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STUDIES IN THE MINIMUM WAGE

THE RATAN TATA FOUNDATION
(UNIVERSITY OF LONDON)

STUDIES IN THE MINIMUM WAGE

No. 1

THE ESTABLISHMENT OF MINIMUM RATES
IN THE CHAIN-MAKING INDUSTRY UNDER
THE TRADE BOARDS ACT OF 1909

BY

R. H. TAWNEY



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INTRODUCTION

THIS monograph is the first of a series in which it is proposed to examine some of the attempts which have recently been made to establish and enforce minimum standards of payment. Whatever may be thought of the policy of "the minimum wage," it will be agreed that the subject is sufficiently important to deserve study in the light of such experience as is available. From 1824, when Parliament abolished, in the teeth of the opposition of some employers and nearly all the workpeople concerned, the last working remnants of the wage-regulation of the old régime,¹ down to 1909, when the Trade Boards Act was passed, the determination of wages in England was left entirely, except for the somewhat ineffective protection given to workers on public contracts by the "Fair Wages" resolutions of

¹ 5 Geo. iv. c. 66, by which were repealed 13 Geo. III. c. 68, 32 Geo. III. c. 64, and 51 Geo. III. c. 7. These three Acts had empowered the Justices of the City of London, Westminster, the Tower Hamlets and Middlesex to fix the wages of silk-weavers in their respective areas. They were administered in practice down, at least, to 1818, and probably till 1824 (*see* Minutes of Evidence and Report of Committee on Ribbon Weavers, 1818, the Second Report of the Select Committee of the House of Lords on the Means of Extending the Foreign Trade of the Country, 1821, and Hansard's Parliamentary Debates, New Series, vol. ix., *passim*). The last Act actually on the statute book for fixing wages was 8 Geo. III. c. 17, which fixed the hours and wages of journeymen tailors in the City of London, and was repealed in 1824 by the Act repealing the Combination Laws. But, unlike the Acts applying to the silk trade, it had been a dead letter for many years (*see* Galton, *The Tailoring Trade*).

February 13th, 1891, and March 10th, 1909, to bargaining between workers and employers. But at the present time the tide seems to be turning. To the first four industries scheduled by the Trade Boards Act in 1909, four more were added in 1913. The Trade Boards Act, which was itself influenced by the example of Victoria, has been followed by the Miners (Minimum Wage) Act of 1912, and is already being imitated by other countries. In France, Germany and Belgium, bills have been introduced to fix minimum rates of payment for special classes of workers, and Germany has actually passed an Act setting up Trade Committees of a kind somewhat similar to the English Trade Boards, which touch the borderland of wage-regulation, though they have not as yet power to fix minimum rates which shall be obligatory. In America minimum wage Acts of one kind or another have been passed in nine states, Massachusetts, California, Colorado, Minnesota, Oregon, Utah, Washington, Nebraska and Wisconsin; and bills dealing with the same subject have been introduced in three other states, Missouri, Pennsylvania and Ohio. Nearly all these Acts and proposals have certain grave defects. German and Belgian reformers seem to be under the ancient delusion that home workers need a minimum wage more than workers in factories; French and American—in common with some English—reformers, that women need protection in the matter of wages more than men; while the Act of Massachusetts, with its pathetic appeal to public opinion as a substitute for legal penalties, is regarded by its own promoters as a very inadequate measure. But as an indication of a movement of opinion they are as significant as were the ill-drafted, ill-administered Factory Acts of the early nineteenth century.

Apart from Mr. and Mrs. Webb's *Industrial Democracy*, which deals exclusively with the standard rates established by trade unions, and from the Report of Mr. Ernest Aves upon Industrial Conciliation and Arbitration in Australia and New Zealand, previous writers upon the subject have usually, so far as I am aware, approached it either from the

standpoint of economic theory or from that of the student of administrative machinery. Professor Pigou's *Wealth and Welfare* is an example of the first type of work, M. Raynaud's *Vers le salaire minimum* of the second. Till recently, indeed, theirs were the only methods possible. For the study of economics is, after all, one branch of contemporary history, and, like other kinds of history, it is limited by the material available for analysis. But owing to recent departures in legislation evidence is now coming to light which can be used as a partial criterion of the social and economic effects produced by the intervention of a public body to fix minimum rates, and it is therefore possible to appeal, for a solution of certain primary problems, to the light of experience. Is it practicable to set up representative machinery which will be capable of dealing with the technical difficulties involved in drafting lists of piece prices? If minimum rates are fixed, is it possible to enforce compliance with them? What are the indirect effects of a rise in wages brought about by the intervention of a Trade Board? Does it lead to the dismissal of the slower or older workers, to a rise in prices to the consumer, to greater efficiency on the part of the workers or of the management, or of both? Does it hamper industry in the face of foreign competition, or does it confirm the experience of Lancashire that a relatively high minimum is compatible with cheap production, perhaps, indeed, essential to it? On what principles are minimum rates to be fixed? Should they be "the highest that the trade will bear"? Or should they be based on some rough idea as to what constitutes a living wage? Should there be a flat rate for all the workers in an industry? Or should the minimum fixed vary from one district to another?

