

In this chapter we have reviewed the laws prescribing the time, manner and form in which wages must be paid. We have also discussed the recourse workers may resort to (mechanics' liens) if wages are not forthcoming. The laws are largely dependent upon each other for their effectiveness. Thus the wage-payment law for seasonal labor rests upon the pay-check law and the statute prescribing the time of payment of wages; likewise, the act prescribing the time of payment of wages would be almost worthless without the pay-check law; and these three statutes would lose much of their effectiveness if there were no mechanics' lien laws to back them up.

A HISTORY OF CALIFORNIA LABOR LEGISLATION, 1910-1930.

CHAPTER IV.

THE MINIMUM WAGE LAW.

The California Law part of a National Movement.

A national movement for a legal minimum wage for women and minors began in 1910. The impetus came from the National Consumers' League of the United States." This Consumers' League had pledged itself to work for minimum wage legislation.

*The National Consumers' League has as its special object the securing of adequate investigations of the conditions under which goods are made, in order to enable purchasers to distinguish in favor of goods made well-ordered factories. It also proposed to educate the public and to promote labor legislation, either state or federal, whenever it may appear expedient. From the Constitution of the National Consumers' League printed in the Twelfth Report of the National Consumers' League, February 7, 1911.

at an international conference of Consumers' Leagues held in September, 1908 at Geneva, Switzerland. The International Conference unanimously recommended to its members that, on their return to the twenty countries whence they had come, they strive to introduce minimum wage boards. The Consumers' League of the United States, deciding that because of constitutional and other difficulties it could not get minimum wage laws for both men and women, began a movement for the establishment of minimum wage boards in states to fix minimum wages for women and children.*

*Eleventh Report of National Consumers' League, March 1, 1910 p. 21.

The educational campaign began in 1910 when a persuasive and eloquent address was delivered by Professor John A. Ryan before the National Conference of Charities and Correction. Professor Ryan urged his hearers and readers to study the underlying principles of the legal minimum wage. He pointed out the benefits that women could receive under a system of state minimum wage laws, but said that the legislation could not be universally enacted in a year, nor perhaps in ten years, but that eventually it would come."

"A Minimum Wage and Minimum Wage Boards", printed in Proceedings of the National Conference of Charities and Correction, May 1910.

The movement gained considerable momentum in several states during the ensuing year. Among others the late Professor Henry R. Seager of Columbia University became interested in minimum wage legislation and in December, 1912, delivered an address on the subject before a joint assembly of the American Association for Labor Legislation and the American Economic Association, after which there ensued a lively discussion by members of both groups.*

*American Labor Legislation Review, Vol. 3, Feb. 1913, p.82.

Although neither organization officially committed itself to the principle of the minimum wage, many members became extremely interested in the subject.

Bills were introduced in the legislatures of Minnesota, Massachusetts and Wisconsin providing for the establishment of minimum wage boards but they failed to become laws. A measure was passed in Massachusetts, however, which provided for the appointment of a commission to study the subject.

The following year, upon the recommendation of the special committee, Massachusetts passed a minimum wage law for women and children and "became the vanguard for progressive legislation among the American states."*

*Commons, John P. and Andrews, John B., Principles of Labor Legislation, Revised Edition 1927, p. 206.

By 1913, as the result of further investigations, eight states* followed the example of Massachusetts. One of the states

*California, Colorado, Minnesota, Nebraska, Oregon, Utah, Washington and Wisconsin. Ibid., p. 206.

was California and her law was similar to other acts passed at the same time elsewhere. It is clearly evident that California's minimum wage was part of a progressive national movement.

The early Agitation in California regarding a Minimum Wage Law. California was in the midst of a reform movement of her own at the time of the national drive for a legal minimum wage, and so was in a favorable mood for progressive legislation of all kinds.* In spite of this fact, the minimum wage law passed with some

* See Chapter I.

difficulty, and only after a well organized campaign had been

conducted throughout the State. It is interesting to note why the act was passed, who favored its passage, who did not, and what the attitude of organized labor was regarding the bill which became a law in 1913.

