveat) to all state legislatures, first, that Congress has occupied the ground by its statutory regulations; second, that in its high wisdom it has prescribed and marked out a transition or preparatory period of one year (a sort of truce period). Now with such broad and wise purposes read into the federal act shall any state legislature thereafter sit in judgment upon the wisdom of such truce period, and say, in effect, "We deem it too long and too liberal?" If the one law grants, by necessary implication, a breathing spell, shall the other take it away? If the one chalks out a policy, may the other rub it out?

In our opinion the comity that should exist between state and federal legislative power prohibits our taking that ungracious and narrow view.

It follows that the order quashing the indictment may be sustained on the ground herein discussed. Whether the motion to quash could be sustained also upon other grounds, is not necessary for us to decide in this case. Accordingly all other questions raised by that formidable motion are reserved. The judgment of the lower court is affirmed.

HOURS OF LABOR OF EMPLOYEES ON RAILROADS—REGULATION OF COMMERCE—STATE AND FEDERAL STATUTES—VALIDITY—*State v. Chicago, Milwaukee and St. Paul Railway Company, Supreme Court of Wisconsin, 117 Northwestern Reporter, page 686.*—The railroad company named was found guilty in the circuit court of Milwaukee County of violating chapter 575 of the Laws of 1907, which limits to eight per day the hours of labor of telegraph operators, including train dispatchers, and appealed. The question turned on the validity of the statute, in view of the prior enactment of a statute by the Congress of the United States on the subject of the hours of labor of employees engaged in interstate commerce. The supreme court held that the federal law was valid and controlling, to the practical exclusion of state legislation on the subject. The state law was therefore declared invalid, and the judgment of the lower court was reversed.

The grounds for this ruling are set forth in the following extracts from the opinion of the court, which was delivered by Judge Dodge:

The primary and most earnestly argued question is whether the act (Laws 1907, p. 1188, c. 575, sec. 1816m) prohibiting a corporation, operating a line of railroad in whole or in part in this State, to require or permit any (telegraph or telephone) operator (including train dispatcher) to remain on duty for more than one period of eight consecutive hours, so regulates interstate commerce intentionally or by necessary effect that it invades the power conferred upon Congress by article 1, sec. 8, Const. U. S., "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes," that it can not stand.

The mere fact that in some degree interstate commerce is affected by the act of a state legislature is not universally sufficient to condemn that act.

On the other hand, state legislation is prohibited which directly and intentionally controls and regulates interstate commerce, as, for example, an act which in terms regulates freight or passenger charges for interstate carriage, or which imposes a direct prohibition or charge upon the importation of property from one State into another.

Between these two extremes, however, lies a broad field for legislation claimed to be justified by necessary protection of the safety of the local community, which more or less directly obstructs, restrains, and regulates the transaction of interstate commerce—legislation not enacted for that purpose, but incidentally having the result. The Supreme Court of the United States, in Covington B. Co. *v.* Kentucky, 154 U. S. 204, 14 Sup. Ct. 1087, has classified that field into

three classes of legislative acts: The first, where the States have plenary power and Congress has no right to interfere, which concern the strictly internal commerce of the State, and, while the regulation may affect interstate commerce indirectly, its bearing is so remote that it can not be termed in any just sense interference. The second includes cases of what may be termed "concurrent jurisdiction," where the States may act in the absence of congressional action. Obviously this field must be one where Congress has right and power to act if it sees fit, but where some restraint and regulation is necessary, and the authority therefor is deemed to be conceded to the States pending nonaction of Congress. The third is the class where, from the very intimacy with and directness of effect upon interstate commerce of any legislative action, and national scope of the subject of legislation, it is presumed that the refraining of Congress from promulgating any regulations must be considered to declare a policy that the subject shall be free from regulation.

Pretty obviously, under the decisions of the Supreme Court of the United States, the act we are considering must fall in the second class. The safety of the public may be so imperiled by the employment of incompetent or disabled persons in and about railroads, navigation, and the like that the necessity for some legislation in regard thereto is manifest, and the forbearance of Congress to legislate might well be deemed significant of its policy to leave the subject of regulation to the legislatures of the several States. In this line it has been held that examination of pilots or railroad engineers with reference to physical capacity, especially color blindness, as a condition of their employment, is competent for a State.

We can not doubt that prohibition of an overfatigued telegraph operator from directing the operation of trains falls within the State's power to control, even though thereby the conduct of interstate commerce might be impeded or burdened. But this power in the States is subject to that provision in the Constitution that Congress shall have power to regulate interstate commerce; that is, to prescribe the restrictions and limitations under which it shall be conducted, and when it prescribes those regulations it does so to the exclusion of state legislation accomplishing a like regulation directly or indirectly and whether intended for that purpose or not.

On March 4, 1907, before the act now under consideration was passed, and even before it was introduced in the Wisconsin legislature, Congress had legislated fully upon the subject of hours of labor for the very class of employees affected by section 1816m. It then provided (act March 4, 1907, p. 1415, c. 2939, 34 Stat. 1415 [U. S. Comp. St. Supp. 1907, p. 913]), that it should be unlawful for any common carrier subject to the act to require or permit any employee subject to the act to be or remain on duty for a period longer than 16 consecutive hours, and that no operator or train dispatcher should be required or permitted to remain on duty for a longer period than 9 hours in any 24-hour period in places continuously operated night and day, nor for a period longer than 13 hours in places operated only during the daytime, with exceptions in case of emergencies. This was a clear declaration by Congress of a will and policy that, so far as the regulation and safeguarding of interstate commerce might properly be affected by prescribing hours of labor for such

employees, the subject should be under control of Congress, and not of the state legislatures. Doubtless the state legislatures persisted in their power to protect the safety of their respective communities by reasonably regulating the hours of service of railroad employees, with the limitation, however, that they must not thereby restrict or effectively regulate interstate commerce. Under many of the decisions above cited the State was thereby precluded from enacting any law of that sort which would have that effect, for the field of policy and legislation was thus assumed by Congress and withdrawn from state competency. (State *v.* Mo., etc., Ry. (Mo.) 111 S.W. 500.)

Apart from this view, however, it is too obvious to need more than the statement that the legislation fixing 9 and 13 hours, respectively, as the permitted term of employment, was a declaration of a federal policy on that subject, and that a state law excluding interstate railways from the use of their employees on interstate commerce for 1 of the 9 hours or for 5 of the 13 hours would be in direct conflict with that policy. The absence of such an employee at a small station upon an interstate road might well be a most serious inconvenience and burden upon both the celerity and safety of interstate commerce past that station, and requirement of such absence would be in direct antagonism to the policy of the federal law permitting presence and employment. Not less obviously the act of Congress declared a policy that interstate railroads should have a reasonable time in which to adjust their business to the new restrictions, by postponing the date when the law should become operative for one year after its passage, thus indicating that such period of time was so necessary to reasonable convenience of interstate commerce. Indeed, this latter implication is not only clear from the act, but made the more certain by reference to the debates and reports of committees attending the consideration and passage of the law of Congress. Hence a state provision to the effect that the time for such preparation and adjustment should be restricted to the 1st of January, 1908, as contained in chapter 575, p. 1188, Laws of 1907, is in direct conflict with the policy of Congress. (State *v.* Mo., etc., Ry., supra.) We are therefore constrained to the conclusion that restriction of hours of labor of telegraph operators engaged in moving interstate trains or traffic is a field of legislation forbidden to the States by the federal Constitution, but also that the limitation contained in our statute is in conflict with and in negation of the act of Congress, and can not be enforced as to such employees.

The further contention is made by the respondent that, even if it be beyond the power of the State to restrict the services of an operator engaged in moving interstate trains, it is competent to so restrict as to one engaged exclusively upon trains or business wholly within the State, and that the law may be construed as so limited, and its validity as so limited be sustained. The principle invoked is doubtless sound, if it is reasonably possible to separate the permissible from the forbidden, and to believe that the legislature intended by the act to effect the one and omit the other.

Chapter 575, p. 1188, Laws of 1907, in terms is directed to every corporation operating a line of railroad, in whole or in part, in the State of Wisconsin, thus expressly including those who are engaged in interstate commerce. But it is also open to the other objection, held to be fatal, that it restricts the employment of all operators,

without discrimination as to the character of their services. It is matter of common knowledge, and is set up as a fact by the answer, that any operator who works upon trains or transportation wholly within the State also necessarily and at the same time works upon interstate trains and transportation. (State *v.* Mo., etc., Ry., supra.) The state legislature has in terms undertaken to restrict hours of work of employees engaged in safeguarding and conducting interstate commerce, as well as domestic; and, controlled as we must be by the decision of the federal Supreme Court, we can not import a meaning contradictory to the express words. Neither can we feel any certainty that the generality of the restriction was not an essential element in the entire legislative scheme, so that we might believe the legislature would have imposed upon domestic commerce, or on employees exclusively engaged therein, burdens not also resting on entirely similar acts of employees involving interstate trains or commerce.

We think the impracticability, if not impossibility, of limiting hours of work devoted to domestic commerce alone is so obvious as to preclude belief in any such legislative purpose. Hardly any act of a train dispatcher on a busy railroad can be conceived which does not affect both interstate and domestic commerce. He can not move or stop the most distinctively local train without affecting the interstate train, or vice versa. No extra or special can be put on the division without adjustment of other trains. Of course, also, every interstate train carries some purely intrastate freight or passengers. Many purely domestic trains carry some freight or passengers in transit to extrastate destination. It would seem that any severance of control over state from interstate trains involved so much of confusion and probability of danger, and its possibility even is so doubtful and experimental, that no legislature would absolutely precipitate it without careful consideration, nor without providing in the act for the event of the failure of such experiments. For this reason as well we are convinced that the legislative purpose involved what the legislative words include, the regulation of services of all operators, and would in nowise be satisfied, even in part, by a restriction to those whose acts affect only domestic commerce, if, indeed, there are any such.

The court then discussed the contention that the federal act is unconstitutional on the same grounds that the earlier law was so held (207 U. S. 463, 28 Sup. Ct. 141. [Bulletin No. 74, p. 216]), saying in part:

It is entirely natural and probable that an attempt would have been made to differentiate the latter enactment from the former one, and to escape the somewhat technical ground of invalidity in the former. It is without surprise, therefore, that we find such differentiating provision in the first section, to the effect "that the provisions of this act shall apply to any common carrier or carriers, their officers, agents and employees, engaged in the transportation of passengers," etc., between the several States, and also: "The term 'employees' as used in this act shall be held to mean persons actually engaged in or connected with the movement of any [interstate] train." It will also be noted that the hours of employment are prescribed for "any em-

ployee subject to this act." We can not doubt that by these phrases the operation of the present act was limited, not only to employers engaged in interstate commerce, but to the conduct of employees so engaged, to the exclusion of any who might be engaged purely in the domestic affairs of the employer, and that by this very distinction and limitation of the application of the act the legislation is brought within that portion of the decision which holds that the employer's liability act would have been valid had it been confined in application to the relation of employees while engaged in interstate commerce. (207 U. S. at page 496, 28 Sup. Ct. 141, 52 L. Ed. 297.)

Since our conclusion is fatal to chapter 575, p. 1188, Laws of 1907, no possible necessity for or benefit from a new trial can result. Hence:

Judgment reversed, and cause remanded, with directions to enter judgment for the defendant.

HOURS OF LABOR ON PUBLIC WORKS—EIGHT-HOUR LAW—CONSTITUTIONALITY OF STATUTE—*People ex rel. Williams Engineering and Contracting Company v. Metz, Court of Appeals of New York, 85 Northeastern Reporter, page 1070.*—The company named was a contractor engaged in constructing a sewer in the city of New York. After the completion of a part of the work, request was made for payments under the contract aggregating more than $14,000. The attention of the comptroller of the city had been called to alleged violations of the labor law, which limits to eight per day the hours of labor of employees on work for the State or a municipal corporation, or by contractors or subcontractors therewith; the law also prescribes the payment of locally current rates of wages, and prohibits payment for work done in violation of the provisions named. Violations having been shown, the comptroller refused to pay the sum demanded, whereupon the company sued and secured a writ directing payment. This was appealed from by the comptroller and was reversed in the court of appeals.

The chief contention, and the only one that was of force, was that the law was unconstitutional, the facts of its violation not being disputed. The court considered only the single point of the limitation to eight hours of work per day, and the prohibition of payment where the law was violated, since the claim of the company would be extinguished if the law should be upheld in these respects, regardless of its other provisions. A law of like import had been passed in 1897, and declared unconstitutional in 1901, according to the constitution as it then stood, first, because it required the expenditure of money of the city or that of the local property owners for other than city purposes; second, because it invaded rights of liberty and property, in that it denied to the city and the contractor the right to agree with their employees upon the measure of their compensation.

(People ex rel. Rodgers *v.* Coler, 166 N. Y. 1, 59 N. E. 716 [Bulletin No. 35, p. 805]; People ex rel. Treat *v.* Coler, 166 N. Y. 144, 59 N. E. 776 [Bulletin No. 40, p. 615].)

(See also People *v.* Orange County Road Construction Co., 175 N. Y. 84, 67 N. E. 129 [Bulletin No. 50, p. 181]; People ex rel. Cossey *v.* Grout, 179 N. Y. 417, 72 N. E. 464 [Bulletin No. 57, p. 687].)

The constitution of the State was subsequently amended so as to give the legislature authority to regulate and fix wages or salaries and the hours of labor, and make provision for the protection, welfare, and safety of persons employed on public works. The legislature availed itself of the authority thus conferred and reenacted the material parts of the earlier law as chapter 506 of the Acts of 1906, the amendment to the constitution having come into effect on January 1 of that year. Judge Vann, who delivered the opinion, speaking for an undivided court, stated the facts set forth above and enumerated the cases cited above saying that they do not apply to the constitution in its amended form. Continuing, he said:

The constitution, as construed by these decisions and others, was amended because it did not confer power upon the legislature to fix and regulate the hours of labor in doing public work or the wages to be paid therefor. When, therefore, the constitution as it stood before it was amended is read in connection with the amendment and in the light of the judicial decisions which led thereto, it is clear that the people intended to authorize such legislation as the provision relating to hours of labor now under consideration. The legislature acted under the amendment and reenacted the precise law the overthrow of which by the courts made the amendment necessary. These provisions of the constitution which were violated by the labor law of 1897 were not violated by the labor law of 1906, so far as we are now treating it, because in the meantime the constitution had been so amended as to modify said provisions by authorizing the legislature to regulate and fix the hours of labor upon public work. Unless the amendment did this it did nothing, and the constitution is the same in effect as it was before. The presumption is that the people in exercising their supreme power did not do a vain act, but effected a definite purpose.

Freedom of contract still exists, but not to the same extent as formerly, because the people have commanded that that right must yield so far as reasonably necessary to enable the legislature to fix and regulate the hours of labor on work done for the State or any civil division thereof. The same is true of the other provisions of the constitution which were relied upon by us in passing on the labor law of 1897. Every provision of the constitution as it was before it was amended which so conflicts with the amendment that it can not be fairly harmonized therewith, necessarily yields thereto, but only to the extent necessary to make the amendment reasonably effective.

As the legislature has power to regulate and fix the hours of labor on public work, it has the incidental power to compel obedience to its

commands by mild or severe penalties, as it sees fit. The method of enforcement is for it to determine. It can make violation a crime punishable by fine or imprisonment, or both, or provide for a forfeiture of the contract, or prohibit payment for work done thereunder. All this is within its sound discretion. The prohibition of payment under certain circumstances by the civil service law is quite analogous. The legislature is not required to act under the amendment at all, and any action taken, if unsatisfactory to the public either in principle or detail, can be retracted at any time in response to public opinion. If the legislation retards public improvements or increases municipal debts, or does not work well in other respects, there is ample room for public sentiment to act through the chosen representatives of the people.

Our conclusion upon this branch of the case is that, in view of the history of the amendment in question and the causes which led to it, the legislature now has power, and had when the present labor law was enacted, to fix and regulate the hours of labor on public work by limiting them to eight hours in one calendar day, and to provide that when that limit is exceeded no officer of state or municipal government shall be permitted to pay therefor from funds under his official control. We do not uphold the labor law as constitutional, to the limited extent that we pass upon it at all, because it is authorized by the police power which belongs to the State for we can not see that it bears any reasonable relation to the public health, safety, or morals. The reasoning of Chief Judge Cullen in the Orange County road case is conclusive upon that subject. (People *v.* Orange County Road Construction Company, 175 N. Y. 84, 87, 67 N. E. 129, 65 L. R. A. 33.) We uphold the statute simply because the people have so amended the constitution as to permit such legislation. The command of the people made in the form prescribed by law must be enforced by the courts.