It is obvious that questions such as these cannot be answered with confidence till after the lapse of a much longer period than has yet intervened since the establishment of minimum rates by the existing Trade Boards. It is obvious also that, owing to the great diversity in the organ-

isation, problems and resources of different industries, the experience of a single Trade Board can not be sufficient to throw light upon more than a few among them. If there is such a thing as a "representative industry," it is certainly not to be found in the chain trade, which is the subject of the following pages. That trade is, for several reasons, very far from being typical of the majority of the industries to which the Trade Boards Act has, as yet, been applied. It has never yet been faced by serious foreign competition, either in home or in foreign markets. It is still almost entirely a handicraft, and there is little scope for "speeding up," or—though the future is uncertain—for the introduction of machinery. The branches of it which are affected by the Chain Trade Board are carried on in small workshops or in sheds attached to the workers' own cottages. To assume, therefore, that the consequences of the Chain Trade Board's determinations are likely to appear in all other industries in which minimum rates are fixed, that, for example, because the fixing of minimum rates in the chain trade has resulted in some advance in the price of chain, a rise in prices is likely to be the normal result of raising wages, would be a serious error. I have dealt first with the chain trade partly because it was the first industry for which a Trade Board established minimum rates, partly because its concentration in a small area makes it relatively easy to investigate. The reader must, however, be prepared to revise by the experience of other Boards' conclusions based on that of the Chain Trade Board.

It would have been impossible for me to offer even the imperfect sketch contained in the following pages without the assistance of numerous individuals. I am indebted to the Chain Trade Board for permission to examine its records, and to its officials and members for endless advice and criticism, in particular to its chairman, Mr. Ernest Aves, to its secretary, Mr. G. T. Reid, to its previous secretary, Mr. J. A. Heaton, and to Mr. J. J. Mallon, secretary of the Anti-Sweating League and a member of the Board. During

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a visit to Cradley Heath I had an opportunity of learning the views of employers and workers too numerous to mention, whom I desire to thank now. I must especially express my gratitude to Mr. J. Fellows, chairman of the Employers' Association in the Chain-making Industry, to Mr. C. H. Sitch, secretary of the Hand-hammered Chain Branch of the National Federation of Women Workers, who has helped me with numerous suggestions, and to Miss H. M. Stocks, who, together with Mr. C. H. Sitch, made it possible for me to obtain the information as to the earnings of women chain-makers which is printed on pp. 89-99, and to Mr. A. Greenwood, Miss Bulkley, and Miss Hill, who have assisted me in the preparation of the statistical tables. The report of the proceedings taken by the Board of Trade against an employer paying less than the rates fixed by the Trade Board, which is contained in Appendix B, is reproduced from the *Worcestershire and Staffordshire County Express* by the kind permission of the Editor, Mr. A. Moody. For the use of the information given me, and for the views expressed, I alone, of course, am responsible.

R. H. TAWNEY.

APPENDIX A

TRADE BOARDS ACT, 1909

[9 EDW. 7. CH. 22]

A.D. 1909.—An Act to provide for the establishment of Trade Boards for certain Trades. [20th October 1909.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

ESTABLISHMENT OF TRADE BOARDS FOR TRADES TO WHICH THE ACT APPLIES

I. Application of Act to certain trades.—(1) This Act shall apply to the trades specified in the schedule to this Act and to any other trades to which it has been applied by Provisional Order of the Board of Trade made under this section.

(2) The Board of Trade may make a Provisional Order applying this Act to any specified trade to which it does not at the time apply if they are satisfied that the rate of wages prevailing in any branch of the trade is exceptionally low, as compared with that in other employments, and that the other circumstances of the trade are such as to render the application of this Act to the trade expedient.

(3) If at any time the Board of Trade consider that the conditions of employment in any trade to which this Act applies have been so altered as to render the application of this Act to the trade unnecessary, they may make a Provisional Order that this Act shall cease to apply to that trade.

(4) The Board of Trade may submit to Parliament for confirmation any Provisional Order made by them in

pursuance of this section, but no such Order shall have effect unless and until it is confirmed by Parliament.