Those who favored a Legal Minimum Wage. By 1911, there was a California Consumers' League to initiate the drive for a minimum wage law in the States. Also as explained above, the National Consumers' League worked through the National Conference of Charities and Correction, with which it was affiliated." Many

* See page

social service organizations as well as prominent men and women of California were members of the National Conference of Charities and Correction and received inspiration from it, causing them to work for a legal minimum wage in the state.*

*Proceedings of the National Conference of Charities and Correction, 1911, lists as members (among others) the following: Associated Charities of Los Angeles, Oakland, San Francisco, Pasadena and Redlands; educators, ministers, senators, assemblymen and even the Governor of the State, Hiram W. Johnson.

The California Federation of Women's Clubs, at the Paso Robles Convention in 1913, endorsed the proposed minimum wage legislation and petitioned the Governor to use his influence to secure its passage.* The work done by the Federation of Women's

*Edson, Mrs. Katherine, Statement to the Women's Organizations of California on the Present Status of Minimum Wage Legislation in this and other States, April 22, 1922, p. 1.

Clubs became an important part of the organized drive in the State that put through the minimum wage legislation.

The churches, many of them, entered into the fight and aided those who were urging that the women be protected by the proposed legislation. The Church Federation of Los Angeles sent a forceful petition to the Senate.* Requesting that they adopt Senate Bill No. 1134, providing for an Industrial Welfare Com-

* Journal of the Senate, 39th. Session, April 4, 1913, P.992.

mission with powers to fix a minimum wage for women and minors.

The Socialists also should be mentioned, for they sponsored the measure providing for a legal minimum wage.* Governor Hiram

*The Daily News, November 14, 1911.

worked hard for the same cause. In 1912, he requested the State Bureau of Labor Statistics to make investigations as to wages paid to women workers of the State.* These investigations revealed the fact that many women were living below any normal

*Fourth Report of the Industrial Welfare Commission, 1920-1922, P. 9.

standard, and that such subnormal living was having a most disastrous effect on the health and morals of the women workers. As a result, Governor Johnson became firmly convinced that something should be done about it. According to Katherine Edson, of the Industrial Welfare Commission, "The minimum wage law was

forced through the legislature by Governor Johnson.* This

* Edson, Mrs. Katherine, Statement to the Women's Organizations of California on the Present Status of Minimum Wage Legislation in this and other States, April 23, 1922, p.1.

is perhaps too strong a statement. The writer believes that the legislature were perfectly willing to pass the statute.

Arguments Used by Those Who favored a Legal Minimum Wage.

It was held that a minimum wage law for women and minors would eliminate the worst evils of child labor in California, according to Mrs. H. H. Fleischer, representative of the National Child Labor Committee on the Pacific Coast, such a law would deal a death blow to child labor, for when an employer has to pay a minimum wage he will pay it to some one who can do a maximum amount of work.*

*Retail Clerks' International Advocate, October 1912, p.10.

Another argument used by many was that under existing conditions even the progressive and enlightened employers could not pay a "decent" wage to women, because of other employers in the state who forced their employees to work for a bare subsistence, or even less. It was said that women, unlike men, could not effectively better their working conditions through labor unions and ordinary industrial methods. If the employers, then, could do nothing to improve wages, and if the women, themselves, were helpless, it was clearly up to the state to do something.

It was strongly urged that the health and efficiency of the women and mothers were at stake. The investigations made by the

State Bureau of Labor Statistics, referred to before, indicated that many women were not receiving a sufficient wage to maintain their normal health and vigor.* These findings were used by many who argued that the Legislature should pass a minimum wage law.

*Special Report on Wages paid to Women in Industries of the State of California, 1913, by the California State Bureau of Labor Statistics.

The temper of the Legislature regarding the proposed measure was well expressed by Senator Brown when he said before a special committee appointed under the Beban Resolution to investigate vice conditions, "If any industry in California employing women cannot pay its employees a wage sufficiently large to permit them to live decently, the State is better off without such industry."

*Hichborn, Franklin, Story of the Session of the California Legislature of 1913, p. 353.