It is claimed that the labor law violates the first section of the fourteenth amendment to the Constitution of the United States in so far as it provides that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

It is urged that the labor law makes discriminations when there are no differences; that it arbitrarily discriminates between persons employed by private individuals and those employed by the State or by municipal corporations, and with no adequate reason exempts from the latter three classes of persons. It is insisted that it is a capricious distinction to permit a laborer digging ditches for a farmer to agree to work 10 hours a day, while if he does the same kind of work just across the line for a city he can not agree to work more than 8 hours, even if he wishes to work longer and the city is willing to pay him all he asks.

One purpose of the fourteenth amendment is to prevent state legislatures from making discriminations without any basis; in other words, to do away with class legislation. Following the decisions of the Supreme Court of the United States upon the subject, we have held that there must be some basis for classification, but that a basis is sufficient, even if it seems unreasonable to the courts, provided there

is reason enough for it to support an argument so that it could have seemed reasonable to the legislature. (People ex rel. Hatch *v.* Reardon, 184 N. Y. 431, 77 N. E. 970; People ex rel. Farrington *v.* Mensching, 187 N. Y. 8, 79 N. E. 884.)

In the latter case we said that "there must be some support of taste, policy, difference of situation, or the like, some reason for it, even if it is a poor one. * * * The court must be able to see that the legislators could regard it as reasonable and proper without doing violence to common sense."

It is to be observed that the amendment to our state constitution which we have had under consideration relates only to public work, or work done for the State or for one of the political divisions created by the State, such as a county, city, town, or village. The labor law follows the constitution as amended in this respect. In other words, the State was dealing with itself and with its own creatures when its legislature passed that portion of the labor law that we are now considering.

We regard discussion of the question involving discrimination between persons employed by private individuals and those employed by municipal corporations as foreclosed by the decision of the Supreme Court of the United States in Atkin *v.* Kansas, 191 U. S. 207, 220, 24 Sup. Ct. 124. [See Bulletin No. 50, p. 177.] That case is directly analogous, for it involved the constitutionality of a statute of the State of Kansas which provided that eight hours should constitute a day's work for all laborers employed by or on behalf of the State or any of its municipalities, and made it unlawful for anyone thereafter contracting to do public work to require or permit a laborer to work longer than eight hours a day. A violation of this provision was made a crime punishable by a fine of not less than $50 nor more than $1,000, or by imprisonment not more than six months, or by both such fine and imprisonment in the discretion of the court. The plaintiff in error, a contractor for public work in Kansas City, was convicted of permitting one Reese, an employee, to voluntarily work 10 hours a day laying a pavement, and was fined $100. The conviction was sustained. In that case, as in this, counsel argued that, "if a statute such as the one under consideration is justifiable, should it not apply to all persons and to all vocations whatsoever? Why should such a law be limited to contractors with the State and its municipalities? Why should the law allow a contractor to agree with a laborer to shovel dirt for 10 hours a day in the performance of a private contract, and make exactly the same act under similar conditions a misdemeanor when done in the performance of a contract for the construction of a public improvement? Why is the liberty with reference to contracting restricted in the one case and not in the other?"

The court, after reciting these questions asked by counsel, answered them as follows: "These questions, indeed the entire argument of defendant's counsel, seem to attach too little consequence to the relation existing between a State and its municipal corporations. Such corporations are the creatures, mere political subdivisions of the State for the purpose of exercising a part of its powers. They may exert only such powers as are expressly granted to them, or such as may be necessarily implied from those granted. What they lawfully do of a public character is done under the sanction of the State.

They are, in every essential sense, only auxiliaries of the State for the purposes of local government. They may be created, or, having been created, their powers may be restricted or enlarged or altogether withdrawn at the will of the legislature; the authority of the legislature, when restricting or withdrawing such powers, being subject only to the fundamental condition that the collective and individual rights of the people of a municipality shall not thereby be destroyed. * * * If, then, the work upon which the defendant employed Reese was of a public character, it necessarily follows that the statute in question, in its application to those undertaking work for or on behalf of a municipal corporation of the State, does not infringe the personal liberty of anyone * * * Whatever may have been the motives controlling the enactment of the statute in question, we can imagine no possible ground to dispute the power of the State to declare that no one undertaking work for it or for one of its municipal agencies should permit or require an employee on such work to labor in excess of eight hours each day, and to inflict punishment upon those who are embraced by such regulations and yet disregard them. It can not be deemed a part of the liberty of any contractor that he be allowed to do public work in any mode he may choose to adopt without regard to the wishes of the State. On the contrary, it belongs to the State, as the guardian and trustee for its people, and having control of its affairs, to prescribe the conditions upon which it will permit public work to be done on its behalf, or on behalf of its municipalities. No court has authority to review its action in that respect. Regulations on this subject suggest only considerations of public policy, and with such considerations the courts have no concern.

If it be contended to be the right of everyone to dispose of his labor upon such terms as he deems best, as undoubtedly it is, and that to make it a criminal offense for a contractor for public work to permit or require his employee to perform labor upon that work in excess of eight hours each day is in derogation of the liberty both of employees and employer, it is sufficient to answer that no employee is entitled, of absolute right and as a part of his liberty, to perform labor for the State; and no contractor for public work can excuse a violation of his agreement with the State by doing that which the statute under which he proceeds distinctly and lawfully forbids him to do." This decision was cited with approval in the somewhat analogous case of Ellis *v.* United States, 206 U. S. 246, 255, 27 Sup. Ct. 600. [Bulletin No. 71 p. 361.]

We close this branch of the discussion by quoting from the latest utterance upon the subject by the court of last resort upon federal questions to which our attention has been called. " It is undoubtedly true, as more than once declared by this court, that the general right to contract in relation to one's business is part of the liberty of the individual, protected by the fourteenth amendment to the Federal Constitution; yet it is equally well settled that this liberty is not absolute and extending to all contracts, and that a State may, without conflicting with the provisions of the fourteenth amendment, restrict in many respects the individual's power to contract." (Muller *v.* Oregon, 208 U. S. 412, 421, 28 Sup. Ct. 324, 52 L. Ed. 551.)

The relator claims that it is denied the equal protection of the laws because all in the same class are not treated alike, inasmuch as persons regularly employed in state institutions, engineers, electri-

cians, and elevator men in the department of public buildings during the annual sessions of the legislature, and those engaged in the construction, maintenance, and repair of highways outside the limits of cities and villages, are exempted from the operation of the labor law.

We do not regard this classification as arbitrary or capricious within the rule governing the subject, for it has some reason to support it, and hence was within the power of the legislature. Employees with duties to be discharged in the nighttime, or partly by day and partly by night, as in asylums, prisons, and the like, and those who operate the machinery for heating and lighting the state capitol when the legislature is in session, may properly receive separate classification in order to prevent public injury and inconvenience. Here, also, the State was dealing with its own agencies, and had the right to promote its convenience and welfare by making a distinction between those who perform manual labor for the most part and those who work largely with their brains. The one class of duties involves greater bodily fatigue than the other, and, as positions in state institutions are regarded as higher in rank and less exacting, they are eagerly sought for as more desirable.

The exemption of those employed in working upon highways outside the limits of cities and villages, apparently applies only to employees of counties and towns, or of the State, or contractors therewith, as in building and repairing state roads and the like. This is in conformity with the custom in rural districts, where, as it may be argued, the crops could neither be planted or gathered by laboring but eight hours a day. The reason for the distinction may not be conclusive, but it will support an argument, which is sufficient. Moreover, the employees in the exempt classes, as a rule, work away from home, under circumstances, conditions, and surroundings which differ from those affecting employees working near their homes in cities and villages. The law requires equality only among those similarly situated, and this rule, we think, was observed by the statute in question.

We have thus considered the subject of discrimination along the line of discussion adopted by counsel, but we regard it as of slight importance in this case because in the legislation in question the State was dealing with its own creations and could discriminate as it saw fit.

We think that, upon the facts as presented by the record before us, the comptroller was prohibited by a valid statute from paying any part of the relator's claims, and hence the orders below directing him to do so must be reversed and the proceeding dismissed, with costs in all courts, without prejudice to an application for an alternative writ of mandamus or to the institution of an action to recover the claim.

INTERFERENCE WITH EMPLOYMENT—DAMAGES FOR PROCURING DISCHARGE—MEASURE—GROUNDS—RIGHTS OF LABOR ORGANIZATIONS—*Carter v. Oster et al., St. Louis, Mo., Court of Appeals, 112 Southwestern Reporter, page 995.*—Frank Carter, a nonunion workman, sued Otto Oster and others, members of Local Branch No. 29 of the National Association of Steam and Hot Water Fitters of America, to recover damages for maliciously procuring his discharge from

employment. He had recovered judgment in the St. Louis circuit court, which court afterwards granted a new trial, and from this order granting a new trial Carter appealed. The court of appeals agreed with the circuit court in ordering a new trial. The opinion contains the facts and reviews a number of cases affecting the rights of organized labor, and is in large part reproduced.

Judge Goode, speaking for the court, said:

Plaintiff is by trade an ammonia, steam, and hot water fitter, and at the dates hereafter mentioned had followed that employment for about 12 years. Defendants are alleged to be, and the proof tends to show they are, members of a trade union in the city of St. Louis denominated "Local Branch No. 29 of the National Association of Steam and Hot Water Fitters of America." This association and a score or more of other trades unions connected with the building and equipment of houses are affiliated with a larger association called the St. Louis Building Trades Council. The membership of the latter body consists of about 40 representatives from each of the different trades unions of the city, whose members follow crafts connected with the construction and equipment of buildings. The St. Louis Building Trades Council, as shown by the preamble to its constitution and by-laws, is designed to control all work on, and all workmen who have anything to do with the building and repairing of houses "from the foundation to the roof." Artisans, such as carpenters, plumbers, steam fitters, and others, are required by said constitution and by-laws to be members of their respective trades unions, and to have a card or license from the central organization, the St. Louis Building Trades Council, in order to be recognized by the latter or by union men, or have the benefits expected to be obtained by the organization of this branch of labor. Business agents, or walking delegates, were appointed by the different unions for the performance of several duties, of which one was to ascertain when and where nonunion workmen were employed by building contractors. Two of these agents or delegates who served said Local Branch No. 29 of Steam and Hot Water Fitters were defendants, John Reigert, jr., and Henry Brammeyer, who appear prominently in the evidence as the active agents in causing the grievances of which plaintiff complains. The evidence in the record, including the constitution and by-laws of the Building Trades Council, shows that the purpose of both said council and the subordinate unions which it dominates was to gather into a compact and effective organization all building mechanics for mutual assistance, so as to remove injurious competition, prevent the interference of outside influence in the building business, shorten the hours of labor, protect the members of each craft against encroachments by the advance of science and invention on their ability to earn a livelihood, cooperate with other labor associations for defense against the misuse of capital, effect adjustments between employers and employees, and generally to secure improvement in the condition of artisans. Section 3 of article 6 and section 5 of article 7 of the constitution and by-laws make plain that one purpose of the Building Trades Council was to induce building contractors to employ as laborers only union mechanics by insuring the contractors a certain measure of immunity from strikes, and by forbidding men to work on any job where work was done by non-

union men, or while grievances between a union and a contractor were unsettled. When the business agents or walking delegates of Local Branch No. 29 of the Steam and Hot Water Fitters, or the agents of the Building Trades Council, discovered a nonunion artisan at work on a job where union men were also employed, the agents would demand of the contractor or employer that the nonunion workman be discharged, and also compel such contractor to pay a fine for having employed him; and in this way the contractors were coerced into employing only union workmen. The evidence tends to show, too, that, in furtherance of this aim, threats of bodily harm to nonunion men and verbal abuse of them were occasionally resorted to by members of the union and sometimes carried out; but as to how far such violent methods were indorsed by the order or were acts of individual passion is not conclusively shown. The foregoing is a correct statement in a general way of the purposes and usages of the trades organizations with which the testimony deals.

In December, 1903, plaintiff Carter was at work for the Missouri Heating and Construction Company at wages of $5.50 a day for eight hours' work. While he was installing an ammonia plant for his said employer on Morgan street, Riegert and Brammeyer discovered him. The Missouri Heating and Construction Company had in its employ at the time union mechanics connected with said Local Branch No. 29, and Brammeyer and Riegert, walking delegates of said branch, notified Barr, the manager of the Missouri Heating and Construction Company, to discharge Carter and another nonunion workman who was in the company's employ on pain of a strike by the union men. Carter and the other workman were discharged, in consequence of this notice, on December 24. Afterwards Riegert and Brammeyer served notice on Barr that his company had been fined $200 for employing Carter. Barr at first refused to pay the money, but the union men in the company's employ quit work forthwith, and the company was compelled to pay in order to go on with its contract. After his discharge by the Missouri Heating Company and until February 29, 1904, when the present action was instituted, Carter procured work from several contractors, who, in turn, were forced by the action of Local Branch No. 29 to discharge him after he had worked a day or two, and in one or more instances fines were imposed on the contractors for employing him. His last job was on some work at the Louisiana Purchase Exposition grounds, and for a contractor by the name of Burgrobe. Burgrobe was compelled to dismiss the plaintiff by a strike of the union men instigated by said local branch's walking delegates, and on this occasion the evidence tends to show that plaintiff was menaced with an assault by union men and forced to call on the guards of the fair grounds for protection. After this he made an arrangement with a contractor by which the two were to do business on their own account, and plaintiff was to get a commission for his work; but the unions prevented them from getting any business. The essence of the testimony is that plaintiff's employers were forced to discharge him in from three to five instances between December 24, 1904 [3], and February 29, 1905 [4], by threats of strikes and fines, that contumelious epithets were applied to him by union workmen, and threats of violence, and that he was told he

would not be allowed to work on jobs. It is alleged that the wrongful and coercive methods of the defendants are still in force, and all employers of such labor as plaintiff performs have been terrorized into refusing to employ plaintiff, who, therefore, can obtain no work, and is held up to scorn and ridicule by defendants and other workmen. To recover for these torts to his person, and interferences with his means of getting a livelihood, all alleged to have been wrongfully, maliciously, and willfully made, plaintiff prayed damages; and under the instructions of the court the jury returned a verdict in his favor for $750 actual and $250 punitive damages. The court granted a new trial on two grounds. The first was that error had been committed in the reception of evidence of an assault made by one Malloy on a nonunion workman named Hoblitzell. Malloy is not a defendant, but was a member of Local Branch No. 29. Hoblitzell had worked with plaintiff for the Missouri Heating and Construction Company, and was assaulted by Malloy on the street. Plaintiff was not connected with this episode, and no doubt it was irrelevant, and evidence about it ought to have been rejected; but, in view of the abundant evidence to prove the acts for which plaintiff asks redress, the irrelevant testimony in question is hardly ground for setting aside the verdict. The other ground on which the court sustained the motion for a new trial is that the instruction on the measure of damages was erroneous, in that it permitted plaintiff to recover, in case of a verdict for him, not only his pecuniary loss, but for mental pain and suffering due to fear, anxiety, wounded feelings, and distress of mind caused by defendants' tortious acts.

1. Counsel for defendants contends no case was made for the jury, and insists that we pass on the question of whether there was or not. His position is that at the utmost, whatever was done by defendants, or any of them, which caused plaintiff to lose employment, was within their lawful rights, and therefore afforded no ground of action. Perhaps this position would be tenable, if, as counsel says, the evidence showed no more than that the members of Local Branch No. 29 of Steam Fitters, acting through their delegates, caused members of that order to cease working for contractors when plaintiff was employed on the job. The lower court instructed the jury that it was not unlawful or a conspiracy for workmen merely to combine together to quit an employment, unless an adjustment of differences between themselves and their employer was made, nor to refuse to associate or work with any man they saw fit. Many decisions, and perhaps the weight of authority, uphold the right of employees, either individually or in combination, to quit working because some fellow-servant is obnoxious to them when they are not governed by a contract of service of definite duration. This is on the principle that employees may choose both their employer and their working associates; and it may well be that, if not under contract, they may leave an employment when they please for any purpose they conceive to be for their welfare, or likely to aid in the amelioration of the lot of the laboring classes, if their conduct is dominated by such a motive rather than by a malicious desire to injure someone else. In recognition of this principle, the right of artisans to strike for an increase of wages or for shorter hours, or because a coemployee is obnoxious to them, has been often adjudged, though perhaps it can not be said that the current of authority is unbroken in favor of the

right to strike when the immediate purpose is to cause the discharge of an obnoxious fellow-servant, even though the ultimate purpose may be the attainment of better economic and social conditions.