(5) If, while a Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any Order comprised therein, the Bill, so far as it relates to that Order, may be referred to a select committee, or, if the two Houses of Parliament think fit so to order, to a joint committee of those Houses, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills.

(6) Any Act confirming a Provisional Order made in pursuance of this section may be repealed, altered, or amended by any subsequent Provisional Order made by the Board of Trade and confirmed by Parliament.

2. *Establishment of Trade Boards for trades to which Act applies.*—(1) The Board of Trade shall, if practicable, establish one or more Trade Boards constituted in accordance with regulations made under this Act for any trade to which this Act applies or for any branch of work in the trade.

Where a Trade Board is established under this Act for any trade or branch of work in a trade which is carried on to any substantial extent in Ireland, a separate Trade Board shall be established for that trade or branch of work in a trade in Ireland.

(2) Where a Trade Board has been established for any branch of work in a trade, any reference in this Act to the trade for which the Board is established shall be construed as a reference to the branch of work in the trade for which the Board has been established.

3. *General duties of Trade Boards.*—A Trade Board for any trade shall consider, as occasion requires, any matter referred to them by a Secretary of State, the Board of Trade, or any other Government department, with reference to the industrial conditions of the trade, and shall make a report upon the matter to the department by whom the question has been referred.

MINIMUM RATES OF WAGES

4. *Duties and powers of Trade Boards with respect to minimum rates of wages.*—(1) Trade Boards shall, subject to the provisions of this section, fix minimum rates

of wages for timework for their trades (in this Act referred to as minimum time-rates), and may also fix general minimum rates of wages for piecework for their trades (in this Act referred to as general minimum piece-rates), and those rates of wages (whether time- or piece-rates) may be fixed so as to apply universally to the trade, or so as to apply to any special process in the work of the trade or to any special class of workers in the trade, or to any special area.

If a Trade Board report to the Board of Trade that it is impracticable in any case to fix a minimum time-rate in accordance with this section, the Board of Trade may so far as respects that case relieve the Trade Board of their duty.

(2) Before fixing any minimum time-rate or general minimum piece-rate, the Trade Board shall give notice of the rate which they propose to fix, and consider any objections to the rate which may be lodged with them within three months.

(3) The Trade Board shall give notice of any minimum time-rate or general minimum piece-rate fixed by them.

(4) A Trade Board may, if they think it expedient, cancel or vary any minimum time-rate or general minimum piece-rate fixed under this Act, and shall reconsider any such minimum rate if the Board of Trade direct them to do so, whether an application is made for the purpose or not :

Provided that the provisions of this section as to notice shall apply where it is proposed to cancel or vary the minimum rate fixed under the foregoing provisions in the same manner as they apply where it is proposed to fix a minimum rate.

(5) A Trade Board shall on the application of any employer fix a special minimum piece-rate to apply as respects the persons employed by him in cases to which a minimum time-rate but no general minimum piece-rate is applicable, and may as they think fit cancel or vary any such rate either on the application of the employer or after notice to the employer, such notice to be given not less than one month before cancellation or variation of any such rate.

5. *Order giving obligatory effect to minimum rates of wages.*—(1) Until a minimum time-rate or general minimum piece-rate fixed by a Trade Board has been made obligatory by order of the Board of Trade under this

section, the operation of the rate shall be limited as in this Act provided.

(2) Upon the expiration of six months from the date on which a Trade Board have given notice of any minimum time-rate or general minimum piece-rate fixed by them, the Board of Trade shall make an order (in this Act referred to as an obligatory order) making that minimum rate obligatory in cases in which it is applicable on all persons employing labour and on all persons employed, unless they are of opinion that the circumstances are such as to make it premature or otherwise undesirable to make an obligatory order, and in that case they shall make an order suspending the obligatory operation of the rate (in this Act referred to as an order of suspension).

(3) Where an order of suspension has been made as respects any rate, the Trade Board may, at any time after the expiration of six months from the date of the order, apply to the Board of Trade for an obligatory order as respects that rate; and on any such application the Board of Trade shall make an obligatory order as respects that rate, unless they are of opinion that a further order of suspension is desirable, and, in that case, they shall make such a further order, and the provisions of this section which are applicable to the first order of suspension shall apply to any such further order.

An order of suspension as respects any rate shall have effect until an obligatory order is made by the Board of Trade under this section.