One of the most effective arguments used by those advocating a legal minimum wage for women was the argument based on morality. Many of the churches entered the fight because they felt that the low wages paid to women was conducive to immorality and prostitution. Rabbi Nieto, speaking at banquet to celebrate the victory of suffrage in California given at the Belleview Hotel in San Francisco, urged the women of California specifically to take up legislation for women and acknowledged himself on the side of those who had already begun plans for carrying through a minimum wage law. "The greatest work you can do", said Rabbi Nieto, "is to look after the needs of the half-starved women and girls of

San Francisco, women who are not paid a living wage, and who necessarily fall short of our standard of morality. Demand a living wage for your working women and when you have accomplished this you will have gone far toward making our city pure. You will have raised our standard of civic and moral life."

* The Daily News, November 23, 1911.

The relation of wages to morals for women was a topic of lively discussion in the Legislature during the final days before the minimum wage law was passed. On March 25th in Sacramento there was a joint meeting of the Labor and Capital Committees of the Senate and Assembly. They discussed for four hours the proposed women's minimum wage law and the discussion centered around the subject of "Low Wages a Cause of Immorality." Proponents and opponents of the bill were heard.*

*Proponents who spoke were Colonel Harris Weinstock, Mr. Chester H. Rowell, Mrs. Katherine Edson, Miss Helen Todd and others.

Opponents were representatives from the San Francisco Labor Council, the California State Federation of Labor and the United Garment Workers' Union of San Francisco. Paul Schaarrenberg, prominent labor leader and secretary-treasurer of the California State Federation of Labor, and Miss Sarah Hagan, of the Garment Workers' Union, both ridiculed the notion that higher wages would raise the morals of women. Coast Seamen's Journal, April 2, 1913, p. 1.

Those who were Opposed to a Legal Minimum Wage. There was an interesting situation in California during these years of agitation over the enactment of a women's minimum wage law. The employers in the State (most of them) and organized labor in the State, both fought against the enactment of a legal minimum wage.*

*Franklin Hichborn says, "The minimum wage law for women was strongly opposed by organized labor as well as employers, although some labor leaders, as well as employers, supported it." The Story of the Session of the California Legislature of 1913, p, 352.

but they had different reasons for opposing the same measure.

Arguments Used by Organized Labor. The San Francisco Labor Council on January 17, 1913, went on record by a practically unanimous vote against the proposed minimum wage law for women. The opposition was voiced chiefly by the delegates representing organizations of women workers -- garment workers, waitresses, laundry workers etc. -- who took the position that any minimum established by law would certainly be lower than that established by the unions, thus tending to undermine the union scales.* This argument was a favorite the minimum wage would become the maximum. They were influenced, no doubt, by President Samuel Gompers, of the American Federation of Labor, who was very much opposed to minimum wage legislation. In a letter dated February 1, 1913, Mr. Gompers urged organized labor of California to "proceed with the utmost caution in any effort to establish a minimum wage by statutory law. Speaking fundamentally, a minimum wage should be established and maintained by the organizations of Labor. If a minimum wage law for working men is established by law, by the same token it is more than probable that it may finally transpire that another law will be enacted, compelling working men to work for such a minimum as a maximum. When that time comes, when by statutory enactment wages are set, it will only be another step

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*Coast Seamens' Journal, January 22, 1913, p. 3.

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be another step to force working men to work at the best of their employers, or at the best of the State, which will be equivalent to and will be, slavery."*

*Printed in the Labor Clarion, February 21, 1913, p. 3.

Organized labor also took the position that there would be no incentive for women to join labor organizations if the state fixed a minimum wage for them.*

*Coast Seemans' Journal, March 5, 1913, p. 1; Labor Clarion February 21, 1913, p. 11; April 4, 1913, p. 3. December 27, 1912, p.3; January 24, 1913, p.3; September 3, 1915, p.2.