But there can be no difference of legal opinion on one proposition—that third parties are answerable for keeping a man out of employment when the means employed to do so are unlawful—and on this all the authorities agree. (Moran *v.* Dunphy, 177 Mass. 485, 59 N. E. 125, 52 L. R. A. 115, 83 Am. St. Rep. 289; 1 Tiedeman, State & Fed. Cont. 440.) In the present case we have no occasion to inquire concerning the responsibility of the defendants further than to ask if the methods resorted to by them to prevent plaintiff from obtaining and retaining employment were illegal. It was proved that as soon as he was known to have work on a job the agents of Local Branch No. 29 would notify his employer to discharge him on pain of a strike, and would, moreover, extort from the employer a heavy fine for having hired him. The activity of the building business in St. Louis and the demand for labor were so great that contractors were coerced into dismissing Carter. If they refused to do that or to pay the fine, the union men in their service would strike, thereby preventing them from completing their contracts, and threatening them with losses and perhaps ruin. A sort of duress was brought into operation which contractors were powerless to resist.

Not every threat of a strike, or other attempt to intimidate, will afford a cause of action to an employee who is discharged in consequence of it. The threat must be of a substantial character, and adapted to influence a person of reasonable firmness and prudence. (1 Eddy, Comb. sec. 504.) In so far as Carter was kept out of work by threats of violence to his person, his case is within the statute; for interference in that manner with employment is a statutory crime. (R. S. 1899, sec. 2155.) Plaintiff was also molested by offensive remarks and abusive epithets. These acts may have exerted an influence over contractors, as well as the threats to strike, and have been partly instrumental in causing him to be discharged. As to the tortious and illegal character of such conduct, see 1 Eddy, Comb. sec. 506; O'Neil *v.* Behanna, 182 Pa. 236, 37 Atl. 843, 38 L. R. A. 382, 61 Am. St. Rep. 702. Procuring plaintiff's dismissal from various employments by means of strikes, and the extortion of penalties from contractors, were adopted as methods of preventing him from following his trade, and were likewise illegal. No doubt the members of the union had an economic purpose in view, namely, to unionize all building craftsmen, and thereby render laborers more independent in treating with contractors and capitalists. We need not decide whether or not it was unlawful for the defendants simply to cause a strike in order to procure plaintiff's discharge; for we have the further fact that money was extorted from those who gave him work, which was a method of intimidating contractors, devoid of semblance of legal right. We have found no case on the subject wherein either the point in decision or the reasoning of the opinion would tolerate such methods of depriving a workman of employment. Nor is it material that plaintiff may not have been dismissed from a service wherein he was hired for a definite time. If his discharge was procured by the defendants by illegal methods when otherwise he would have been retained by his employers, his cause of action is complete;

this being one phase of the general doctrine that third parties are liable for inducing breaches of contracts by unlawful methods. [Cases cited.]

2. On some phases of the evidence we think plaintiff would be entitled to damages for mental suffering. If nothing more was established than that defendants tortiously induced breaches of his contracts of employment, thereby keeping him idle, perhaps his damages might be confined to what he would have earned if at work. This is the general rule for the measurement of damages in an action for a wrongful discharge from service. (2 Wood, Master and Servant, 246.) But, as already said, the testimony conduces to show the conduct of the defendants was not only wrongful, but willful, malicious, and oppressive; and it is generally held that the mental suffering due to torts of that nature is an element of damages. Defendants' counsel contends there can be no award for mental suffering unconnected with a physical injury, which is true in actions for negligent wrongs, and wherein the conduct of the defendants does not exhibit malice, insult, or inhumanity. (Trigg *v.* Railroad, 74 Mo. 147, 41 Am. Rep. 305.) But there are torts of which mental distress is the proximate and natural result, and for which damages may be assessed. Such are malicious prosecutions, slanders, and willful trespasses to the person, either with or without physical injury; for instance the unlawful ejection of a passenger from a train.

We have found no case in which the question was raised regarding the right to such damages for wrongfully and maliciously keeping a person out of employment. But a man's trade and the contracts by which he is employed to exercise it are in the nature of property. He has the right to use the former and get the benefit of the latter without tortious interference. We see no reason why the rules applicable in actions for injuries to tangible property should not be applied in the case of an active and relentless conspiracy to prevent a mechanic from earning a living. It is true the present action is neither on a contract for its breach, nor is it, strictly speaking, for an injury to property. It sounds in tort for acts done pursuant to a conspiracy to prevent the plaintiff from following his trade. There is evidence to prove the methods employed to bring about this result were, as we have seen, unlawful; and moreover, that they were continuous, willful, malicious, oppressive, and well adapted to cause plaintiff fear and anxiety about both his personal safety and his means of earning a livelihood. The evidence tended to show the defendants or some of them, cherished a bad animus toward him. He had applied for and been refused admission to the order, though the testimony goes to show he was a competent workman, and certainly he never was discharged for lack of skill. After his application for membership in the union had been denied, he was followed by the delegates, and his contracts of employment interfered with in every instance. Several inferences might be drawn from the evidence regarding the reason why he was rejected by the union: That he was examined by its examining board and found to lack skill, or that he had not previously served an apprenticeship of five years as helper, or that the order only received applications for membership one month out of the year, and he applied at the wrong time, or that an increase of the number of steam fitters in the city of St. Louis was

deemed undesirable. Whatever the cause, his subsequent treatment by the union was harsh and oppressive.

3. While we think there was evidence to justify the court in instrucing the jury that they might give plaintiff damages for mental suffering for the willful and malicious acts of defendants, we think a retrial was rightly granted because the instruction on the measure of damages did not leave it to the jury to find the quality of defendants' acts. Some of the testimony tended to vindicate at least a portion of them from the charge of willful and malicious conduct, if not from any connection with plaintiff's grievances.

The judgment is affirmed and the cause remanded. All concur.

LABOR ORGANIZATIONS—BOYCOTTS—USE OF MAILS TO DEFRAUD—*United States v. Raish et al., United States District Court, Southern District of Illinois, 163 Federal Reporter, page 911.*—The Wahlfield Manufacturing Company proposed to enlarge its planing mill, and, in order to keep its employees together, to employ them in the construction of the new work. Some of the men were members of a local carpenters' union, others of a wood cutters' union, while others were members of no union. Pending the work, an officer of the carpenters' union requested the company to compel all its men to join that union. On its refusal to do so, this officer handed Mr. Wahlfield a letter stating that a fine of $500 had been imposed on the company which would be remitted if only members of the carpenters' union were employed on the job; otherwise he must pay the fine or suffer a boycott. Letters were afterwards sent to the company's customers urging them not to handle its products, and Mr. Wahlfield had the president and secretary of the union indicted for an attempt to defraud by use of the post-office.

After the evidence was in, Judge Humphrey instructed the jury as follows:

The case you are considering is an indictment in three counts drawn under section 5480 of the federal statutes (U. S. Comp. St. 1901, p. 3696) charging these two defendants, Humphrey and Raish, with having devised and executed a scheme to defraud by use of the Post-Office Department of the United States.

The indictment is in three counts. The first count alleges that the scheme, as devised by these defendants, was that they, taking advantage of their position as officers of a certain labor organization, would cause an assessment of a fine to be placed against the Wahlfield Manufacturing Company, and induce that company to pay said fine under a threat of a boycott if the company did not pay, and that the scheme contemplated the use of the mail, and that certain letters in execution of the scheme did pass through the mail. The second and third counts are based upon a different theory; that the scheme devised was these defendants, taking advantage of their position as members and officers of the said labor organization, would by

use of the mails cause a boycott to be put in force against the business of the Wahlfield Manufacturing Company, and thus injure that company in its business. The first count is drawn upon the theory that their intention in the scheme was to induce Wahlfield to pay in order to escape the boycott, which would have been in fraud of the Wahlfield Manufacturing Company. The other two counts are drawn upon the theory that their device contemplated that he would not pay, but would suffer the boycott, and thus be defrauded in his business.

Either of these counts constitutes an offense under the statute. The indictment is no evidence of guilt. It is simply a formal method taken by the prosecuting department of the Government to present to the defendants in legal form the charge made against them. If you believe from the evidence beyond a reasonable doubt that the defendants did devise the scheme in question, did cause this fine to be assessed against the Wahlfield Company, and did cause the boycott to be undertaken against the same company and did use the mails in execution of that device, all as charged in the indictment, or in any count thereof, then you will find the defendants guilty. On the other hand, if you do not believe from the evidence beyond a reasonable doubt that the defendants devised the scheme in question to cause the fine to be assessed and the boycott to be put in force, and used the mail in execution thereof, as charged in the indictment, or in any count thereof, then you will find the defendants not guilty.

The burden is upon the Government. The Government must prove all the material allegations of the charge by evidence which convinces your minds beyond a reasonable doubt. I mean by that that the defendants do not have to prove their own innocence. The Government must prove their guilt. The presumption of innocence is with the defendants. You must allow that presumption to remain with them until it has been removed by the proof in the case convincing your minds of their guilt beyond a reasonable doubt. In order to constitute this offense, it is not necessary that any profit or gain should have come to either of the defendants. In order to constitute this offense, it is not necessary that the scheme should have been successful under either one of these counts.

The law further is, gentlemen, that if the scheme in question was devised by the union, as testified to by some of the witnesses, that, so far as any action was taken at all, it was all taken by the union and under the order and instructions of the union, still, if you further believe from the evidence beyond a reasonable doubt that the defendants or either of them participated in such action of the union or assisted in carrying out such action of the union, and acquiesced in such action of the union, then as to said defendants you will find them guilty just the same as though the action had been individual on their part. Evidence has been introduced tending to prove the good reputation of these two men. Reputation is the most valuable heritage any man can have. You are to consider that in making up your judgments. You are to consider all that the evidence shows as to previous good reputation in making up your judgments as to the guilt or innocence of these defendants. You are the judges of the facts. You find the facts for yourselves. You find them from the evidence, not from any outside inferences or impressions. You take the law from the court, and you are to give

to the law, as the court gives you the law, the same force which you give to the facts as you find the facts to be. You have heard the witnesses; seen them upon the stand; listened to their testimony. You have a right to consider what you have seen, and what you have heard as coming from these various witnesses; their manner and appearance upon the stand; their frankness and honesty; their interest in the case, if any has been shown; their prejudices, if they have shown any prejudice; their knowledge of the facts; their opportunity to have a knowledge of the facts about which they have testified; the reasonableness or unreasonableness of the stories they have told upon the stand in answer to questions; and from all these various considerations you make up your judgments for yourselves as to the weight to be given to the testimony of any witness.

You have nothing to do with the punishment. Congress has placed that burden upon the court. The form of your verdict will be, if you find the defendants guilty: "We, the jury, find the defendants guilty." If you find them not guilty, the form of your verdict will be: "We, the jury, find the defendants not guilty." And, if you find one guilty and one not guilty, the form of your verdict will be: "We, the jury find the defendant ——— guilty, and the defendant ——— not guilty"—filling the blanks with the names as you shall find.

The court then asked if there were exceptions to these instructions. Some were made by the counsel for the defense, but the court refused to modify its statements, and the jury found the defendants guilty.

DECISIONS UNDER COMMON LAW.

CONTRACT OF EMPLOYMENT—ENFORCEMENT—RESTRAINT OF TRADE—DISCLOSURE OF SECRET PROCESSES—*Taylor Iron and Steel Company v. Nichols et al., Court of Errors and Appeals of New Jersey, 69 Atlantic Reporter, 186.*—The court of chancery had granted the complainant company a decree enjoining Wesley G. Nichols from divulging to anyone besides the complaining party any information known to him at the time of the making of a contract of service, or information acquired during the term of the contract, relating to the making of steel in the company's works; also from divulging treatments, processes, and secrets known to or used by him in the company's works, and from devoting during the term of said contract any part of his time, skill, labor, and attention to the service of anyone except the complainant company. The company operated under certain processes and patents for which it had procured licenses from time to time from the owner, under conditions that imposed secrecy. Nichols was an employee of about ten years' standing when a new contract of employment was entered into with him to run five years, one paragraph of which reads as follows:

(2) The said Wesley G. Nichols agrees that he will devote his entire time, skill, labor, and attention during the term of this agreement to the service of the Taylor Iron & Steel Company, and that he

will at all times faithfully perform the duties that may be assigned to him by the management of the said Taylor Iron & Steel Company to the best of his skill and ability for the compensation aforesaid, and that he will not at any time directly or indirectly, during the term of this agreement or afterwards, divulge to any person, firm, or corporation, except to the Taylor Iron & Steel Company and its officers, any information of any nature now known to him, or hereafter acquired by him during the term of this agreement, relating to or regarding any process of steel making or moulding or treating steel that may have been, is now, or may be hereafter during the term of this agreement, used in the works of the Taylor Iron & Steel Company, and that he will at all times hold inviolate the treatments, processes and secrets known to or used by him in the works of the said Taylor Iron & Steel Company.

As stated above the court of chancery granted an injunction to enforce this agreement. The court of errors and appeals, however, reversed this decree for reasons set forth in the opinion reproduced herewith, which was delivered by Judge Swayze:

The validity of this agreement is assailed by the defendant on several grounds. We think it is necessary to consider only the objection that it is invalid because it constitutes an excessive restraint of trade.

The rule of this State is that a contract in restraint of trade will not be enforced unless the restraint is no more extensive than is reasonably required to protect the interests of the party in favor of whom it is given, and not so large as to interfere with the interests of the public. Mandeville *v.* Harman, 42 N. J. Eq. 185, 7 Atl. 37, Sternberg *v.* O'Brien, 48 N. J. Eq. 370, 22 Atl. 348, both of which were cited with approval by this court in Trenton Potteries Co. *v.* Oliphant, 58 N. J. Eq. 507, 43 Atl. 723, 46 L. R. A. 255, 78 Am. St. Rep. 612.

Where the contract relates to personal services of a special, unique, or extraordinary character which can be performed by no one else and there is a negative covenant, the court sometimes enforces the negative covenant by injunction, as in Lumley *v.* Wagner, 1 De G. M. & G. 604. But the jurisdiction of equity rests upon the inadequacy of the legal remedy. Pomeroy, ¶ 1344, and the courts of other jurisdictions, as well as our own courts in the cases cited, have shown a reluctance to extend the jurisdiction. (Whitwood Chemical Co. *v.* Hardman (1891) 2 Ch. 416, 60 L. J. Ch. 428; Rice *v.* D'Arville, 162 Mass. 559, 39 N. E. 180.) The present case does not show that Nichols' services were of so special, unique, or extraordinary character that an injunction should issue.

The contract not only forbids Nichols to disclose any secret of the complainant, but also any knowledge he might have relating to the process of making steel that may have been used in the complainant's works, whether matter of common knowledge or not, whether known to him before he entered their employment or not; and it also requires him to hold inviolate not only the secrets of the complainant, but his own secrets, if he had any, and treatments or processes, whether secret or not. The necessary result of the enforcement of the contract would be that Nichols must either work for the complainant or remain idle; and, since the restraint is unlimited in point of time or

place, he might at the option of the complainant after the expiration of five years be without employment for the rest of his life at the only trade he knows. Such a restraint savors of servitude, unrelieved by an obligation of support on the part of the master. The courts have refused to enforce similar contracts. (Alger *v.* Thacher, 19 Pic. (Mass.) 51, 31 Am. Dec. 119; Albright *v.* Teas, 37 N. J. Eq. 171.)

The learned vice chancellor perceived the difficulty we have mentioned, but held that the agreement was limited to processes in use by the complainant which were not known to Nichols until they were disclosed to him by the complainant. If we were able to adopt this restricted meaning, we should still think the covenant an unreasonable restraint. Some of the secret processes were those known as the Hadfield processes which had been communicated to the defendant under the contract of 1896. That contract bound him to secrecy only until January 1, 1902. By necessary inference, after that time he was no longer bound. "Expressio unius exclusio alterius." On the vice chancellor's construction of the agreement of 1905, he bound himself forever not to disclose secrets learned under the contract of 1896. There is nothing to show that circumstances had so changed as to require a perpetual restraint in 1905, when a restraint for six years only had been adequate in 1896, or that reasonable protection of the complainant required a perpetual restraint of the defendant from disclosing what by agreement he had been entitled to disclose for the three years preceding. The complainants themselves are restrained only until July 1, 1908. In our judgment the complainant's case fails as far as it rests upon the written contract.

The complainant's right does not rest on the contract alone. We have held that a contract for secrecy may be implied from a confidential relation between employee and employer, and the divulging of a secret be enjoined. (Stone *v.* Grasselli Chemical Co., 65 N. J. Eq. 756, 55 Atl. 736 [see Bulletin No. 50, p. 208].) The circumstances of this case require such a contract to be implied as to all secrets not covered by the special contract of 1896. As to those secrets, that written contract controls. Our difficulty in this respect arises out of the manner in which the case was tried. The bill avers, and the answer denies, that the complainant has secret processes. This was the very issue to be determined. The vice chancellor, however, refused to admit evidence as to the details of the alleged secret processes or cross-examination with reference thereto. The decree awards an injunction restraining Nichols from divulging the secret methods and processes used by the complainant in making manganese steel taught to or acquired by him while in their employment.