(4) The Board of Trade may, if they think fit, make an order to apply generally as respects any rates which may be fixed by any Trade Board constituted, or about to be constituted, for any trade to which this Act applies, and while the order is in force any minimum time-rate or general minimum piece-rate shall, after the lapse of six months from the date on which the Trade Board have given notice of the fixing of the rate, be obligatory in the same manner as if the Board of Trade had made an order making the rate obligatory under this section, unless in any particular case the Board of Trade, on the application of any person interested, direct to the contrary.

The Board of Trade may revoke any such general order at any time after giving three months' notice to the Trade Board of their intention to revoke it.

6. *Penalty for not paying wages in accordance with minimum rate which has been made obligatory.*—(1) Where any minimum rate of wages fixed by a Trade Board has been made obligatory by order of the Board of Trade under this Act, an employer shall, in cases to which the minimum rate is applicable, pay wages to the person employed at not less than the minimum rate clear of all deductions, and if he fails to do so shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, and to a fine not exceeding five pounds for each day on which the offence is continued after conviction therefor.

(2) On the conviction of an employer under this section for failing to pay wages at not less than the minimum rate to a person employed, the court may by the conviction adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the court to be due to the person employed on account of wages, the wages being calculated on the basis of the minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to recover wages by any other proceedings.

(3) If a Trade Board are satisfied that any worker employed, or desiring to be employed, on time work in any branch of a trade to which a minimum time-rate fixed by the Trade Board is applicable is affected by any infirmity or physical injury which renders him incapable of earning that minimum time-rate, and are of opinion that the case cannot suitably be met by employing the worker on piecework, the Trade Board may, if they think fit, grant to the worker, subject to such conditions, if any, as they prescribe, a permit exempting the employment of the worker from the provisions of this Act rendering the minimum time-rate obligatory, and, while the permit is in force, an employer shall not be liable to any penalty for paying wages to the worker at a rate less than the minimum time-rate so long as any conditions prescribed by the Trade Board on the grant of the permit are complied with.

(4) On any prosecution of an employer under this section, it shall lie on the employer to prove by the production of proper wages sheets or other records of wages or otherwise that he has not paid, or agreed to pay, wages at less than the minimum rate.

• (5) Any agreement for the payment of wages in contravention of this provision shall be void.

7. *Limited operation of minimum rate which has not been made obligatory.*—(1) Where any minimum rate of wages has been fixed by a Trade Board, but is not for the time being obligatory under an order of the Board of Trade made in pursuance of this Act, the minimum rate shall, unless the Board of Trade direct to the contrary in any case in which they have directed the Trade Board to reconsider the rate, have a limited operation as follows :—

(a) In all cases to which the minimum rate is applicable an employer shall, in the absence of a written agreement to the contrary, pay to the person employed wages at not less than the minimum rate, and, in the absence of any such agreement, the person employed may recover wages at such a rate from the employer ;

(b) Any employer may give written notice to the Trade Board by whom the minimum rate has been fixed that he is willing that that rate should be obligatory on him, and in that case he shall be under the same obligation to pay wages to the person employed at not less than the minimum rate, and be liable to the same fine for not doing so, as he would be if an order of the Board of Trade were in force making the rate obligatory ; and

(c) No contract involving employment to which the minimum rate is applicable shall be given by a Government department or local authority to any employer unless he has given notice to the Trade Board in accordance with the foregoing provision :

Provided that in case of any public emergency the Board of Trade may by order, to the extent and during the period named in the order, suspend the operation of this provision as respects contracts for any such work being done or to be done on behalf of the Crown as is specified in the order.

(2) A Trade Board shall keep a register of any notices given under this section :

The register shall be open to public inspection without

payment of any fee, and shall be evidence of the matters stated therein :

Any copy purporting to be certified by the secretary of the Trade Board or any officer of the Trade Board authorised for the purpose to be a true copy of any entry in the register shall be admissible in evidence without further proof.

8. *Provision for case of persons employed by piece work where a minimum time-rate but no general minimum piece-rate has been fixed.*—An employer shall, in cases where persons are employed on piece work and a minimum time-rate but no general minimum piece-rate has been fixed, be deemed to pay wages at less than the minimum rate—

(a) in cases where a special minimum piece-rate has been fixed under the provisions of this Act for persons employed by the employer, if the rate of wages paid is less than that special minimum piece-rate ; and

(b) in cases where a special minimum piece-rate has not been so fixed, unless he shows that the piece-rate of wages paid would yield, in the circumstances of the case, to an ordinary worker at least the same amount of money as the minimum time-rate.

9. *Prevention of evasion.*—Any shopkeeper, dealer, or trader, who by way of trade makes any arrangement express or implied with any worker in pursuance of which the worker performs any work for which a minimum rate of wages has been fixed under this Act, shall be deemed for the purposes of this Act to be the employer of the worker, and the net remuneration obtainable by the worker in respect of the work after allowing for his necessary expenditure in connection with the work shall be deemed to be wages.