This was, perhaps, Labor's strongest objection to the proposed legislation. Labor leaders felt that such legislation would supersede all women's labor organizations in the State because it would foster and induce dependence. Women would expect some outside authority to take the initiative in correcting wrongs, preventing injustice, and in assuming responsibility for existing conditions. According to James W. Mullen, Editor of the Labor Clarion, "After such a law had destroyed the organizations now maintained by the women workers there might come a period of lax enforcement of the law because of a lack of sympathy with the workers on the part of an unfriendly state administration, and then the workers would be left absolutely at the mercy of the cheap labor-huckstering employer and in confusion only worse confounded."*

*Labor Clarion, January 24, 1913, p. 3.

It was argued that labor should play its own game. Putting hopes in winning victories by legislation was said to be an elusive dream. All that it then enjoyed had come through playing its own game and Labor would do well to stick to it.* An editorial in the Coast Seamens' Journal for June 25, 1913, stated that "if this 'reform from above' should prove successful it will be the first time in history that anything worth while mentioning has been obtained by the workers through other than their own efforts."*

*"California's Minimum Wage Law," Coast Seamens' Journal, June 25, 1913, P.8.

Another important argument used by organized labor was that a legal minimum wage would lead to speeding-up of the workmen. It was urged that it would cause a positive nightmare of scientific management, economical production and sweat shop methods. Because of this speeding-up, only the most efficient workers would be retained, while the other unfortunate members of society would be thrown out of work entirely.*

*"Minimum Wage, Sweating System" an Editorial in the Coast Seamens' Journal, March 5, 1913, p.1.

Other reasons why organized labor opposed the minimum wage law were that it would vest too much power in the Industrial Welfare Commission*; that the courts would declare it unconstitu-

* This argument was used especially during the agitation over the adoption of the Constitutional Amendment in 1914. It was said that the liberty and safety of all workers would be endangered because an unfriendly commission could make actual slaves of them. Coast Seamens' Journal, November 4, 1914, p.10. Also Labor

Clarion, September 3, 1915, p.2.

déclare it unconstitutional;* that if wages were raised, this

*Labor Clarion, January 24, 1913, p.3.

would be accompanied by increased prices;* that the legislature

should not enter the sphere of economic laws as such legislation would invite interference in all other private relations;* and, finally, that many employers who were used to Labor's best

*Ibid.

interests had endorsed the measure.*

Some of the arguments are contradictory and some of them do

* The Retail Dry Goods Merchants' Associations were cited as having endorsed the minimum wage measure. Labor Clarion, March 21, 1913, p. 3.

Not so very convincing at the present time, but it must be remembered that organized labor was very much opposed to this legislation and was using every means available to convince the people and the Legislature that the measure should not become a law.

Arguments Used by the Employers. Manufacturers and employers objected to the proposed legal minimum wage because they felt that the wage bargain was the concern of the parties directly affected, namely, the employer and the employee, and that if the State interfered it was unnecessary and unconstitutional meddling. They argued that the law would be a long step toward socialism*, and was especially uncalled for in the State of California where the

*San Francisco Chronicle, March 15, 1913, p. 3.

women were better paid than elsewhere in the United States.

Another important argument was that the increased wage would raise the cost of production for the employer. This would react disastrously in several ways for the State as a whole; first, it would cause the general consumer to pay more for his goods; second, it would make it impossible for manufacturers in California to compete with others outside of the State; and third, there would be unemployment coming as a result of decreased production and business failures.*

* San Francisco, Chronicle, March 18, 1913, p. 3.

The "Law and Order" Committee of the San Francisco Chamber of Commerce objected to the proposed law because it did not like the Commission form of government. Salaries would be drawn, politics would be played, and all the time taxes would have to be levied and collected to pay for the extravagance."

*Ibid. May 15, 1913, p. 3.

Some of the minor arguments used by employers were that it would kill the initiative and ambition of the women workers, and that low wages did not drive women into prostitution because there was always plenty of demand for domestic service where women could work and live comfortably.*

*Ibid. March 13, 1913, p. 3.