The difficulty which arises in this class of cases is that of affording adequate protection to a secret, if any disclosure of it is required. The court in a proper case where the details of the secret are known to all the parties, and no doubt arises as to its secret character, may well refuse to compel a disclosure. Such a case was Eastman *v.* Reichenbach (Sup.) 20 N. Y. Supp. 110. But in the ordinary case a disclosure to the court is necessary, and that for two reasons: (1) That the court may determine the issue of fact; and (2) that the terms of the injunction may be so specific that the question of a violation may be determined. In the present case the evidence is convincing that the complainant made a product of peculiar excellence,

which had obtained high repute in the market, and quite persuasive that it has special methods of manufacture; but it is impossible to tell from the evidence whether the results achieved were due to skill in manipulation acquired by experience, or to some secret process, or whether, if there was a secret process, it was more than the Hadfield process which the defendant Nichols had agreed not to disclose before January, 1902, or different from the process described in the Brinton patent which was taken out after the bill was filed and before the decree. Mr. Brinton himself testified that the process was essentially the Hadfield process, with such modifications as the complainant had made. A careful reading of the testimony has not enabled us to determine exactly what the complainant claims as a secret process.

The terms of the injunction are very broad. It restrains the defendant from divulging secret methods and processes, as if there was more than one, as, indeed, there may be, and it contains nothing by which it can be hereafter determined what are the methods and what are the processes, or whether the two are to be distinguished. The difficulty was thus expressed by Lord Eldon in an early case: "The only way by which a specific performance could be effected would be by a perpetual injunction, but this would be of no avail, unless a disclosure were made to enable the court to ascertain whether it was or was not infringed; for, if a party comes here to complain of a breach of injunction, it is incumbent on him first to show that the injunction has been violated." (Newberry *v.* James, 2 Merivale, 446, 451.)

The decree must be reversed to the extent that it enjoins Nichols from divulging or disclosing, directly or indirectly, to any person, firm, or corporation the secret methods and processes used by the complainant, and enjoins the American Brake Shoe & Foundry Company from disclosing or making use of any information relating to the secret methods and processes communicated to it by Nichols.

This determination does not dispose of the case. By the contract Nichols also agreed that he would devote his entire time, skill, labor, and attention during the term of his agreement to the service of the Taylor Iron & Steel Company, and to faithfully perform the duties that might be assigned to him. This portion of the agreement is severable from the agreement not to divulge secrets, and is in itself valid. We see no objection to an agreement to serve an employer to the exclusion of all others for a term of five years. A similar agreement has been sustained in the English courts. William Robinson & Co., Limited, *v.* Heuer (1898) 2 Ch. 451. Assuming that, if this portion of the agreement stood alone, we could, upon proper pleadings, sustain that portion of the decree which restrains the American Brake Shoe & Foundry Company from employing Nichols during the term of the agreement, such an injunction would necessarily rest upon the fact that both the obligation and opportunity of service under the agreement were still subsisting. The agreement itself, however, provides that it shall be terminated "by the failure of the said Wesley to faithfully observe and keep the terms and conditions by him to be kept and performed." The complainant, indeed, charges that Nichols' resignation was not accepted, but its whole case rests upon the theory that he had failed to faithfully observe and keep the terms of the agreement. The further provision that no termination of the

agreement shall deprive the complainant of any remedy it might have had during the continuation of the agreement or at any other time for violation of its terms is not sufficient to entitle the complainant to this injunction; for such a decree is in effect a decree for specific performance, and the complainant can hardly claim specific performance of a contract by virtue of a clause giving a remedy for breach of its terms, even if we assume that the court of chancery will ever enforce by injunction a contract for ordinary personal services. As is said in the brief for the defendant: "The complainant has the choice to claim damages for breach or to claim performance under the terms of the contract, in which case he must offer to perform on his part. The complainant in the bill does not offer to continue to employ Nichols, and the decree does not impose on the complainant any terms that such employment shall be offered."

The decree must therefore be reversed, but because of the rejection of evidence, the reversal should be without prejudice to further proceedings in the court of chancery, or to the filing of a new bill if the complainant prefers that course.

EMPLOYERS' LIABILITY—COURSE OF EMPLOYMENT—EATING LUNCH ON PREMISES—*Riley v. Cudahy Packing Company, Supreme Court of Nebraska, 117 Northwestern Reporter, page 765.*—This was an action by John Riley to recover damages for injuries received by him while working for the company named, in its fertilizer department. Judgment was in Riley's favor in the district court of Douglas County, and the company appealed, the appeal resulting in the judgment of the lower court being affirmed. The accident causing the injury occurred at lunch time, and the case is noted here merely to reproduce the ruling of the court on the question raised by the company as to course of employment. It was customary for the men to bring their lunches and eat them in the factory. Lockers were provided for their safe keeping, but no particular place for eating was designated. In going with others from the place where he had eaten, Riley, who was last, was injured by a large steel plate falling upon him. Questions of the employers' duty and of proof of negligence were disposed of, when the court said:

The defendant further contends that the relation of master and servant did not exist at the time of the accident, and therefore the rule requiring the master to furnish reasonably safe place and appliances for his servant had no application. In this view we can not concur. It appears that the defendant was desirous of having its plant operated with the smallest loss of time possible for lunch, and that it allowed but 30 minutes for lunch. It also knew that, because of the offensive odors, the workmen could not be expected to go to their homes or outside of the building to take their noonday meals without changing their clothing. It was not practicable for the workmen within the time allowed to change their clothing and go elsewhere for their meals. The defendant provided lockers, safe re-

ceptacles in which the workmen placed their clothing and lunch pails. We think it was fairly contemplated by their employment that the workmen should remain in the building and eat their lunches there. No particular place was provided wherein they should eat their lunches, but the defendant knew by long custom that the workmen ate their lunches in this particular place. It knew or should have known of the dangerous condition of the steel plate, and that it was liable to fall upon and injure them. We do not think it can be said that the workmen were mere licensees, as contended for by the defendant, but they were there as a matter of right and by the invitation of the master. It was necessary that the workmen should eat in order that they should have strength to labor, and we think that the workmen were entitled to the same protection and the same care of the master during the time they were taking their lunches upon the premises as they were while they were actually at their labor.

EMPLOYERS' LIABILITY—COURSE OF EMPLOYMENT—LEAVING PLACE OF WORK FOR PERSONAL ENDS—*Wilson v. Chesapeake and Ohio Railway Company, Court of Appeals of Kentucky, 113 Southwestern Reporter, page 101.*—M. B. Wilson was an employee of the company named, his duties requiring his continuous presence at its roundhouse in the town of Russell from 6 p. m. till 6 a. m. At about 3 a. m. he left his place of work to go to a restaurant for food, and while crossing the intervening tracks he was scalded by stepping into a pool of hot water formed by the leakage of pipes used to heat the cars. Wilson's suit for damages in the circuit court of Greenup County resulted adversely, whereupon he appealed. The court of appeals affirmed the judgment, as appears from the following extracts from the opinion of Judge Barker, who spoke for the court:

Upon the night in question a Pullman car was standing upon the track, and from four to six feet away an engine was standing. Appellant attempted to go through the passageway between them, and while so doing stepped into the pool, and was injured as above set forth. The evidence for the appellant showed that the employees of the corporation were permitted, and did frequently go to the restaurant in question and get meals during the night. It will be observed that, while the relation of master and servant still existed between the corporation and the plaintiff, yet he was not in the active discharge of any duty he owed to the corporation when he left the roundhouse and went to the restaurant. He was going because he was hungry and desired a meal. The master was therefore at the time under no duty to watch over and guard him against any danger he might encounter on his way to and from the restaurant.

Judge Barker then cited a number of cases at some length, and concluded:

The principle involved in the case at bar can not be distinguished from that settled in the cases above cited. The plaintiff, when he left his place of duty and undertook to walk across the yard of the

railroad company for his own purposes, assumed all of the hazard of the undertaking, and can not complain that the yard was not kept free from danger for his benefit. As said in the Pendleton case [104 S. W. 382, 31 Ky. Law. Rep. 1025], the master owed him no duty to anticipate his deviation from his duty and the possible danger which might arise to him therefrom, and to provide against it. He took things as he found them, and suffers all consequences of his own error, and can not make his master liable therefor.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—NEGLIGENCE—CONTRIBUTORY NEGLIGENCE—PROXIMATE CAUSE—*Dortch v. Atlantic Coast Line Railroad Company, Supreme Court of North Carolina, 62 Southeastern Reporter, page 616.*—G. L. Wiggins was conductor on a freight train of the defendant company, and was killed by jumping from a moving car. His administrator, Dortch, sued for damages, and secured a verdict in the superior court of Wayne County, from which the company appealed. The judgment of the court below was affirmed, Wiggins' negligence in jumping from the car being held by the supreme court not to be the proximate cause of his death. The facts appear in the opinion, which was delivered by Judge Brown, and which is in part as follows:

The evidence in this case was all offered by plaintiff, and tended to show that plaintiff's intestate was conductor in charge of the switching train of the defendant at Rocky Mount on the 7th day of March, 1907. The stone car was shifted onto the spur track, and left there a short time while the other cars in the train were placed on the upper track. Then the engine came back to couple to the car of stone. When the conductor left the car of stone he failed to tie the brakes. His attention was called to this before he attempted to couple, and he was told, in the event he missed coupling the car, it would go into the river. Notwithstanding this, he attempted to make the coupling without fastening the brakes, saying that he could make the coupling. He scotched the car car with wood, and signaled the engineer to move back cautiously. The engineer did move cautiously, but the car, being on a curve, failed to couple, and the car jumped the wood scotch and moved a few feet. The conductor was again told to apply the brakes. He got some wood and scotched the train, but did not apply the brakes, saying that he would make the coupling that time. The second attempt failed, and the car jumped all the scotches, and by that time, to use the language of the witness, "had such momentum that no brake could have stopped it." The conductor and one of his brakemen jumped on the moving car to apply the brakes. Following the language of the plaintiff's witness, "he did apply them, but the application did no good. I was watching him and the car at the time. Shortly after getting on the car, I saw a man, and he must have lost his head, and swung out on each [the] side next to the mill. Instantly the car jumped the track, and I heard Mr. Wiggins groan. I ran to his assistance and found him dead. He was between the car and the mill wall." The evidence

tends to prove that the car was derailed some four or five car lengths from where it started, because one of the rails had been moved out of alignment, and had been in that condition some 8 or 10 months. The rails lacked four inches of meeting at the point where the car jumped the track, and where the intestate was killed. The spur track generally was in very bad condition. There is also evidence tending to prove that, "if the car had not jumped the track, the plaintiff's intestate would have been safe on top the car." At the conclusion of the evidence the defendant moved to nonsuit. The court overruled the motion. Defendant excepted.

That the defendant is guilty of inexcusable negligence in allowing its track, although a spur track, to get into such dangerous condition is not a debatable question. All the evidence shows that this track was in a desperately bad condition, and that the derailment of the car, which was the occasion of the intestate's death, was due to its defective state. At the very point at which the rails were four inches out of alignment the car left the track, under such headway that brakes could not stop it. We are not confined here to a prima facie case of negligence, evidenced by the fact of a derailment, but we have complete proof of a condition of track amounting almost to gross negligence, which caused a derailment resulting in death. We have also evidence tending to prove that the intestate himself was guilty of negligence, first, in not fastening the brakes before undertaking to couple up the car; and, secondly, in jumping on the rapidly moving car with a view to stop its headway. The question is, What negligence was the proximate cause of his death? It is true that, had the intestate not jumped on the car he would not have been killed, and there is a probability that had he tied the brakes the car would not have gotten from his control. The former, while reckless, was in the master's service and for its benefit, for he was endeavoring to save the car and its load from the river. The latter, while the part of wisdom, did not cause the derailment, no more than the other. The plaintiff's intestate may have committed both acts of negligence, and yet have lived uninjured, had the track been in reasonably good condition. There is no such intermingling and cooperation of these alleged negligent acts of the intestate with the negligence of the defendant as to indicate that the intestate's negligence concurred with that of the defendant and helped to produce the derailment. (7 Am. & Eng. Enc. 374.) Of course, had the car not been derailed, and had it gone overboard, and had the intestate been drowned, the negligence of the defendant in maintaining so dangerous a track would not have been the cause of his death, but rather the intestate's own careless conduct. But it is incontestable that the defective track caused the derailment, and not the act of the intestate. We have no difficulty in concluding, therefore, that the negligence of the defendant was, in any view of the evidence, the proximate cause of the derailment.

The next mooted question is was the intestate, at the time of the derailment, guilty of contributory negligence in jumping from the car? Ordinarily, of course, jumping on or off a moving car is such contributory negligence as bars recovery, and it is so held generally in the courts of this country. Hutchinson on Carriers, sec. 1177, citing many cases. (Brown *v.* R. R., 108 N. C. 34, 12 S. E. 958; Burgin *v.* R. R., 115 N. C. 673, 20 S. E. 473.) But the principle

does not apply here. Although the intestate risked life and limb in jumping aboard the car, he did it in the endeavor to save it from destruction. There is no evidence that he then knew of the gap in the track which caused the derailment. As to that, he had a right to believe that he was comparatively safe. When he felt the rapidly moving car was leaving the track, he suddenly learned that he was in a position of great danger. As the sequel proved, it would have been safer not to jump, but under such conditions the law does not exact infallible judgment, but only reasonable care and prudence. (Hinshaw *v.* R. R., 118 N. C. 1047, 24 S. E. 426.) The able and careful judge who tried this case properly left that to the jury, when he instructed them: "If you find the derailment was caused by the bad condition of the track, but you also find that the plaintiff's death was caused by his act in attempting to get off the car while it was passing between the buildings, and that his conduct in this respect was negligent—that is, that he did not exercise the care that a man of ordinary prudence would have exercised under similar circumstances—then such conduct on his part would be the proximate cause of his death, and you should answer the second issue, 'Yes.'"

Upon a careful review of the entire record, we are unable to find any error of which the defendant has just cause to complain.

EMPLOYERS' LIABILITY—RES IPSA LOQUITUR—APPLICATION OF DOCTRINE—*La Bee v. Sultan Logging Company, Supreme Court of Washington, 97 Pacific Reporter, page 1104.*—This case was one to recover damages for injury to an employee, and from a judgment in plaintiff's favor the company appealed to the supreme court. Judgment was affirmed (47 Wash. 57, 91 Pac. 560) and a petition for rehearing denied. The opinion on the question of rehearing discusses the application to employers' liability cases of the doctrine of res ipsa loquitur, which may be expressed, "the event speaks for itself." The effect of the doctrine is to relieve a plaintiff of the duty of proving negligence in cases where the accident itself is of such a nature as to necessarily involve negligence. It is rarely applied to employers' liability cases, but is formally adopted by the court in this case, as appears from the following opinion, which was delivered by Judge Fullerton, without dissent:

This case is before us on rehearing. For the former opinion see La Bee *v.* Sultan Logging Company, 47 Wash. 57, 91 Pac. 560, where will be found a statement of the issues involved. In the petition for rehearing, as well as in the oral argument made at bar, it is insisted that the court erred in applying the doctrine of res ipsa loquitur to a case between master and servant. It is contended that this doctrine is applicable only "to cases between carrier and passenger, and other cases wherein the person sought to be held occupies the relation of insurer," but is never applied to a case where the servant sues the master for negligence causing personal injuries. The weight of authority seems to support counsel's contention in so far as they contend that the doctrine is not applicable to cases between master and

servant. The federal cases uniformly so hold, and in the majority of the States the same rule obtains. See Northern Pacific Railway Company *v.* Dixon, 139 Fed. 737, 71 C. C. A. 555, and the cases there collected. But, the question being a new one in this State, we have felt ourselves at liberty to inquire into the reason for the rule, and to discard it if we found the reasons given to maintain it unsatisfactory. These reasons are perhaps as well stated in the case cited as in any other. It is there said that the doctrine is inapplicable to cases between master and servant brought to recover damages for negligence, "because there are many possible causes of accidents during service, the risk of some of which, such as the negligence and other ordinary dangers of the work, the servant assumes, while for the risk of others, such as the lack of ordinary care to construct or keep in repair the machinery or place or [of] work, the master is responsible. The mere happening of an accident which injures a servant fails to indicate whether it resulted from one cause the risk of which is the servant's, or for one of those the risk of which is the master's; and for this reason it raises no presumption that it was caused by the negligence of the latter." In other words, the reason is that, because in some instances it is difficult to determine from the facts shown whether the blame is the master's or the servant's, the master shall have the benefit of the presumption in all cases and the servant in none. It has seemed to us that this reasoning is not only unsound, but is grossly unfair to the servant. Where the facts of the case are such as to eliminate blame on the part of the servant or his fellow-servants, but show prima facie neglect on the part of some one, we think the master should be put to his proofs to show that the blame is not his, just the same as he would be were the injury to a stranger. Such a rule casts the burden upon the person who is in a position to know the facts, and who can make the proofs by direct and positive evidence, while the rule contended for by the appellant compels the resort to indirect and circumstantial evidence. In this case the servant made proofs to the effect that the master furnished him with an instrument with which to do his work and directed him to do it in a particular manner; that he took the instrument and proceeded to perform the work in the manner directed, when the instrument gave way and injured him, and we think it no hardship to cast on the master the burden of showing that the instrument was suitable for the purposes for which it was intended and that any defect therein was unknown to the master, and by reasonable diligence could not have been discovered by him.