10. *Consideration by Trade Board of complaints as to infraction of minimum rates.*—(1) Any worker or any person authorised by a worker may complain to the Trade Board that the wages paid to the worker by any employer in any case to which any minimum rate fixed by the Trade Board is applicable are at a rate less than the minimum rate, and the Trade Board shall consider the matter and may, if they think fit, take any proceedings under this Act on behalf of the worker.

- (2) Before taking any proceedings under this Act on behalf of the worker, a Trade Board may, and on the first occasion on which proceedings are contemplated by the Trade Board against an employer they shall, take reasonable steps to bring the case to the notice of the employer, with a view to the settlement of the case without recourse to proceedings.

CONSTITUTION, PROCEEDINGS, &C. OF TRADE BOARDS

II. *Constitution and proceedings of Trade Boards.*—

(1) The Board of Trade may make regulations with respect to the constitution of Trade Boards which shall consist of members representing employers and members representing workers (in this Act referred to as representative members) in equal proportions and of the appointed members. Any such regulations may be made so as to apply generally to the constitution of all Trade Boards, or specially to the constitution of any particular Trade Board or any particular class of Trade Boards.

(2) Women shall be eligible as members of Trade Boards as well as men.

(3) The representative members shall be elected or nominated, or partly elected and partly nominated as may be provided by the regulations, and in framing the regulations the representation of home workers on Trade Boards shall be provided for in all trades in which a considerable proportion of home workers are engaged.

(4) The chairman of a Trade Board shall be such one of the members as the Board of Trade may appoint, and the secretary of the Trade Board shall be appointed by the Board of Trade.

(5) The proceedings of a Trade Board shall not be invalidated by any vacancy in their number, or by any defect in the appointment, election, or nomination of any member.

(6) In order to constitute a meeting of a Trade Board, at least one third of the whole number of the representative members and at least one appointed member must be present.

(7) The Board of Trade may make regulations with respect to the proceedings and meetings of Trade Boards, including the method of voting; but subject to the pro-

visions of this Act and to any regulations so made Trade Boards may regulate their proceedings in such manner as they think fit.

12. *Establishment of district trade committees.*—(1) A Trade Board may establish district trade committees consisting partly of members of the Trade Board and partly of persons not being members of the Trade Board but representing employers or workers engaged in the trade and constituted in accordance with regulations made for the purpose by the Board of Trade and acting for such area as the Trade Board may determine.

(2) Provision shall be made by the regulations for at least one appointed member acting as a member of each district trade committee, and for the equal representation of local employers and local workers on the committee, and for the representation of homeworkers thereon in the case of any trade in which a considerable proportion of homeworkers are engaged in the district, and also for the appointment of a standing sub-committee to consider applications for special minimum piece-rates and complaints made to the Trade Board under this Act, and for the reference of any applications or complaints to that sub-committee.

(3) A Trade Board may refer to a district trade committee for their report and recommendations any matter which they think it expedient so to refer, and may also, if they think fit, delegate to a district trade committee any of their powers and duties under this Act, other than their power and duty to fix a minimum time-rate or general minimum piece-rate.

(4) Where a district trade committee has been established for any area, it shall be the duty of the committee to recommend to the Trade Board minimum time-rates and, so far as they think fit, general minimum piece-rates, applicable to the trade in that area, and no such minimum rate of wages fixed under this Act and no variation or cancellation of such a rate shall have effect within that area unless either the rate or the variation or cancellation thereof, as the case may be, has been recommended by the district trade committee, or an opportunity has been given to the committee to report thereon to the Trade Board, and the Trade Board have considered the report (if any) made by the committee.

• 13. *Appointed members of Trade Boards.*—(1) The Board of Trade may appoint such number of persons (including women) as they think fit to be appointed members of Trade Boards.

(2) Such of the appointed members of Trade Boards shall act on each Trade Board or district trade committee as may be directed by the Board of Trade, and, in the case of a Trade Board for a trade in which women are largely employed, at least one of the appointed members acting shall be a woman :

Provided that the number of appointed members acting on the same Trade Board, or the same district trade committee, at the same time, shall be less than half the total number of members representing employers and members representing workers.

APPOINTMENT OF OFFICERS AND OTHER PROVISIONS FOR ENFORCING ACT

14. *Appointment of officers.*—(1) The Board of Trade may appoint such officers as they think necessary for the purpose of investigating any complaints and otherwise securing the proper observance of this Act, and any officers so appointed shall act under the directions of the Board of Trade, or, if the Board of Trade so determine, under the directions of any Trade Board.