The Minimum Wage Becomes A Law in California. No less than nine bills and two proposed constitutional amendments pertaining to a minimum wage for women, were introduced in the Legislature during the 1913 session.* One of these bills (Assembly Bill 1251) introduced by Assemblyman Roberts, became a law; and one of the

*California Legislature, Final Calendar of Legislative Business, 39th Session, 1913.

proposed constitutional amendments (Assembly Constitutional Amendment 90) also introduced by Roberts, eventually became a part of the Constitution.

The Roberts Bill. On January 31, Assemblyman Roberts introduced a Measure (Assembly Bill Number 1251) which proposed to regulate the employment of women and minors and establish an Industrial Welfare Commission to investigate and deal with such employment, including a minimum wage. On the same day, a similar bill was introduced in the Senate by Senator Borwn. Because of the many-sided opposition to these bills, on March 25th a joint meeting of the Labor and Capital Committees of the Senate and Assembly was held for the purpose of hearing arguments on both sides of the question.*

*Coast Seamens' Journal, April 2, 1913, p. 1.

The Assembly finally passed its bill on April 23rd, by a vote of 46 to 12, and the fight was taken over to the Senate. On May 10th, the Roberts Bill came up for vote in the Senate and was passed by a vote of 27 to 7. Sixteen days later, on May 26th,

Governor Johnson signed the Bill and it became a law.*

*California Legislature, Final Calendar of Legislative Business, 39th Session, 1913, p. 331.

Provisions of the Minimum Wage Law. The measure provided for an Industrial Welfare Commission, composed of five members appointed by the Governor.* It was made the duty of the commission to ascertain the wages paid, the hours and conditions of

*Cal. State. 1913, p.632, Ch. 324, Sec. 1.

labor and employment in the various occupations, trades, and industries in which women and minors were employed, and to make investigations into the comfort, health, safety and welfare of such women and minors.*

*Ibid., Sec. 3.

If upon investigation the commission was of the opinion that the wages paid to women and minors were inadequate to supply the cost of proper living, or that the hours or conditions of labor were prejudicial to the health, morals or welfare of the workers, the commission might call a conference composed of an equal number of representatives of employers and employees in the occupation under consideration. This conference should, on request of the commission, report its findings, including;

(1) An estimate of the minimum wage adequate to supply to women and minors engaged in the occupation, trade or industry in question, the necessary cost of proper living and maintain

the health and welfare of such women and minors.

(2) The maximum hours of work consistent with the health and welfare of women and minors engaged in any occupation, trade or industry in this State; provided, that the hours so fixed should not be more than the maximum then or there fixed by law.

(3) The standard conditions of labor demanded by the health and welfare of women and minors engaged in any occupation, trade or industry in this State.*

*Ibid. , Sec. 8.

The commission was given authority to make special provision for physically defective women, allowing them to work for less than the regular minimum, and to fix the rates and conditions of apprenticeship and to limit the number of apprentices or learners that might be employed in any industry or establishment.*

* The sections dealing with apprenticeship were added in 1915. Amended Stats. 1915. Ch.571.

Refusal to comply with the law was made a misdemeanor, punishable by fine or imprisonment or both. If it were found that an employer had paid an employee a wage below the minimum, notwithstanding an agreement on the part of the employee to work for such lower wage, the commission might recover such back wages for the employee, together with the cost of bringing suit.*

*Cal. Stats.1913, Ch.324, Sections 11 and 13, The mini-

imum wage law has been added to, from time to time, by minor amendments passed in 1915, 1919, 1921, 1923, 1927 and 1929. Labor Laws of the State of California, 1929, p. 111.

The Constitutional Amendment. The 1913 Legislature also adopted a constitutional amendment regarding a minimum wage for women and minors. It was adopted by both houses and filed with the Secretary of State on June 6, to be voted upon at the general election to be held November 3, 1914. The legislators were afraid that the minimum wage law would meet constitutional difficulties in the state courts because of the delegated powers conferred on the Industrial Welfare Commission.* In order to avoid this difficulty the proposed amendment was adopted and

*Report of the Industrial Welfare Commission, 1917, 1918, Page 7.

placed before the people for ratification.* In spite of the

*The Amendment reads as follows:

Constitution of California, Art. XX, Sec. 17 $\frac{1}{2}$. The Legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this constitution shall be construed as a limitation upon the authority of the Legislature to confer upon any commission now or hereafter created, such power and authority as the Legislature may deem requisite to carry out the provisions of this section.

of both organized labor and many employers, the Amendment was ratified by a majority of 84,203 votes, the vote for the amendment being 379,311, and against it 295,109 votes.*

*Report of the Industrial Welfare Commission 1913, 1914, p. 13.