This is not holding, as the appellant seems to argue, that a presumption of negligence arises from the mere fact of injury. The injury itself proves nothing. It may have been the fault of the servant. But, in a case where the servant eliminates any fault on his part by showing that the injury was caused by the giving way of an instrumentality furnished him with which to work while he was using it for the purposes intended and in the manner directed, he shows that the fault is in the instrumentality itself for which the master is prima facie responsible. The case differs from an ordinary case of injury only in the manner of proof. In each case, of course, a prima facie case of negligence against the master must be made out, but in the one it is made out by showing the injury, and eliminating negligence on the part of the servant and his fellow-servants, while

in the other it is made out by direct evidence of negligence on the part of the master.

Counsel make another contention it may be well to notice. The paragraph we have quoted in our statement of the contentions made by counsel is from their petition for rehearing. In it, it will be observed, counsel assume that the doctrine of res ipsa loquitur is applied only in those cases where the person sought to be held occupies the relation of insurer to the person injured. The illustration given is that of carrier and passenger. But counsel must know that the assumption that a carrier is an insurer of the safety of its passengers is against the great weight of authority, even if it is now the rule in any jurisdiction. Certainly this court has never so held. On the contrary, in our own reports, and the reports generally, can be found cases where the carrier has successfully defended against its liability for injuries suffered by its passengers. If it was an insurer, its defense would have been confined to the amount of damages to be awarded. It would not have extended to the liability itself. Nor is the doctrine confined in other instances to the case where the person sought to be held is an insurer of the safety of the person injured. This court in the case of Anderson *v.* McCarthy Dry Goods Co. (Wash.) 95 Pac. 325, applied the doctrine to a case where a person was injured while in a dry goods store by the fall of a basket from an overhead carrier system; citing authority to show that the holding was sustained by the great weight of authority. Surely it will not be contended that the proprietor of a merchandise store is an insurer of the safety of every person who enters it. But these latter inquiries are not material to the question in hand. They are cited to show that the holding that denies to a servant, simply because he is a servant, the benefit of the rule of res ipsa loquitur in a proper case, is unreasonable and unjust, and is required by no rule of public policy.

EMPLOYMENT OF LABOR—TERM—EVIDENCE—BREACH BY EMPLOYER—DAMAGES—*Maynard v. Royal Worcester Corset Company, Supreme Judicial Court of Massachusetts, 85 Northeastern Reporter, page 877.*—Charles B. Maynard sued the company named for breach of contract, and recovered damages before a justice of the superior court of Worcester County. Exceptions to this judgment were taken by the company, but were overruled by the appellate court. The facts are set forth in the opinion, which was delivered by Judge Rugg, and which is, in the main, as follows:

This is an action of contract, by which the plaintiff seeks to recover from the defendant money claimed to be due on account of salary. There are two counts in his declaration, one alleging salary due, under a contract for one year, to December 1, 1907, and the other that due under a separate contract for the month of December. The case was heard before a justice of the superior court, who found for the plaintiff in a sum less than the salary. The defendant's exceptions bring before us all the evidence warranting a finding of a contract for a stipulated time between the plaintiff and defendant, and

whether there was sufficient evidence to warrant a finding as to damages.

The evidence was somewhat conflicting, but, having regard only to its aspects most favorable to the plaintiff, as we must in passing upon the action of the superior court, would justify a finding that he had been in the employ of the defendant for several years, with the duty, among others, of figuring costs; he was also a director of the company, and always received his pay weekly; the financial year of the defendant began on the 1st day of December, and on December 9, 1904, its board of directors voted that the salaries of the president, treasurer, clerk, one Bennett, and the plaintiff "be increased 20 per cent on the amount of their salaries for the year 1904;" a short time thereafter a single payment for the amount so voted for the year then just ended was made to the plaintiff; under date of December 20, 1905, the defendant's board of directors passed a vote respecting the same persons, that their "salaries * * * be increased 20 per cent on the amount of their present salaries for the year 1905;" on December 12 or 14, 1906, the treasurer of the defendant said to the plaintiff, "Mr. Fanning requests me to say your salary for the coming year will be $5,000, and he also wished me to state that your last year's salary will be $5,000;" the salary for the year preceding had been $4,000, and $1,000 was immediately paid to the plaintiff, and the weekly payments thereafter made were on the basis of $5,000 per year; about the middle of September, 1907, Mr. Fanning, the president of the defendant, who was authorized to employ and discharge employees and fix their salaries, said to the plaintiff that, unless he changed certain conditions, his contract would terminate January 1st, to which the defendant replied, "If you wish, * * * I will accept and make my plans accordingly January 1st." In the latter part of September the plaintiff was discharged without adequate cause.

Whether there is a contract for services for a definite period of time in any case depends upon all the attendant conditions surrounding the agreement, as well as upon its terms when the latter are not specific and clear. Several features tend to support the contention that the plaintiff was employed for a year from the 1st of December, 1906. For three years at least there had been an annual readjustment of compensation, early in December. Where there has been a recognition of annual employment, the bare continuance of service after the expiration of the term without anything being said is of some importance in the inquiry, whether the contract of service is renewed by implication for the like period. (Dunton *v.* Derby Desk Co., 186 Mass. 35, 71 N. E. 91.) The word "salary" was used both in the vote of the board of directors for the years 1904 and 1905, and in the conversation between the treasurer of the defendant and the plaintiff, in describing the compensation which the plaintiff was to receive. This word is perhaps more frequently applied to annual employment than to any other, and its use may import a factor of permanency. (Henderson *v.* Koenig, 168 Mo. 356, 68 S. W. 72, 57 L. R. A. 659; People *v.* Myers (Sup.) 11 N. Y. Supp. 217. See sub nomine Burrill's Law Dictionary.) The unit of time used in describing the compensation was one year. In many jurisdictions this fact standing alone is regarded as sufficient evidence of the term of employment, and perhaps this is the implication of Nichols *v.* Coolahan, 10 Met.

449. Although some courts hold that a hiring at so much a year, where no time is specified, is indefinite and may be terminated at will (see Martin *v.* N. Y. Life Ins. Co., 148 N. Y. 117, 42 N. E. 416; Pinckney *v.* Talmage, 32 S. C. 364, 10 S. E. 1083 [etc.]), the weight of authority is that this circumstance alone, in the absence of any other consideration impairing its weight, will sustain a finding that there was a hiring for that period. (Chamberlain *v.* Detroit Stove Works, 103 Mich. 124, 61 N. W. 532; Beach *v.* Mullin, 34 N. J. Law 343 [etc.].)

Without reviewing the cases or analyzing the principles to determine which is the sounder view, it is enough to say that the use of the sum of money equivalent to a year's pay, in describing the amount which the plaintiff was to receive, was a proper circumstance for consideration in connection with other incidents. The length of the term of service reasonably inferable as the understanding of the parties, from their words, course of dealing and other acts, was a fact to be determined upon all the evidence. Grouping all these circumstances, and giving them the color most favorable to the plaintiff, as the trial court had a right to do, we can not say that his finding, that both the contracts alleged were made, was unjustified. (Tatterson *v.* Suffolk Mfg. Co., 106 Mass. 56; Davis *v.* Ames Mfg. Co., 177 Mass. 54, 58 N. E. 280.)

The refusal to grant the fourth prayer of the defendant, to the effect that the plaintiff was not entitled to recover on the second count of his declaration, was equivalent to a finding that he was so entitled. (See Jaquith *v.* Davenport, 191 Mass. 415, 418, 78 N. E. 93.) This determination also is not without supporting evidence. The testimony of the plaintiff, that Mr. Fanning said to him in September that unless certain conditions changed his contract would end January 1st, together with the plaintiff's reply that he would accept and make his plans accordingly for January 1st, which perhaps carried a little further and clinched the proposition of Mr. Fanning, would authorize the finding of a contract for service, which included December.

The plaintiff testified that he made no effort to secure employment, from the time he was dismissed from the service of the defendant, on September 21st, until January 1st following, and that he did not think he could have secured a position if he had tried during that time, and that in December he was making arrangements to go into business for himself. This was the only oral evidence, outside the amount of salary which he had received from the defendant, as to the damages sustained. It is strongly urged by the defendant that, on this state of the testimony, the plaintiff is entitled to recover only nominal damages. Where one is under contract for personal service, and is discharged, it becomes his duty to dispose of his time in a reasonable way, so as to obtain as large compensation as possible, and to use honest, earnest and intelligent efforts to this end. He can not voluntarily remain idle and expect to recover the compensation stipulated in the contract from the other party. (Olds *v.* Mapes-Reeves Construction Co., 177 Mass. 41, 58 N. E. 478; Ransom *v.* Boston, 192 Mass. 299, 307, 78 N. E. 481; Id., 196 Mass. 248, 81 N. E. 998.) The amount of damages is to be determined by the wages which he would have earned under the contract, less what he did in fact earn or in the exercise of proper diligence might have earned in another employ-

ment. (Cutter *v.* Gillette, 163 Mass. 95, 39 N. E. 1010.) It seems to be the generally accepted rule that the burden of proof is upon the defendant to show that the plaintiff either found, or, by the exercise of proper industry in the search, could have procured other employment of some kind reasonably adapted to his abilities, and that in absence of such proof the plaintiff is entitled to recover the salary fixed by the contract. (Milage *v.* Woodward, 186 N. Y. 252, 78 N. E. 873; Porter *v.* Burkett, 65 Tex. 383 [etc.].)

If this view be correct, the defendant has no ground for complaint, because he introduced no evidence. It is not necessary to decide in the present case whether this is the correct rule. It is enough to say that the contrary view, which prevails in Kentucky, Mississippi and perhaps elsewhere [cases cited], has not been distinctly adopted heretofore in this Commonwealth.

The finding of the court in the present case was for a less amount than the contract price, although there was the testimony of the plaintiff that he did not think he could have secured employment if he had tried. There was evidence tending to show that during a part of the time at least covered by the contract he was engaged in preliminary preparations for establishing a business on his own account. From these circumstances, as well as from the plaintiff's own manner in testifying and other inferences, which the trial court drew from the appearance of the witness, he might have been satisfied that prompt, reasonable and bona fide efforts to obtain other employment would have been successful, or that by the use of his time for his own advantage in his private business he would have gained such value as to reduce materially the amount, which he might otherwise recover from the defendant. (Alaska Fish & Lumber Co. *v.* Chase, 128 Fed. 886, 64 C. C. A. 1.) The court is not precluded from using his own knowledge of practical affairs or applying his judicial sense to the consideration of a matter of such common occurrence as securing employment. If opinion evidence had been introduced, the court would have used it or not as he found it credible and helpful. He might well have been guided quite as much by his judgment of the value of the plaintiff's services, based upon his appearance, the character of work he had done and was competent to do and the wages he had received. It is the same problem, which courts and juries often solve in passing upon the extent of personal injury, and in determining how long disability may continue, and how soon and at what compensation employment may be found. They are frequently compelled to act upon evidence as slender as that in the present case. That it is difficult to ascertain the damages or that they depend upon events which are contingent, uncertain or matter of opinion is no sound objection to the recovery. Therefore, on this branch of the case also the finding of the court is not wholly unsupported.

Exceptions overruled.

LABOR ORGANIZATIONS—PROCURING EXPULSION OF MEMBERS—CONSPIRACY—LIABILITY OF ONE PARTY ONLY—DAMAGES—*St. Louis Southwestern Railway Company v. Thompson, Supreme Court of Texas, 113 Southwestern Reporter, page 144.*—W. Z. Thompson had

been expelled from the Grand International Brotherhood of Locomotive Engineers by the action, as he alleged, of the railway company above named together with certain individuals, members of the Brotherhood. Thompson sued to recover damages, making the company and these individuals parties defendant, and secured a verdict against the company alone, which judgment was affirmed by the court of civil appeals, 108 S. W. 453. [See Bulletin No. 78, pp. 608–617, where the facts are more fully set forth.] From this judgment the company again appealed to the supreme court of the State, which reversed the courts below on grounds that appear in the quoted portions of the opinion given herewith. The opinion was delivered by Judge Brown, who, after a preliminary statement, said:

The case was tried before a jury, which, after being out for some time, presented to the court the following question: "Hon. R. W. Simpson, district judge, Dear sir: A part of the jury is not clear as to whether they can find for the defendant separately, as well as collectively. Therefore we ask your advice on this point. Very respt., G. H. Aikins, foreman." And to this the court replied in writing as follows: "Gentlemen of the jury: In answer to foregoing question, you are charged as follows: If you should find for all the defendants, your verdict will be 'We the jury find for the defendants.' If you should find in favor of some defendants and against others, your verdict should state against which defendants you find, naming them, and in favor of which defendants you find, naming them. R. W. Simpson, judge presiding." The jury returned this verdict: "We, the jury, find for plaintiff in this case a verdict for twenty-five hundred dollars ($2,500.00), five hundred ($500.00) as actual damages, and two thousand ($2,000.00) as exemplary damages against the defendant the St. Louis Southwestern Railway Company and for the other defendants. G. H. Aikins, foreman." The railroad company moved in arrest of judgment, because, the jury having found by their verdict that the other defendants were not guilty of conspiracy, no judgment could be entered against the railroad company. The same proposition was presented by motion for a rehearing. Both motions were overruled, and, upon appeal to the court of civil appeals of the first district, that court affirmed the judgment of the trial court.

The railroad company did not and could not actually participate in the act of expelling the defendant in error from the order, and can only be held liable for the results of that action by reason of the fact that it had entered into a conspiracy with the individual defendants named to procure some action by the Brotherhood against Thompson. The jury distinctly found for the defendants other than the railroad company, and thereby acquitted all other defendants from having entered into a conspiracy with the railroad company. There is no room for construction of this verdict, for it is expressed in plain language that the railroad company is the only guilty party defendant to the suit. Under the allegations in this case, the railroad company could not have accomplished the injury which was done to Thompson by its own action, but necessarily must have acted through other guilty parties. It therefore follows that an acquittal of all other

defendants acquitted the railroad company of the charge made against it. A conspiracy can not be formed by one person.

The gravamen of the action in this case is the injury done; that is, the wrongful expulsion of defendant in error from the order of the Brotherhood of Engineers. The railroad company could not have effected that act alone. It could only do it, as we have said before, by the action of its codefendants through a conspiracy entered into by and between the railroad company and the other defendants. The verdict of the jury in effect finds as to the other defendants that the expulsion was not wrongful or was not procured through the combination charged. Therefore the railroad company could not be guilty and all others innocent.

It is insisted with much earnestness by the attorneys of the defendants in error that the jury might have found all the parties guilty, and yet inflict the punishment upon one of them. Let us test the correctness of this proposition by writing the verdict so as to express the implied proposition of the defendants' counsel. Suppose the jury had said: "We, the jury, find for the plaintiff against the defendant railroad company, and also against the other defendants, but we assess the damages alone against the railroad company for $2,500." Would the gentlemen contend for such a verdict, or would any court sustain such a discrimination? If it would not sustain it as written out, it can not sustain it as necessarily implied in the argument of the attorneys for the defendants in error.

It is insisted that suit might have been brought against the railroad company alone in this case. Grant that to be true (we do not intend to intimate to the contrary), the result would be the same, for, in order to recover against the railroad company, the same allegations and proof would be necessary to recover against it as is required in this case; i. e., it would be necessary for the plaintiff to prove the conspiracy between the parties, the unlawful action of other defendants in agreeing to carry it out, both as to making the charge and as to the action of the division, and, if plaintiff should fail to make such proof, he could not recover against the railroad company. If that company had been sued alone and the case submitted on special issues, and the jury had answered that the other defendants did not enter into the conspiracy, or that the expulsion was lawful, no judgment could be entered against the railroad company, although the jury should find against it. We conclude, therefore, that the court erred in giving the charge in answer to the request of the jury, and also erred in overruling the motion in arrest of judgment and the motion for a new trial, for which errors this case must be reversed.