(2) The Board of Trade may also, in lieu of or in addition to appointing any officers under the provisions of this section, if they think fit, arrange with any other Government Department for assistance being given in carrying this Act into effect, either generally or in any special cases, by officers of that Department whose duties bring them into relation with any trade to which this Act applies.

15. *Powers of officers.*—(1) Any officer appointed by the Board of Trade under this Act, and any officer of any Government Department for the time being assisting in carrying this Act into effect, shall have power for the performance of his duties—

- (a) to require the production of wages sheets or other record of wages by an employer, and records of payments made to outworkers by persons giving out work, and to inspect and examine the same and copy any material part thereof ;

- (b) to require any person giving out work and any outworker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work ;
- (c) at all reasonable times to enter any factory or workshop and any place used for giving out work to outworkers ; and
- (d) to inspect and copy any material part of any list of outworkers kept by an employer or person giving out work to outworkers.

(2) If any person fails to furnish the means required by an officer as necessary for any entry or inspection or the exercise of his powers under this section, or if any person hinders or molests any officer in the exercise of the powers given by this section, or refuses to produce any document or give any information which any officer requires him to produce or give under the powers given by this section, that person shall be liable on summary conviction in respect of each offence to a fine not exceeding five pounds ; and, if any person produces any wages sheet, or record of wages, or record of payments, or any list of outworkers to any officer acting in the exercise of the powers given by this section, knowing the same to be false, or furnishes any information to any such officer knowing the same to be false, he shall be liable, on summary conviction, to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, with or without hard labour.

16. Officers to produce certificates when required.—Every officer appointed by the Board of Trade under this Act, and every officer of any Government Department for the time being assisting in carrying this Act into effect, shall be furnished by the Board or Department with a certificate of his appointment, and when acting under any or exercising any power conferred upon him by this Act shall, if so required, produce the said certificate to any person or persons affected.

17. Power to take and conduct proceedings.—(1) Any officer appointed by the Board of Trade under this Act, and any officer of any Government Department for the

time being assisting in carrying this Act into effect, shall have power in pursuance of any special or general directions of the Board of Trade to take proceedings under this Act, and a Trade Board may also take any such proceedings in the name of any officer appointed by the Board of Trade for the time being acting under the directions of the Trade Board in pursuance of this Act, or in the name of their secretary or any of their officers authorised by them.

(2) Any officer appointed by the Board of Trade under this Act, or any officer of any Government Department for the time being assisting in carrying this Act into effect, and the secretary of a Trade Board, or any officer of a Trade Board authorised for the purpose, may, although not a counsel or solicitor or law agent, prosecute or conduct before a court of summary jurisdiction any proceedings arising under this Act.

SUPPLEMENTAL

18. *Regulations as to mode of giving notice.*—(1) The Board of Trade shall make regulations as to the notice to be given of any matter under this Act, with a view to bringing the matter of which notice is to be given so far as practicable to the knowledge of persons affected.

(2) Every occupier of a factory or workshop, or of any place used for giving out work to outworkers, shall, in manner directed by regulations under this section, fix any notices in his factory or workshop or the place used for giving out work to outworkers which he may be required to fix by the regulations, and shall give notice in any other manner, if required by the regulations, to the persons employed by him of any matter of which he is required to give notice under the regulations :

If the occupier of a factory or workshop, or of any place used for giving out work to outworkers, fails to comply with this provision, he shall be liable on summary conviction in respect of each offence to a fine not exceeding forty shillings.

19. *Regulations to be laid before Parliament.*—Regulations made under this Act shall be laid as soon as possible before both Houses of Parliament, and, if either House within the next forty days after the regulations have been

laid before that House resolve that all or any of the regulations ought to be annulled, the regulations shall, after the date of the resolution, be of no effect, without prejudice to the validity of anything done in the meantime thereunder or to the making of any new regulations. If one or more of a set of regulations are annulled, the Board of Trade may, if they think fit, withdraw the whole set.

20. *Interchange of powers between Government Departments.*—(1) His Majesty may, by Order in Council, direct that any powers to be exercised or duties to be performed by the Board of Trade under this Act shall be exercised or performed generally, or in any special cases or class of cases, by a Secretary of State, and, while any such Order is in force, this Act shall apply as if, so far as is necessary to give effect to the Order, a Secretary of State were substituted for the Board of Trade.

(2) Any Order in Council under this section may be varied or revoked by any subsequent Order in Council.