The Industrial Welfare Commission. The minimum wage law of California went into effect August 10, 1913. In September the first commission was appointed by Governor Johnson and on January 3, 1914, permanent offices were opened in San Francisco.* Mr. H. A. Scheel was made secretary, which position he held until he was succeeded by Katherine Edson, who became Executive

*First Report of the Industrial Welfare Commission, 1913-1914, p. 11.

Commissioner*.

*Second Report of Industrial Welfare Commission, 1915-1918, p. 17.

Katherine Edson was the Executive Commissioner of the Commission for almost fifteen years. She gave up her position in 1930, when James Rolph Jr. became Governor.

From the very beginning, the work of the Commission was divided into six large divisions: (1) Investigations, (2) Preliminary conferences, (3) Wage boards, (4) Public hearings, (5) Rulings, and (6) Law enforcement. During the first two years, the time was devoted to making investigations and holding preliminary hearings.* Cost of living studies made in 1914 showed that \$9.63

*1st. Report of the I. W. C. p. 11.

a week was the minimum cost of proper living for a self dependent woman, and pay roll inspections showed that over half of the working women in the major industries received less than this weekly wage.*

*Ibid., pp. 23-28, also 4th Report of I. W. C., in this report on page 9, a brief history is given of the I. W. C. up to

1922.

It has been the practice of the Commission to get the cooperation of the employers before issuing orders prescribing the minimum rates of wages. The employers have thus come gradually under the provisions of the act through "a painless process". Labor unions were not slow in realizing that the Commission was above all, attempting to hold its own position secure, by avoiding any active opposition. They criticized the Commission severely, and perhaps unjustly, for not having the workers' interests at heart.*

* An Editorial in the Labor Clarion, September 20, 1918, page 8, among other things said, "The California Industrial Welfare Commission is behind the times and frittering away its opportunity to do something of real value to the workers for whose benefit it was supposed to have been instituted. It was a pre-war institution which as yet has not found its bearings and proper functioning in war-time conditions... Why doesn't the Commission do something to show that it is alive to the situation and keeping true to its aim? If nothing is done, it may as well be wiped out by the next session of the Legislature. The California Labor Movement opposed the adoption of the minimum wage law for this state, but a few of the cob sisters, aided and encouraged by a host of neuter-gendered trousers-wearers and political manipulators who believed they could catch votes by advocating the 'protection of the women of the State' succeeded in having the scheme placed upon the statute books and then proceeded to go to sleep and allow the "helpless working girls", for whom they shed such copious tears previously, to shift for themselves."

In 1915 an exhaustive survey was made of the fruit and vegetable canning industry which showed that this industry employed, during the canning season, the largest number of women workers in any industry in the state. The survey also showed that wages as low as ten cents an hour, and working days of from twelve to fifteen hours prevailed.*

* Report on Canning Industry, Second Biennial Report of the Industrial Welfare Commission, 1915-1916.

The long hours of labor and low wages which were found to prevail caused the Commission to pass its first wage order in February, 1916, setting a minimum time rate of 16 cents an hour with minimum piece rates correspondingly high. A ten hour day was decided upon with a payment of rate and a quarter the minimum for all work over that time. A sanitary order also was issued by the Commission.*

*Report on the Regulation of Wages, Hours and Working Conditions of Women and Minors in the Fruit and Vegetable Canning Industry of California, Bulletin No. 1, Industrial Welfare Commission.