The trial court erred in submitting the issues in this case to the jury by using the following language: "Then, if you further find from the testimony that the writing of the Penniman letter [encouraging a suit for damages against the railway company] could not reasonably be considered a violation of plaintiff's obligation to the laws of the Brotherhood," etc. The court should have decided that question. If the members of the Brotherhood who tried Thompson, acting in good faith and in fairness towards Thompson, believed and held that the writing of the letter to Mrs. Penniman and the circumstances attending it did or did not constitute a violation of the constitution and laws of the order, that finding would be conclusive of the question. Whether or not the members of the order acted fairly

and in good faith towards Thompson in placing this construction upon the letter and the circumstances attending it was a question of fact for the jury, and was so submitted to them. If the members of division No. 201 of the Brotherhood of Locomotive Engineers in good faith fairly and honestly passed upon the testimony submitted to them, and found Thompson guilty of violating his obligation, or the constitution and laws of the order, then their action would be final and conclusive of the matter, and the plaintiff could not recover in this case because of his expulsion from that order, nor for any of the consequences flowing from it, although they may have found him guilty on the second charge also. If, however, the members of that order did not act in good faith, and did not exercise their honest judgment in coming to the conclusion that, by writing the Penniman letter, Thompson was guilty of a violation of his obligation, or the constitution and laws of the order, but used it as a pretext by which to expel him on account of the second charge made against him, then their action would be void, and Thompson would be entitled to recover.

The second charge, whereby Thompson was arraigned for having gone on the witness stand in the Bolton case and testified, did not furnish any ground for his expulsion from the order. If the Brotherhood of Locomotive Engineers had in their constitution or by-laws provided in so many words that a member who should testify in court in any case where he was called as a witness should be expelled, such provision would be a nullity, and would not be enforced in any court. If Thompson was wrongfully expelled through procurement of the Cotton Belt Railroad Company by a conspiracy and combination with other defendants named because he wrote the Penniman letter, or if he was expelled because he had done what was charged against him in the second specification alone, and not upon the first charge, then he would be entitled to recover against the railroad company, and against such of the other defendants as conspired and acted with it and against the order which expelled him for all damages which naturally flowed from such expulsion.

If the plaintiff shall be found entitled to recover against the defendants, his recovery should be for actual damages; that is, that sum of money which would compensate him for the pecuniary losses sustained by him as a result of his unlawful expulsion, and also such sum as would compensate him for the mental suffering and humiliation that was caused to him by reason of said expulsion and by reason of the publication of the same in the journal of the order. In this connection, we will say that the value of the insurance policy and traveling card alleged to have been forfeited by the expulsion would be the proper elements of actual damages to be assessed in his favor. If the defendants or either of them were actuated by malice in making the charges against Thompson, or in procuring the same to be made and in prosecuting the same before the order thereby procuring his expulsion, then the plaintiff may in the discretion of the jury recover exemplary damages against either or all of the said defendants in such sum as the jury may believe should be assessed against the said defendants or either of them. It is not necessary, as in case of actual damages recovered, that all of the defendants should be subjected to the same verdict because some

of the defendants may have acted without malice, but in combination with others, and as to such defendants there would be no right to recover exemplary damages.

It is contended that the plaintiff could not maintain this action because he did not appeal from the decision of P. M. Arthur, Grand Chief Engineer, to the Grand International Division, but this is not a proceeding to restore him to his membership. It is a suit for damages occasioned by his expulsion, and one in which his property rights, as well as personal rights, are involved. We are of opinion that it was not necessary for him to have prosecuted his appeal further than he did before instituting his suit for damages. (Benson *v.* Screwmen's Ben. Ass'n, 2 Tex. Civ. App. 66, 21 S. W. 562; Bauer *v.* Sampson Lodge K. P., 102 Ind. 262, 1 N. E. 571.) On application for mandamus to restore plaintiff to membership, the court would not take jurisdiction until the applicant had exhausted his remedies under the laws of the Brotherhood. The same reason does not apply in a suit for damages. The right to apply to the courts for redress of such injuries as in this case exists in favor of all citizens, and could not be abridged by any association except by the consent of the member. The defendants have no ground upon which to stand in demanding that the remedy of appeal should be exhausted before they are called upon to repair the injury they have inflicted upon Thompson. The continuance of his membership in the Brotherhood does not concern the defendants.

The fact that Thompson testified as an expert when he was not or that he received pay for his testimony to which he was not entitled is irrelevant to any issue presented in this case. The charges upon which he was tried do not allege against him either the taking of improper fees or that he falsely represented himself as an expert. Therefore such evidence would not be admissible to support the finding and conclusion of the division No. 201 upon either one of the charges prosecuted before it.

It is therefore ordered that the judgments of the district court and court of civil appeals be reversed, and the cause remanded.

LABOR ORGANIZATIONS—STRIKES—LEGALITY—FINES ON MEMBERS—INTIMIDATION OF EMPLOYEES—EMPLOYERS' RIGHTS—INJUNCTION—*L. D. Willcutt and Sons Company v. Bricklayers' Benevolent and Protective Union No. 3 et al., Supreme Judicial Court of Massachusetts, 85 Northeastern Reporter, page 897.*—The complainant company was engaged in the construction of buildings in the city of Boston. The defendants were certain individuals named as officers and members of two unincorporated associations of workingmen and the other members of the associations as represented by the members named, thus bringing the whole membership properly before the court. (Pickett *v.* Walsh, 192 Mass. 572, 78 N. E. 753 [Bulletin No. 70, p. 747].) The company asked for an injunction to prevent the carrying out of a strike against them by the levying of fines on workmen who wished to continue in its employment after the strike had been de-

clared. The facts were reported by a justice of the superior court of Suffolk County, and the supreme court, by a divided bench, granted the injunction prayed for. Two judges dissented in an opinion of some length, and a third joined in the majority opinion only on the ground that the point in question had been determined by the decision in Martell *v.* White, 185 Mass. 255, 69 N. E. 1075 [Bulletin No. 53, p. 958]. The majority opinion contained a statement of the facts. It was delivered by Judge Hammond, and, on account of its very considerable interest, is reproduced quite fully. It is as follows:

The questions before us grew out of a trade dispute between the plaintiff and the members of the unions who were in its employ. In April, 1906, these unions adopted a code of working rules, in which, besides some minor demands not now material, they demanded that wages be increased five cents an hour, that all foremen should be members of the unions, that the business agent of the unions should be allowed to visit any building under construction to attend to his official duties, and that wages should be paid during working hours. The plaintiff declined to accept these rules, and a strike followed.

By the constitution and rules of the unions it appeared that a code of fines and penalties was established by the International Union, an association composed of these and other similar unions throughout the country, and that this code was being actively enforced by the local unions. One rule provided that any member violating any section of the working code should be fined upon conviction not less than $5 nor more than $25, one of these sections being that "no member of the union shall work with a nonunion man who refuses to join the union." Various other penalties were provided, varying from $5 to $500 for each offense, to be imposed upon persons designated as "common scabs," "inveterate or notorious scabs," and "union wreckers;" these terms being applied to those who in different ways persist in working after a strike has been called. These fines in their operation are likely to be coercive in their nature.

This code was actively enforced by the unions, and most of the members of the unions who left their work did so through fear of the fines that would be imposed upon them if they continued to work. The defendants Driscoll and Reagan on one occasion found two men at work for the plaintiff, one a journeyman who had been and the other a foreman who was a member of the union. Reagan threatened the journeyman with a fine of $100 if he continued to work, and Driscoll notified the foreman that he was called out. Both refused to leave. Driscoll reported the fact at a meeting of the union and a vote was passed that charges be preferred against the men for working contrary to the rules. A preliminary injunction was issued in this case, and no further steps were taken under the vote.

The defendants established a strike headquarters, and provided a strike fund from which payments were made to the strikers and other men out of work. Some of the defendants made constant visits to a job of the plaintiff, generally at noontime, to persuade men whom the plaintiff had hired to leave its employ. They offered as inducements in some cases to nonunion men membership without the full payments usually required, and in other cases work else-

where. Men frequently left the plaintiff's employ after these talks, in some cases stating that they would like to work but could not run the risk of being fined. The defendant Driscoll induced two men to go who otherwise would have continued at work, by paying them with funds of the unions the wages due them from the plaintiff and providing them with transportation to Utica, N. Y., where he had secured other work for them.

The plaintiff was constructing other buildings at Fairhaven and at Andover, which were within the districts of other unions; and the union men employed by the plaintiff on those jobs also struck. It was found however that these men were not under the control of the defendants, though it did fairly appear that these strikes were a direct result of the strike in Boston, since all these unions were affiliated together in the International Union and all members of the unions were familiar with what should be done in such cases.

It was admitted that the defendants were not persons of financial responsibility, and the court found "that the acts of the defendants as above set forth were calculated to interfere and did interfere with the performance of the complainant's contracts for the construction of buildings, and had they continued, would have seriously embarrassed the complainant in the prosecution of its business, and that such consequences were contemplated by the defendants in their endeavor to force the complainant to accept their working rules to govern the management of its business."

As already stated, the strike had four objects. Of these the demand for an increase of wages was properly enforceable by a strike. The demand that wages should be paid during working hours amounts merely to a demand for a shorter day, and also was properly enforceable by a strike. The reasonableness of such demands we have not the means of determining; and it is settled that such matters are best left to be adjudicated in the freedom of private contract between the interested parties. More difficult questions are presented by the demands that all foremen shall be members of the unions, and that the business agent of the unions shall be allowed to visit any building under construction. (See as to the first of these points a very interesting article by Professor Smith, 20 Harvard Law Review, 431, note 1.) But it is unnecessary under the circumstances to determine these questions, as the plaintiff replied with a bare refusal of all the demands.

We are of opinion therefore that this strike must be regarded as simply a strike for higher wages and a shorter day. It was not a mere sympathetic strike, as in Pickett *v.* Walsh, 192 Mass. 572, 587, 78 N. E. 753 [Bulletin No. 70, p. 747], or one whose immediate object was only remotely connected with the ultimate object of the strikers, as in Plant *v.* Woods, 176 Mass. 492, 57 N. E. 1011 [Bulletin No. 31, p. 1294]. It was a direct strike by the defendants against the other party to the dispute, instituted for the protection and furtherance of the interests of the defendants in matters in which both parties were directly interested and as to which each party had the right, within all lawful limits, to determine its own course. Such a strike must be treated as a justifiable strike so far as respects its ultimate object.

But however justifiable or even laudable may be the ultimate objects of a strike, unlawful means must not be employed in carrying it

on; and it is contended by the plaintiff that the use of fines and threats of fines, under the circumstances disclosed in the record, are unlawful. The question is stated by the trial judge in the following language: "In case of a justifiable strike, has the contractor the right to invoke the aid of the court to prevent the labor union from imposing a fine [which the court has found to be coercive in its nature] or taking action to impose one upon one or more of its members under its rules to induce them to leave the contractor's employ to his injury?" Under the findings of the court it would seem that the question is not intended to be quite so broad as otherwise might be inferred from its language. The language is broad enough to include the case where the employee is under a contract to stay with his employer and where to leave would be a violation of that contract. But no such state of things appears upon the record. The plaintiff "hired its masons by the day and paid them on the basis of the number of hours worked, and it might have discharged them and they might have left at the close of any day." The question must therefore be considered as applying only to cases where the employee by leaving violates no contractual right of the employer.

The question how far the imposition of fines by an organization upon its members where the effect is to injure a third party is justifiable, was considered by this court in Martell *v.* White, 185 Mass. 255, 69 N. E. 1085 [Bulletin No. 53, p. 958], and it was there adjudged that the imposition of such a fine by which members of the organization were coerced into refusing to trade with the plaintiff, not a member, to his great damage, was inconsistent with the ground upon which the right to competition in trade is based, and as against him was not justifiable. In the course of the opinion the case of Boutwell *v.* Marr, 71 Vt. 1, 42 Atl. 607 [Bulletin No. 39, p. 501], was cited, in which the same conclusion was reached. In Martell *v.* White, five justices sat, and four of them, being a majority of the whole court, concurred in the ground upon which it was decided. The case was carefully presented by counsel, the questions involved were regarded as important, and there was a difference of opinion among the judges who sat in it. It was therefore considered at great length; and the conclusion was reached after a most exhaustive discussion and the most careful deliberation. It stands as a solemn adjudication by this court after such discussion and deliberation. So far as respects the trend of judicial opinion and authority there has been no change since the decision was announced unfavorable to it or to the ground upon which it was reached. On the contrary, so far as we are aware, whenever the case has been mentioned by members of the profession, whether they be judges engaged in the practical administration of the law, or professors teaching the students of our schools the true theory of its principles, it has been received with favorable comment. (See Brennan *v.* Hatters of North America, 73 N. J. Law 729, 65 Atl. 165 [Bulletin No. 70, p. 746]; Allis-Chalmers Co. *v.* Iron Moulders' Union, No. 125 (C. C.) 150 Fed. 155, 178 [Bulletin No. 70, p. 734]; 20 Harvard Law Review, 355, 356; 7 Green Bag, 210.) There is every reason why the doctrine of stare decisis should apply; and so far at least as respects this Commonwealth the case must be held as settling the correctness of the principle upon which the decision was based.

That principle, if applicable to the facts of this case, is decisive. The majority of the court are of the opinion that it is applicable, and hence that there should be a decree for the plaintiff enjoining intimidation or coercion by fines.

Before entering more fully upon the discussion it is well to get a clear conception of what the case is.

Shortly stated the case is this: The plaintiff's men are being coerced by threats of a fine to leave its employ, greatly to its injury, the fines to be levied in accordance with the by-laws of a voluntary association of which the proposed victims are members. This injury to the plaintiff is intended by the defendants. Has the plaintiff any standing in equity to an injunction against the infliction of such injury?

It is to be premised that the right which the plaintiff seeks to have protected against the acts of the defendants arises from no contract or statute, but out of the nature of things. It is one of the large body of rights which have their foundation in the fitting necessities of civilized society. It is the common law right to a reasonably free labor market. Vice Chancellor Stevenson, in speaking of it, says it has been called a "probable expectancy" and describes it as "the right which every man has to earn his living or pursue his trade without undue interference." Jersey City Printing Co. *v.* Cassidy, 63 N. J. Eq. 759, 53 Atl. 230 [Bulletin No. 45, p. 383].

This is the right—the right to a free labor market—which the plaintiff claims has been invaded by the defendants, and for which he seeks protection.

The defendants also have rights. They have the right to work or not to work, to sell their labor upon such terms as they see fit and to combine for the purpose of getting more pay or a shorter day. And for the purpose of strengthening their organization and making it more effective they have the right to make appropriate by-laws for its internal management, and for the regulation of the conduct of its members toward each other in matters affecting the general interests of the body; and they may enforce obedience to such by-laws and regulations by fines or other suitable penalties.

So long also as the by-laws of a union relate to matters in which no one is interested except the association and its members, and violate no right of a third party or no rule of public policy, they are valid. Fines may be imposed, for instance for tardiness, absence, failure to pay dues, or for misconduct affecting the organization or any of its members; and for numerous other acts. It can not be successfully contended, however, that as against the right of some party other than the association and its members an act, otherwise a violation of the third party's rights, is any less a violation because done by some member in obedience to a by-law.

There can be no doubt that fining is one method of injuring a man in his estate, and that a threat to fine is a threat of such an injury. Indeed this is recognized by the decree made by the trial court in this very case, so far as it affects Reagan, one of the defendants, who it was found had threatened with a fine a man once but not then a member of a union.

It is urged however that although this method of intimidation is generally an invasion of the employer's right to a free market and therefore illegal, yet when the intimidation is exerted by a union upon its members in accordance with its by-laws in a strike whose object is

legal, it is justifiable and legal. To this the obvious reply is that the rule of freedom to contract is founded upon principles of public policy, that each party to a contract is interested in the freedom of the other party, that it can make no difference to the public or to the employer (who in this case is the other party) that the person intimidated is or is not a member of the society intimidating. In either case the injury is the same and is from the same cause, namely intimidation. The workman is no longer free. In Longshore Printing Co. *v.* Howell, 26 Or. 527, 38 Pac. 547, the court, after speaking of the general right of labor unions to make rules, proceeds thus: "It must be understood, however, that these associations, like other voluntary societies, must depend for their membership upon the free and untrammelled choice of each individual member. No resort can be had to compulsory methods of any kind to increase or keep up or maintain such membership. Nor is it permissible for associations of this kind to enforce the observance of their laws, rules and regulations through violence, threats or intimidation, or to employ any methods that would induce intimidation or deprive persons of perfect freedom of action."