21. *Expenses of carrying Act into effect.*—There shall be paid out of moneys provided by Parliament—

- (1) Any expenses, up to an amount sanctioned by the Treasury, which may be incurred with the authority or sanction of the Board of Trade by Trade Boards or their committees in carrying into effect this Act; and
- (2) To appointed members and secretaries of Trade Boards and to officers appointed by the Board of Trade under this Act such remuneration and expenses as may be sanctioned by the Treasury; and
- (3) To representative members of Trade Boards and members (other than appointed members) of district trade committees any expenses (including compensation for loss of time), up to an amount sanctioned by the Treasury, which may be incurred by them in the performance of their duties as such members; and
- (4) Any expenses, up to an amount sanctioned by the Treasury, which may be incurred by the Board of Trade in making inquiries, or procuring information, or taking any preliminary steps with respect to the application of this

Act to any trade to which the Act does not apply, including the expenses of obtaining a Provisional Order, or promoting any Bill to confirm any Provisional Order made under, or in pursuance of, the provisions of this Act.

22. *Short title and commencement.*—(1) This Act may be cited as the Trade Boards Act, 1909.

(2) This Act shall come into operation on the first day of January nineteen hundred and ten.

SCHEDULE

TRADES TO WHICH THE ACT APPLIES WITHOUT PROVISIONAL ORDER

1. Ready-made and wholesale bespoke tailoring and any other branch of tailoring in which the Board of Trade consider that the system of manufacture is generally similar to that prevailing in the wholesale trade.

2. The making of boxes or parts thereof made wholly or partially of paper, cardboard, chip, or similar material.

3. Machine-made lace and net finishing and mending or darning operations of lace curtain finishing.

4. Hammered and dollied or tommied chain-making.

APPENDIX B

REPORT OF PROCEEDINGS TAKEN BY THE BOARD OF TRADE AT STOURBRIDGE POLICE COURT AGAINST AN EM- PLOYER INFRINGING THE CHAIN TRADE BOARD'S DETERMINATION.

[Reproduced by the courtesy of the Editor of the *Worcestershire and Staffordshire County Express*, Saturday, 26th August 1911]

A CASE of great interest to the chain trade was heard at the Stourbridge Police Court yesterday, when the first prosecution under the Trade Boards Act was heard, a manufacturer being summoned for paying less than the minimum rate of wages fixed by the Trade Board. The justices present were Sir Henry F. Grey (presiding), Capt. Thompson, Mr. F. P. Fellowes and Mr. Joseph Wooldrige. The defendant, A. B., chain manufacturer of Cradley, was charged, on the information of George T. Reid, of the Board of Trade, that he did unlawfully, on various occasions between the twelfth day of May 1911 and the twenty-ninth day of July 1911, at Cradley, pay to John Edward Harbach, a workman in his employ, wages less than the minimum rate of wages fixed by the Trade Board established under the Trade Boards Act, 1909, for the hammered and dollied or tommied section of the chain trade as the general minimum rate of wages for piece work to be paid for that chain and obligatory on him, contrary to the provisions of the said statute. There were also similar charges in respect to Llewellyn Tromans and Alfred Heath of Cradley.

Defendant pleaded guilty.

Dr. Ginsberg, instructed by Messrs. Tunbridge & Co., Birmingham, appeared to prosecute on behalf of the Board of Trade, and Mr. A. E. Sheldon defended.

CASE FOR THE PROSECUTION

Dr. Ginsberg said he appeared on behalf of the Board of Trade, and as it was an important matter which affected the industry of Cradley, he would like, although his friend had pleaded guilty, to state the case at some length, because he understood that it was important that the exact intention of the legislature in passing the Act of Parliament should be realised, and the way in which it should be carried out should be for the benefit of the employer and employee. He was rather given to understand that these did not understand their position, so he would like to state what the law was, and hoped the Bench would forgive him if he occupied their time a little.

Sir Henry Grey—It's not a question of time, but, as defendant pleads guilty, you need not go into it at great length.

Dr. Ginsberg said the Trade Boards Act was passed in 1909, and came into operation in October 1910. By that Act it was necessary to establish a Trade Board for the various trades, one of which was the chain trade. In the case of the hammered and dollied chain trade they were obliged to form a Trade Board, and one was established and at once proceeded to lay down the rate of wages which should be paid. That was in October 1910. A little later notice was given to the workmen and the employers that those rates were to be put forward and adopted if within three months no objections were made. No objections were made, and on 26th January a minute was passed by the Trade Board making those rates obligatory, and notices were sent to the employers and were published in the *London Gazette*. Then, in the beginning of February, notices were sent to all the employers, including defendant, and later on in the month.