It was almost two years before another order was given out by the Commission. This was because the Commission was afraid to act until the constitutionality of the Oregon act had been settled by the Supreme Court.* In 1917 and 1918 a minimum wage of

*Third report of the Industrial Welfare Commission, 1917-1918, p. 10.

\$10.00 a week was established in the mercantile, laundry, fish canning, fruit and vegetable canning and packing, and manufacturing industries, in general and professional offices and in unskilled and unclassified occupations. Sanitary regulations were issued covering all these industries.*

*Ibid., pp. 97-112, includes orders no. 3-11.

An intensive study of the cost of living was made in 1919, and it was found that \$12.57 per week was the least amount that would

provide the necessary cost of proper living for a woman worker.*
As a result of this study, a general minimum wage of \$13.50

*Katherine Edson, A study of the Cost of Living, April 19, 1919.

was fixed. The cost of living, however, continued to rise and in 1920 the minimum wage was changed to \$16. a week. Printing trades, the hotel and restaurant industry and certain agricultural occupations were included in the new orders.*

*Fourth report of the Industrial Welfare Commission, 1919-1920, and 1921-1922, p. 11.

Petitions were presented to the Commission in 1921, asking that the minimum wage be lowered, because of the general fall of prices. The California Manufacturers' Association asked that the minimum be put as low as \$12. Investigations and public hearings were held and finally in April, 1922, the Commission issued an order in the needle trades industry setting the minimum wage at \$15 per week.* Up to this time labor unions in California

*Ibid., p. 12.

had been content merely to criticize the industrial Welfare Commission in their labor periodicals.* They did not actively oppose it. Immediately, however, upon the issuance of the order

reducing the minimum wage, the Garment Workers' Union of San Francisco got out an injunction against the Commission to restrain it from cutting the minimum wage below \$13.*

*Margaret Stump and others, representing the Needle Trades Industry vs. the Industrial Welfare Commission of California.

It was discovered by the Attorney General that a technical defect in the publication of the order invalidated it regardless of the injunction. Before new orders were issued, more investigations were conducted and it was found that the cost of living had again risen; thus, the \$16 minimum was reaffirmed.*

*Fourth Report of Industrial Welfare Commission, 1919-20 and 1921-22, p. 12.

Since 1922 the minimum wage has remained \$16 a week. In June 1923, the nut cracking and sorting industry was regulated by an order of the Commission and in January 1926, regulation was extended to the motion picture industry. Some trouble was experienced in getting the motion picture industry to cooperate and so a conference was held on January 6, 1928. Agreements entered into at this time were published in a special bulleting which was distributed and posted in the studios and other places which resulted in fewer complaints being made.*

*Ibid., p. 133.

A short summary of the activity of the Industrial Welfare Commission of California appeared in the Journal of Applied Sociology, September 1923, under the title of "Minimum Wages for Women in California" by Cora E. Mabee.

Constitutional Difficulties of the Minimum Wage.

The constitutionality of minimum wage legislation involves a new application of the principle of the police power of the state. The police power of the state can restrict the freedom of contract for the protection or betterment of the public health,

morals, peace, and welfare. The question arises -- are minimum wage laws a legitimate extension of this power?* Several state supreme courts held that they were, but it was not until the

*John R. Commons and John B. Andrews, Principles of Labor Legislation, 1927, p. 224.

Supreme Court of the United States, by an even division, left in force a previous decision of the Oregon Supreme Court in favor of the state's minimum wage law that the question seemed settled.* The question was not settled, however, for on April 9, 1923, the

*Stettler vs O'Hara, 234 U.S. 629, 37 Sup. Ct. 475 (1917)

United States Supreme Court, by a five to three decision, declared the minimum wage law of the District of Columbia to be unconstitutional.*

*Adkins vs Children's Hospital, 261 U. S. 525, 43 Sup. Ct. 394 (1923) See Monthly Labor Review, Vol 16, May 1923.

Despite the adverse decision of the Supreme Court in 1923, most of the minimum wage commissions continued to enforce the acts wherever the employers would voluntarily cooperate.* California's Commission was one of these. Difficulties were encountered however, in California in the same year.