The keynote on this matter is struck in Booth *v.* Burgess (N. J. Ch.) 65 Atl. 226, 233, in the following language: "No surrender of liberty or voluntary agreement to abide by by-laws on the part of the employees who are first coerced, made by them when they enter their labor unions, can * * * affect the right of the complainant to a free market, which right he will enjoy for all it may be worth if these employees are permitted to exercise their liberty. The employees may be able to surrender their own right, but they certainly can not surrender the rights of other parties."

In considering this question we can not lose sight of the great power of organization. It should be taken into account when one is considering where the line should be drawn between the right of the employer to a free market and the right of workmen to interfere with that market by coercion through the rules of a labor union. It is not universally true that what one man may do any number of men by concerted action may do. In Pickett *v.* Walsh, 192 Mass. 572, 78 N. E. 753, 6 L. R. A. (N. S.) 1067, 116 Am. St. Rep. 272, Loring, J., after alluding to the great increase of power by combinations, says: "The result of this greater power of coercion on the part of a combination of individuals is that what is lawful for an individual is not the test of what is lawful for a combination of individuals, or to state it in another way, there are things which it is lawful for an individual to do which it is not lawful for a combination of individuals to do."

This organization of labor to better the condition of the laborer is natural and proper. There can be no doubt that it is the most effective way, perhaps the only effective way in which as against the organization of capital the rights of the laborer can be adequately protected. In many ways the labor unions have succeeded in bettering the condition of the laborer; and so far as their ultimate intentions and the means used in accomplishing them are legal they are entitled to protection to the extreme limit of the law.

But their powers must not be so far extended as to encroach upon the rights of others. It is clear that if the power to intimidate by fine be regarded as one of the powers which labor unions may right-

fully exercise, then the right to a free market for labor—nay, even the right of the laborer to be free—is seriously interfered with, to the injury both of the public and the employer as well as the laborer.

In view of these considerations and of others more fully set forth, in Martell *v.* White, which are not here repeated, and in Boutwell *v.* Marr, ubi supra, a majority of the court are of opinion that the overwhelming sense of the thing is that the principle that the right of the employer is not subject to coercion or intimidation by injury or threats of injury to the persons or property of laborers standing in the market to meet him, should apply to the coercion and intimidation exerted by labor unions upon their members by fines or threats of fines. Any other conclusion is inconsistent with the existence of a reasonably free labor market to which both the employer and the employee are entitled.

The result is that in the opinion of a majority of the court there should be a decree restraining and enjoining the defendants, their agents and servants from intimidating by the imposition of a fine, or by a threat of such fine, any person or persons from entering into the employ of the plaintiff or remaining therein, or from in any way being a party or privy to the imposition of any fine or threat of such imposition upon any person desiring to enter into or remain in the employ of the plaintiff; and it is so ordered.

LAWS OF VARIOUS STATES RELATING TO LABOR, ENACTED SINCE JANUARY 1, 1908.

[The Twenty-second Annual Report of this bureau contains all laws of the various States and Territories and of the United States relating to labor, in force January 1, 1908. Later enactments are reproduced in successive issues of the Bulletin, beginning with Bulletin No. 80, the issue of January, 1909. A cumulative index of these later enactments is to be found on page 195 of this issue.]

GEORGIA.

ACTS OF 1908.

ACT No. 321.—*Railroads—Employment of locomotive engineers.*

(Page 49.)

SECTION 1. No railway company operating trains in this State shall have employed or allow in charge of one of its locomotives in this State, as a locomotive engineer, (except such engines used in yard service) any person who shall not have had as much as three years actual bona fide experience as a fireman or engineer on a railway locomotive, or who shall not have served an apprenticeship of four years in a regular railroad machine shop, and have had in addition thereto one year bona fide experience as a locomotive fireman.

SEC. 2. Any railway company violating this act shall be guilty of a misdemeanor and liable to indictment and punishment in any county in this State in which such inexperienced person shall be allowed to work upon such locomotive.

Approved July 23, 1908.

ACT No. 537.—*Railroads—Headlights on locomotives.*

(Page 50.)

SECTION 1. All railroad companies are hereby required to equip and maintain each and every locomotive used by such company to run on its main line after dark with a good and sufficient headlight which shall consume not less than three hundred watts at the arc, and with a reflector not less than twenty-three inches in diameter, and to keep the same in good condition. The word main line as used herein means all portions of the railway line not used solely as yards, spurs and side tracks.

SEC. 2. Any railroad company violating this act in any respect shall be liable to indictment as for a misdemeanor in any county in which the locomotive not so equipped and maintained may run, and on conviction shall be punished by fine as prescribed in section 1039, of the Code of 1895.

SEC. 3. This act shall go into effect July 1, 1909.

SEC. 4. Provided this act shall not apply to tramroads, mill roads and roads engaged principally in lumber or logging transportation in connection with mills.

Approved August 17, 1908.

KENTUCKY.

ACTS OF 1908.

CHAPTER 59.—*Mine regulations—Inspectors.*

SECTION 1. The governor of this Commonwealth is hereby authorized and directed to appoint two additional assistant inspectors of mines, who shall hold the office for four years and until their successors are appointed and qualified. Said assistants shall have a thorough knowledge of the different systems of

working and ventilating coal mines and of the nature and properties of mine gases, especially explosive gases and dust, and shall have a thorough and practical knowledge of mining gained by at least five years experience at and in coal mines. Said assistant inspectors, before entering upon the discharge of their official duties, shall be sworn to discharge those duties faithfully and impartially and to the best of their skill and ability, which oath shall be certified by the officer administering it, and said certificate shall be filed with the secretary of state in his office, and each of said assistants shall give bond in the sum of two thousand dollars, with surety to be approved by the governor, for the faithful discharge of his official duties. Each of said assistants shall give his entire time and attention to the duties of his office, which shall consist of aiding, under the direction of the chief inspector of mines, in carrying out and enforcing the provisions of the laws relating to the inspection of mines. He shall keep a record of all inspections made by him and shall make monthly reports of the same to the chief inspector and he shall at all times in all things pertaining to the duties of his office be subject to the orders of the chief inspector. No assistant inspector shall be interested in operating any mine in this State and each shall be liable to dismissal for willful neglect of duty, for misconduct, or malfeasance in office. Each assistant inspector shall receive an annual salary of twelve hundred dollars, payable monthly, and shall likewise be allowed and paid his necessary traveling and other expenses incurred on account of and when engaged in the discharge of his official duties.

But before any person or persons shall be appointed as such assistant mine inspector he shall be required to pass a satisfactory examination before the board of examiners hereinafter named and shall be required to obtain from such board of examiners a certificate duly signed by the members thereof certifying to the governor that said applicant possesses all of the qualifications hereinbefore mentioned.

SEC. 2. The chief inspector of mines and any two of his assistants shall constitute a board of examiners for the examination of applicants for certificates of qualification to serve as foreman in coal mines, said two assistants to be designated and called into service at any time by the said chief inspector; and said chief inspector may on any occasion call any two assistant inspectors he may choose to act upon said board for such purpose, and at any time when his duty as chief inspector of mines necessitates his absence from the examination of applicants, such applicants may be examined by any two assistant inspectors which the chief inspector may designate: *Provided*, He shall be careful to designate only such assistants as examiners in his absence as he shall know to be thoroughly equipped and qualified to act as such examiners. Said board shall meet at such times and places as the chief inspector of mines shall from time to time order, and for their services as examiners they shall receive no extra compensation, but only the salary and traveling expenses as now provided by law, that is, their services as examiners shall be reckoned and in fact shall be considered and treated as part of the duties of their office.

SEC. 3. Six months after this act goes into effect, no owner, lessee, or operator of a coal mine in which as many as ten persons are employed at one time shall employ as mine foreman any person who has not been granted a certificate of qualification to the effect that he has been examined by the board of examiners provided for in the preceding section of this act and has been found fit and competent as herein required; and said board of examiners shall in no event grant any certificate to any person who does not satisfy said board that he is a person of good moral character and of his sobriety, and that he possesses a thorough knowledge of the different systems of working and ventilating coal mines and of the nature and properties of mine gases, dust and fire damp, and shall have a thorough and practical knowledge of mining gained by at least five years' experience in and at mines: *Except and provided*, That any person who for four years prior to the passage of this act has served as mine foreman or assistant mine foreman in coal mines may upon application therefor and upon satisfactory evidence presented to said board of examiners as to his term of service and as to his character for morality and sobriety, be granted a certificate of qualification without such examination, which certificate shall be known as a "service certificate" and shall be so designated on its face. Each applicant for examination shall, before he is examined, pay a fee of two dollars and fifty cents to the auditor of public accounts, who shall issue his receipt therefor, which receipt the applicant shall present to the chief inspector of mines or to such member of the board as may at any time be designated to receive the same, and each applicant for a "service certificate" shall likewise pay a fee

of two dollars and fifty cents to the auditor of public accounts and shall likewise present the auditor's receipt before such certificate may be issued to him; and all fees so paid shall be turned into the treasury to the credit of the general-expenditure fund. The chief inspector shall keep a record of all proceedings of the board, including the names and addresses of persons who apply for examination or for "service certificates," and of the certificates that have been granted; and the board is hereby authorized to cancel any certificate upon satisfactory evidence that the person to whom it has been issued has been guilty of violating instructions to comply with the requirements of the mining laws, or who has proven inefficient. The certificate to be granted to applicants who pass the examination herein provided for, shall in substance state that the applicant has been examined under the provisions of this act and has been found to possess the qualifications required by law. The chief inspector shall formulate the necessary blank certificates and cause same to be printed by the public printer in such quantities as may be needed from time to time.

SEC. 4. In all coal mines in this State in which as many as ten persons are usually employed at one time, wherein explosive gases are known to generate or exist in dangerous quantities, or coal dust is known to accumulate or exist in dangerous quantities, the owner, lessee or operator shall, when so ordered by the chief inspector of mines, or by an assistant inspector of mines, when approved by the chief inspector, employ and keep a sufficient number of practical and experienced men, to be known and designated as "shot firers" whose exclusive duty it shall be to set off and discharge the shots in all blasting in the workings of the said mines, but no "shot firer" shall fire any shot which in his judgment, after due inspection, shall not be a workmanlike and practical shot.

SEC. 5. Said shot firers shall immediately after the completion of their work post a notice in a conspicuous place at the mines in which shall be indicated the number of shots fired also the number of shots they did not fire, if any, specifying the number of the room and the designation of the entry, and give their reasons for not firing the same. The owner or operator of said mines shall provide reasonable and proper means for posting said notice. Said "shot firers" shall also keep a daily permanent record in a book, to be furnished them by said owner or operator, in which they shall enter the number of shots or blasts fired, the number of shots or blasts failing to explode, the number of "blown-out" shots, and the number of shots or blasts that in their judgment were not properly prepared and which they refused to fire, giving their reasons for the same. Said records shall be in the custody of the mine manager or superintendent and shall be available to inspection at all reasonable times by parties interested, and shall be open for inspection by the chief inspector of mines and the assistant inspectors. Said "shot firers" shall be treated and considered as employees and agents of said owner or operator.

SEC. 6. Said "shot firers" shall not do any blasting or exploding of shots or firing whatever until each and every miner and employee is out of the mine, except said "shot firers," mine superintendent, mine manager, mine foreman, and the person or persons necessarily employed in charge of pumps and stables in said mines, and any person in said mine, whose duty it is to go out of said mine before said firing, blasting and exploding takes place under the provisions of this act who willfully fails or refuses to go out of said mine as herein provided shall be fined in any sum not exceeding fifty dollars in the discretion of the court or jury.

SEC. 7. Each owner, lessee or operator of every mine to which the mining laws of the State apply, shall provide and furnish to the miners employed in said mine a sufficient number of caps and props, said props to be sawed square at each end, to be used by said miners in securing the roof in their rooms, and at such other working places where by law or custom of those usually engaged in such employment it is the duty of said miners to keep the roof propped, after the miner has selected and worked the same.

SEC. 8. Except as herein otherwise provided, any willful neglect or failure or refusal of any owner, lessee, or operator of a coal mine, or of any person employed in such mine, to comply with the provisions of this act affecting such owner, lessee, operator, or person, or any attempt to obstruct or interfere with any person in the discharge of the duties imposed upon such person, shall be deemed a misdemeanor, punishable by a fine of not less than one hundred dollars and not more than two hundred dollars.

Approved March 20, 1908.

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CHAPTER 63.—*Mines—Investigation of gases, etc.*

SECTION 5. * * * As a contribution toward a better knowledge of the requirements for the safe working of the mines of the State, the technological work of the [state geological, topographical, and agricultural] survey shall include an investigation of mines, gases and coal dusts and of such other matters as are appropriate, to such extent as the means of the survey may permit

Approved March 25, 1908.

CHAPTER 66.—*Employment of children—Age limit—Inspection of factories.*

SECTION 1. No child under fourteen years of age shall be employed, permitted or suffered to work in or in connection with any factory, workshop, mine, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages. It shall be unlawful for any person, firm or corporation to employ any child under fourteen years of age in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session.

SEC. 2. No child between fourteen and sixteen years of age shall be employed, permitted or suffered to work in any factory, workshop, mine, or mercantile establishment, unless the person or corporation employing him procures and keeps on file and accessible to the truant officers of the town or city, and to the labor inspector, an employment certificate as hereinafter prescribed, and keep two complete lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the building in which such children are employed. On termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall forthwith be surrendered by the employer to the child or its parent or guardian or custodian. The labor inspector may make demands on an employer in whose establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this act, that such employer shall either furnish him within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ, or permit or suffer such child to work therein. The labor inspector may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate, and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. In case such employer shall fail to produce and deliver to the inspector within ten days after such demand such evidence of age herein required of him, and thereafter continue to employ such child, or permit or suffer such child to work in such establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for violation of the provision that such child is under sixteen years of age and is unlawfully employed.

SEC. 3. An employment certificate shall only be approved by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized by the school board: *Provided*, That no member of a school board or other person authorized as aforesaid shall have authority to approve such certificate for any child then in or about to enter his own employment, or the employment of a firm or corporation of which he is a member, officer or employee.

SEC. 4. The persons authorized to issue employment certificates shall not issue such certificates until he has received, examined, approved, and filed the following papers duly executed: (1) The school record of such child properly filled out and signed as provided herein below. (2) A passport or duly attested transcript of the certificate of birth or baptism or other religious record, showing the date and place of birth of such child. A duly attested transcript of the birth certificate filed according to law with any officer charged with the duty of recording births, shall be sufficient evidence of the age of such child. (3) The affidavit of the parent, guardian or custodian of a child, which shall be required, however, only in case such last-mentioned transcript of the certificate of birth be not produced and filed, showing the place and date of birth of such child; which affidavit must be taken before the officer issuing employment certificates, who is hereby authorized and required to administer such oath, and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child has personally

appeared before and been examined by the officer issuing the certificates, and until such officer shall, after making examination, file and sign in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upward and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health, or by the county physician. Every employment certificate shall be signed in the presence of the child in whose name it is issued.

SEC. 5. Such certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and has been examined.

SEC. 6. The school record above mentioned shall be signed by the principal or chief teacher of the school which such child has last attended and shall be furnished, on demand, to a child entitled thereto. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred days during the school year previous to his arriving at the age of fourteen years or during the year previous to applying for such school records, and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing and geography and is familiar with the fundamental operations of arithmetic up to and including common fractions. Such school record shall also give the age and residence of the child, as shown on the records of the school and the name of its parent, or guardian or custodian: *Provided*, That upon the filing with the person authorized to issue employment certificates of the affidavit of the applicant or of his or her parent, guardian or custodian, showing that diligent effort has been made to obtain the school record hereby required and that it can not be obtained, then the person authorized to issue the certificate may issue such a certificate without having received such school record, but it shall be his duty, in such case, to examine the applicant as to his or her proficiency in each of the studies mentioned in this section; and in such case the employment certificate shall show that such examination was had in lieu of the filing of the school record.

SEC. 7. The local board of education or the school board of a city, town or district, as the case may be, shall transmit between the first and tenth of each month, to the office of the labor inspector, a list of the names of the children to whom certificates have been issued during the previous month.

SEC. 8. No person under the age of sixteen years shall be employed or suffered or permitted to work at any gainful occupation more than sixty hours in any one week, not [sic] nor more than ten hours in any one day; or before the hour of seven o'clock in the morning or after the hour of seven in the evening. Every employer shall post in a conspicuous place in every room where such minors are employed a printed notice, stating the hours required of them each day of the week, the hours of commencing and stopping work and the hours when the time or times allowed for dinner or for other meals begin and end. The printed form of such notice shall be furnished by the state labor inspector, and the employment of any minor for longer time in any day so stated shall be deemed a violation of this section.

SEC. 9. Whoever employs a child under sixteen years of age, and whoever having under his control a child under such age permits such child to be employed in violation of section one, two or eight of this act, shall, for such offense, be fined not more than fifty dollars, and whoever continues to employ any child in violation of either of said sections of this act after being notified by a truant officer or a labor inspector thereof, shall for every day thereafter that such employment continues, be fined not less than five nor more than twenty dollars. A failure to produce to a truant officer or labor inspector any employment certificate or list required by this act shall be prima facie evidence of the illegal employment of any person whose employment certificate is not produced, or whose name is not so listed. Any corporation or employer retaining employment certificates in violation of section two of this act shall be fined ten dollars. Every person authorized to sign the certificate prescribed by

section five of this act, who knowingly certifies to any materially false statement therein shall be fined not more than fifty dollars, nor less than ten dollars.

SEC. 10. Truant officers may visit the factories, workshops, mines, and mercantile establishments in their several towns and cities and ascertain whether any minors are employed therein contrary to the provisions of this act, and they shall report any cases of such illegal employment to the superintendent of schools and to the labor inspector. Labor inspectors and truant officers may require that the employment certificates and lists provided for in this act, of minors employed in such factories, workshops, mines or mercantile establishments, shall be produced for their inspection. Complaints for offenses under this act shall be brought by the labor inspectors.

SEC. 11. No child under the age of sixteen years shall be employed at sewing belts, or to assist in sewing belts, in any capacity whatever, nor shall any child adjust any belt to any machinery; they shall not oil or assist in oiling, wiping or cleaning machinery; they shall not operate, or assist in operating circular or band saws, wood shapers, wood joiners, planers, sandpaper or wood-polishing machinery, emery or polishing wheels used for polishing sheet metal, wood turning or boring machinery, stamping machines in sheet-metal and tinware manufacturing, stamping machines in washer and nut factories, operating corrugating rolls, such as are used in roofing factories, nor shall they be employed in operating any steam boiler, steam machinery, or other steam-generating apparatus, or as pin boys in any bowling alley; they shall not operate or assist in operating dough brakes, or cracker machinery of any description, wire or iron straightening machinery, nor shall they operate or assist in operating rolling-mill machinery, punches or shears, washing, or grinding or mixing mills, or calendar rolls in rubber manufacturing, nor shall they operate or assist in operating laundry machinery, nor shall such children be employed in any capacity in preparing any composition in which dangerous or poisonous acids are used, and they shall not be employed in any capacity in the manufacture of paints, colors or white lead, nor shall they be employed in any capacity whatever in operating or assisting to operate any passenger or freight elevator, nor shall they be employed in any capacity whatever in the manufacture of goods for immoral purposes, nor in any theatre, concert hall, or place of amusement wherein intoxicating liquors are sold, nor shall females under sixteen years of age be employed in any capacity where such employment compels them to remain standing constantly. Nor shall any child under sixteen years of age be employed at any occupation dangerous or injurious to health or morals, or to lives or limbs, and as to these matters, the decision of the county physician or city health officer, as the case may be, shall be final.

SEC. 12. It shall be the duty of the owner of any manufacturing establishment, where any person under sixteen years of age is employed, his agents, superintendents or other persons in charge of same, to furnish and supply, when practicable, or cause to be furnished and supplied to him, belt shifters or other safe mechanical contrivance for the purpose of throwing belts on or off pulleys; and, whenever practicable, machinery therein shall be provided with loose belts. All vats, pans, saws, planes, cogs, gearing, belting, set screws and machinery of every description therein, which is palpably dangerous, where practicable, shall be properly guarded; and no person shall remove or make ineffective any safeguard around or attached to any planer, saw, belting, shafting or other machinery, or around any vat or pan, while the same is in use, unless for the purpose of immediately making repairs thereto, and all such safeguards shall be promptly replaced. No person under eighteen years of age shall be allowed to clean machinery while in motion.

SEC. 13. Suitable and proper wash rooms and water-closets shall be provided in each manufacturing establishment, where any person under sixteen years of age is employed, and such water-closets shall be properly screened and ventilated and be kept at all times in a clean condition; and if girls under sixteen years of age be employed in any such establishment, the water-closet shall have separate approaches and be kept separate and apart from those used by men. All closets shall be kept free from obscene writing and marking. A dressing room shall be provided for such girls when the nature of their work is such as to require any change of clothing.

SEC. 14. Every person, firm, corporation, association, individual or partnership employing girls under sixteen years of age in any manufacturing, mechanical or mercantile industry, laundry, workshop, renovating works, or printing offices in this Commonwealth, shall provide seats for the use of the girls so

employed, and shall permit the use of such by them when not necessarily engaged in the active duties for which they are employed.

SEC. 15. The walls and ceilings of each room in every manufacturing establishment where any person under sixteen years of age is employed shall be limewashed or painted, when, in the opinion of the labor inspector, it shall be conducive to the health or cleanliness of the persons working therein.

SEC. 16. Grand juries shall have inquisitorial powers to investigate violations of this act; also shall county judges and circuit judges, and judges of the circuit courts of the State shall specially charge the grand jury at the beginning of each term of the court to investigate violations of this act.

SEC. 17. A copy of this act shall be conspicuously posted and kept in each workroom of every manufacturing establishment, mill, mine or workshop or mercantile or printing establishment, theater, bowling alley, telegraph, telephone or public messenger company or laundry in this Commonwealth.

SEC. 18. Any adult person who violates any of the provisions of this act or who suffers or permits any child to be employed in violation of its provisions, shall be deemed guilty of a misdemeanor, and on conviction, unless otherwise herein expressly provided shall be punished by a fine of not more than fifty dollars and not less than twenty-five dollars for the first offense, and for each subsequent offense by imprisonment for not more than ninety days and not less than ten days, or by a fine of not less than fifty dollars nor more than two hundred dollars, or by both fine and imprisonment.

SEC. 19. Whereas there are many children between the ages of fourteen and sixteen now in employments for which an employment certificate is required by this act; now, therefore, in order to provide ample time for compliance herewith by obtaining the proof of birth and the school record herein required, it is hereby enacted that the provisions of this act as to the requirement of an employment certificate shall not go into effect until the first day of September, nineteen hundred and eight.

And whereas there are some children between the ages of fourteen and sixteen who are now in employments for which an employment certificate is required by this act, who can not comply with the educational test established by this act and who would find it a real hardship to be thus expelled from their employment without a full opportunity to prepare themselves for that test; now, therefore, it is hereby enacted that the requirement of the filing of a school record, or of mental examination in default thereof, as a prerequisite to the issuance of an employment certificate, shall not be effective until the first day of September, nineteen hundred and nine; but from the first day of September, 1908, to the first day of September, 1909, employment certificates shall be issued to children between the ages of fourteen and sixteen years upon the proof of the birth and of physical fitness required by section three hereof.

Approved March 18, 1908.

MARYLAND.

ACTS OF 1908.

CHAPTER 724.—*Railroads—Crews for freight trains.*

(Page 71.)

SECTION 1. Article 23 of the Code of Public General Laws of Maryland of 1904 is hereby amended by adding thereto certain sections to follow section 300 of said article, to be known as sections 300k, 300l, 300m, 300n and 300p.

SEC. 300k. It shall be unlawful for any railroad company doing business in the State of Maryland or any receiver of such railroad company to run or operate over its road or any part of its road, or suffer or permit to be run or operated over its road or any part of its road, any freight train consisting of thirty or more freight or other cars, exclusive of caboose and locomotive, with less than a full train crew, consisting of six persons, to wit: One engineer, one fireman, one conductor, one flagman and two brakemen.

SEC. 300l. Any such railroad company or any such receiver violating any of the provisions of sections [sic] 300k of this act shall be liable to a penalty of five hundred dollars for each and every such violation, to be recovered in a civil suit or suits to be brought by the attorney-general of the State of Maryland in the name of this State; and it shall be the duty of such attorney-general without further authorization to bring such suit or suits upon duly verified informa-

tion being presented to or lodged with him of such violation having occurred, and the affidavits of at least two citizens of the State of Maryland that such violation has occurred shall be taken and deemed to be duly verified information for the purposes of this act.

SEC. 300m. It shall be the duty of the attorney-general of the State of Maryland to enforce the provisions of sections 300k and 300l of this act, and all powers granted to the said attorney-general for the enforcement of any other act or acts are hereby granted to him for the purpose of the enforcement of said provisions of this act.

SEC. 300n. Any employee of such railroad company or of any such receiver who may be killed or injured by any train which was run or operated contrary to the provisions of section 300k of this act, or who may be k[i]lled or injured as a result of any act of any person employed contrary to the provisions of section 300k of this act shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such railroad company or of such receiver, after the unlawful running or operating of such train or the unlawful employment of such person has been brought to his knowledge; nor shall any such employee be held to have contributed to his death or injury in any case where such railroad company or such receiver shall have violated any of the provisions of section 300k of this act when such violation contributed to the deaths [sic] or injury of such employee; and all questions of negligence, or either or both, arising in cases brought under or by virtue of said section of this act shall be for the jury.

SEC. 300p. The invalidity of any portion of this act shall not affect the validity of any portion thereof which can be given effect without such invalid part.

Approved April 8, 1908.

CHAPTER 85.—*Hours of labor of employees on public works—Baltimore.*

(Page 613.)

SECTION 1. The act of 1898, chapter 458, of the Code of Public Local Laws, relating to the hours of labor of mechanics and laborers upon city work, is hereby repealed and reenacted to read as follows:

Section 2. Eight hours shall constitute a day's work for all laborers, workmen or mechanics, who may be employed by or on behalf of the mayor and city council of Baltimore, except in cases of extraordinary emergency, which may arise in time of war or in cases where it may be necessary to work more than eight hours per calendar day, for the protection of property or human life: *Provided*, That in all such cases the laborer, workman or mechanic so employed and working to exceed eight hours per calendar day shall be paid on the basis of eight hours constituting a day's work: *Provided further*, That not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen and mechanics so employed by or on behalf of the mayor and city council of Baltimore; and laborers, workmen or mechanics employed by contractors or subcontractors in the execution of any contract or contracts within the city of Baltimore on any public work, shall be deemed to be employed by or on behalf of the mayor and city council of Baltimore.

Sec. 3. All contracts hereafter made by or on behalf of the mayor and city council of Baltimore with any person or persons or corporation, for the performance of any work with the city of Baltimore, shall be deemed and considered as made upon the basis of eight hours constituting a day's work, and it shall be unlawful for any such person or persons, or corporation to require or permit any laborer, workman or mechanic to work more than eight hours per calendar day in doing such work, except in the cases and upon the conditions provided in section 2 of this act.

Sec. 4. Any officer of the mayor and city council of Baltimore, or any person acting under or for such officer, or any contractor or subcontractor or other person acting for them, violating any of the provisions of this act, shall for each and every offense be fined not less than ten dollars nor more than fifty dollars for each and every offense, one-half of such fine to go to the informer, said fines to be collected as other fines are collected by law.

Sec. 5. The provisions of this act shall not apply to the employees of the fire department, Bay View Asylum or the Baltimore City Jail.

Approved March 12, 1908.

CUMULATIVE INDEX OF LABOR LAWS AND DECISIONS RELATING THERETO.

[This index will include all labor laws enacted since January 1, 1908, as they appear in successive issues of the Bulletin, beginning with Bulletin No. 80, the issue of January, 1909. Laws enacted previously appear in the Twenty-second Annual Report of the Commissioner of Labor. The decisions indexed under the various headings relate to the laws on the same subjects without regard to their date of enactment and are indicated by the letter "D" in parenthesis following the name of the State.]

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DIRECTORY OF BUREAUS OF LABOR IN THE UNITED STATES AND IN FOREIGN COUNTRIES.

State.	Name of bureau.	Title of chief officer.	Location of bureau.
UNITED STATES.			
United States	United States Bureau of Labor	Commissioner	Washington, D. C.
California	Bureau of Labor Statistics	Commissioner	San Francisco, Cal.
Colorado	Bureau of Labor Statistics	Deputy Commissioner	Denver, Colo.
Connecticut	Bureau of Labor Statistics	Commissioner	Hartford, Conn.
Idaho	Bureau of Immigration, Labor, and Statistics.	Commissioner	Boise, Idaho.
Illinois	Bureau of Labor Statistics	Secretary	Springfield, Ill.
Indiana	Bureau of Statistics	Chief	Indianapolis, Ind.
Iowa	Bureau of Labor Statistics	Commissioner	Des Moines, Iowa.
Kansas	Bureau of Labor Statistics	Commissioner	Topeka, Kans.
Kentucky	Department of Agriculture, Labor, and Statistics.	Commissioner	Frankfort, Ky.
Louisiana	Bureau of Statistics of Labor	Commissioner	New Orleans, La.
Maine	Bureau of Labor Statistics	Commissioner	Augusta, Me.
Maryland	Bureau of Industrial Statistics	Chief	Baltimore, Md.
Massachusetts	Bureau of Statistics of Labor	Chief	Boston, Mass.
Michigan	Bureau of Labor and Industrial Statistics.	Commissioner	Lansing, Mich.
Minnesota	Bureau of Labor	Commissioner	St. Paul, Minn.
Missouri	Bureau of Labor Statistics and Inspection.	Commissioner	Jefferson City, Mo.
Montana	Bureau of Agriculture, Labor, and Industry.	Commissioner	Helena, Mont.
Nebraska	Bureau of Labor and Industrial Statistics.	Deputy Commissioner	Lincoln, Nebr.
New Hampshire	Bureau of Labor	Commissioner	Concord, N. H.
New Jersey	Bureau of Statistics of Labor and Industries.	Chief	Trenton, N. J.
New York	Department of Labor	Commissioner	Albany, N. Y.
North Carolina	Bureau of Labor Statistics and Printing.	Commissioner	Raleigh, N. C.
North Dakota	Department of Agriculture and Labor.	Commissioner	Bismarck, N. Dak.
Ohio	Bureau of Labor Statistics	Commissioner	Columbus, Ohio.
Oklahoma	Department of Labor	Commissioner	Guthrie, Okla.
Oregon	Bureau of Labor Statistics and Inspection of Factories and Workshops.	Commissioner	Salem, Oreg.
Pennsylvania	Bureau of Industrial Statistics	Chief	Harrisburg, Pa.
Rhode Island	Bureau of Labor Statistics	Commissioner	Providence, R. I.
Virginia	Bureau of Labor and Industrial Statistics.	Commissioner	Richmond, Va.
Washington	Bureau of Labor	Commissioner	Olympia, Wash.
West Virginia	Bureau of Labor	Commissioner	Wheeling, W. Va.
Wisconsin	Bureau of Labor Statistics	Commissioner	Madison, Wis.
FOREIGN COUNTRIES.			
Argentina	Departamento Nacional del Trabajo.	Presidente	Buenos Aires.
Austria	K. K. Arbeitsstatistisches Amt im Handelsministerium.	Vorstand	Wien.
Belgium	Office du Travail (Ministère de l'Industrie et du Travail).	Directeur Général	Bruxelles.
Canada	Department of Labor	Minister of Labor	Ottawa.
Canada: Ontario.	Bureau of Labor (Department of Public Works).	Secretary	Toronto.
Chile	Oficina de Estadística del Trabajo	Jefe	Santiago.
Finland	Industristyrelsen (a)		Helsingfors.
France	Office du Travail (Ministère du Travail et de la Prévoyance Sociale).	Directeur	Paris.
Germany	Kaiserliches Statistisches Amt, Abteilung für Arbeiterstatistik.	Präsident	Berlin.
Great Britain and Ireland.	Labor Department (Board of Trade).	Commissioner of Labor.	London (43 Parliament st.).
Italy	Ufficio del Lavoro (Ministero di Agricoltura Industria e Commercio).	Direttore Generale	Rome.
Netherlands	Centraal Bureau voor de Statistiek (a)	Directeur	'S-Gravenhage.
New South Wales.	State Labor Bureau	Director of Labor	Sydney.
New Zealand	Department of Labor	Minister of Labor	Wellington.
Spain	Instituto de Reformas Sociales	Secretario General	Madrid.
Sweden	Afdelning för Arbetsstatistik (Kgl. Kommerskollegii).	Direktör	Stockholm.
Switzerland	Secrétariat Ouvrier Suisse (semi-official).	Secrétaire	Zürich.
Uruguay	Oficina del Trabajo (Ministero de Industrias, Trabajo é Instrucción Pública).		Montevideo.
International	International Labor Office	Director	Basle, Switzerland.

a Issues a bulletin of labor.

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The industrial revolution in Japan, by William Eleroy Curtis.[a]
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The wealth and receipts and expenses of the U. S., by W. M. Steuart.[a]
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The sweating system, by Henry White.[a]
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