*John R. Commons and John B. Andrews, Principles of Labor Legislation, 1927, p. 229.

In July, 1923, Senator T. C. West sought an injunction against the Industrial Welfare Commission in the name of Helen Gainer,

on the ground that the Commission's order prevented her from securing employment in a candy factory at \$6 a week. In September, 1923, Attorney General Webb, acting for the commission filed a general demurrer to the complaint and this was sustained by the Superior Court of San Francisco. The plaintiff appealed to the State Supreme Court and on October 7, 1924, the case was submitted on brief.*

*Briefs in support of minimum wage for women were filed by Attorney General Webb, by Warren W. Pillsbury of the San Francisco bar, and by Felix Frankfurter, professor of law, Harvard Law School, in collaboration with Miss Mary W. Dewson, Research Secretary of the National Consumers' League. The latter brief was filed in the name of the California Federation of Women's Clubs, the California Federation of Women Voters, the United Garment Workers' Union of America, Local 125, of Los Angeles, Waitresses and Cafeteria Workers' Union, Local No. 639 of Los Angeles, and the Women's Christian Temperance Union of both Northern and Southern California. Fifth Report of I. W. C. p. 18.

Miss Gainer later petitioned the Supreme Court to dismiss the suit on the ground that she had become plaintiff unwittingly and with no understanding of the purpose of the case. The petition was granted on January 27, 1925.* Since then there has

*Ibid. p. 18.

been no attempt to invalidate the minimum wage law of California.

The attitude of the Supreme Court of the United States regarding such legislation has been demonstrated twice since the Atkins case of 1923. In 1925, the Arizona minimum wage law was held unconstitutional.*

*Sardell vs. Murphy, 268, U.S. 530, 46 Sup. Ct. 22.

and in 1927, the Arkansas law was invalidated.*

*Donham vs. Weat Nelson Mfg. Co. 273 U. S. 657, 47 Sup. Ct. 343 (1927) See Monthly Labor Review. Vol. 24, p. 31, (April 1927)

These decisions of the Supreme Court of the United States had not applied to the parts of the laws that deal with wages of minors, with hours of labor of women and minors, and with general working conditions. The California law is, therefore, secure in some respects. The California Legislature had this in mind in 1929 when it amended section 3 of the minimum wage law, by defining a "minor" for the purpose of this act to mean any person under 21 years of age, instead of 18 years as formerly provided. It is authorized to fix minimum wages for male minors between the ages of 18 and 21.* It is to the advantage of the

*Cal. Stat. 1929, Ch. 256, Sec. 3.

female workers that the term "minor" in this act be defined to include the extra three years.*

*Professor Barbara N. Armstrong of the school of Jurisprudence, University of California, discusses this subject under the title "Persons and Industrial Law", California Law Review, March 1930, p. 267.

General Effects of Minimum Wage Legislation in California.

There is no doubt that the minimum wage law has been of value in protecting women and minor workers from low wages. After sixteen years of administration, the Industrial Welfare Commission seems to have the confidence and support of the people of the State. Although the Commission has not revised any of its orders quite satisfactorily at least in many of the industries of the State.

The Commission shows conclusively (1) that the minimum wage has not become the maximum, (2) that learners are not dismissed when their apprenticeship has been completed because of the higher wage that must be paid to experienced workers, (3) that there is no evasion of payment of the minimum wage by the substitution of elderly and infirm workers, who may be paid less than the minimum wage, and (4) that minimum wage legislation has not throttled industry in California.*

*What California has done to Protect the Women Workers, by the Industrial Welfare Commission, May 1929; also, Bulletin of the Women's Bureau No. 76 and 78.

Since 1913 eight legislatures have met and at no time has any bill been introduced to repeal the minimum wage act or to curb materially the powers of the Commission. Since public opinion is very apparently in favor of the legislation, no employer wishes to "be the goat" by initiating a case against its enforcement.* Also, most employers believe that the minimum wage has

*Roland M. Miller, "California's Reasonable Minimum Wage" Journal of Applied Sociology, July-August 1927, p. 542.