The defendant, among others, signed the list, by which they adopted the rate. There was power given to any employer under section 7 of the Act, that

“Where any minimum rate of wages has been fixed by a Trade Board, but is not for the time being obligatory under an order of the Board of Trade made in pursuance of this Act, the minimum rate shall, unless the Board of Trade direct to the

contrary in any case in which they have directed, the Trade Board to reconsider the rate, have a limited operation (a) in all cases to which the minimum rate is applicable an employer shall, in the absence of a written agreement to the contrary, pay to the person employed wages at not less than the minimum rate, and, in the absence of any such agreement, the person employed may recover wages at such a rate from the employer."

When it was seen that the rate was coming, and that it was necessary all the employers should adopt it, it was adopted. Thus, as appeared on 13th February, defendant had adopted the Act, and it became obligatory upon him. At that time the boys Harbach and Tromans were taking bundles of iron from him to make into chain, and they received notes containing a copy of the rates to be paid. The bundles contained half a hundredweight of iron to be worked up, and they were to be paid at the fixed rate. He would read one of the notes—an original—which stated that on 29th July 1911, E. Harbach received a note which gave the size of the chain as No. 3, description 21s. 6d., weight 1 cwt. 0 qr. 25 lb., and that he was to be paid for it at the rate of 21s. 6d. per cwt. Mr. Reid had taken certain extracts from the books of Mr. A. B. in relation to Harbach, and the books showed that the rate shown in the books corresponded with the rate which was shown upon the particulars which he had just read, but his witnesses would say that in each case the money which came into the hands of this employee was substantially less than the rate which had been accepted by the defendant as being the minimum rate which he was paying. That being so, there was no question but that an offence was being committed under the Act. Section 6 said—

- (1) "Where any minimum rate of wages fixed by a Trade Board has been made obligatory by order of the Board of Trade under this Act, an employer shall, in cases to which the minimum rate is applicable, pay wages to the person employed at not less than the minimum rate clear of all deductions, and if he fails to do so shall be liable on summary conviction in

respect of each offence to a fine not exceeding twenty pounds, and to a fine not exceeding five pounds for each day on which the offence was continued after conviction therefor."

In addition, Dr. Ginsberg said the court might, by the conviction, adjudge the employer to pay, in addition to the fine, the difference between the rate actually paid and the rate calculated from the basis of the minimum rate of pay to which the employee was entitled. There was no point of dispute except to prove the rate of wages which ought to be paid, and the rate of wages actually paid. The Act said the wages must be paid clear of all deductions, and the onus lay upon the employer. There was a section of the Act which provided that in case of infirmity or physical injury, which might incapacitate the employee from doing the work properly, the Trade Board might, if it thought fit, grant to the worker, subject to such conditions, if any, as they prescribed, a permit exempting the employment of the worker from the provisions of this Act rendering the minimum time rate obligatory, and the employer would not be liable to any penalty for paying wages to the worker at a rate less than the minimum time rate so long as any other conditions prescribed by the Trade Board on the grant of the permit were complied with. There was no such infirmity in these cases, so it was not suggested that these boys were not entitled to the full minimum time rate of wages. And there was no suggestion either that they were learners, for which there was also provision made in the Act. Everybody, with these exceptions, who was employed under this Trade Board must have the full rate clear of all deductions. The reason was that the framers of the Act felt the worker needed protection, and having given that protection to the worker, and having said the minimum rate of wages must be paid, it was only fair to the employer who paid the full rate of wages that offenders should be punished, because it was manifestly unfair that his neighbour should be able to undersell him in consequence of his contravention of the law by avoiding the statute and paying a less rate of wages. There was no suggestion that Mr. A. B. did not know the law. He signed the "white list," and had a notice by post, and the list was put up in the office. The boys would tell them that in this particular chain,

No. 2, the rate should have been 17s., but they had at different times had 13s 6d., and more recently 12s., per cwt. These boys were not sufferers, they were learners; they earned the money and handed it over to their mothers, who kept the house. The mother, when she went to the butcher or the baker, thought in money, but the boys thought in rate, the rate per cwt. They might not tell the exact amount of money earned, but they were perfectly clear on the rate. They would say, "We ought to have been paid at the rate of 17s. per cwt., but, in point of fact, we were only paid 13s. per cwt." With regard to the No. 4 chain, it should have been paid for at the rate of 27s. per cwt., and when one looked at Tromans' sheet one would see he was paid 18s. 6d. week after week.

Sir Henry Grey—18s. 6d. instead of 27s. ?

Dr. Ginsberg—Yes. Proceeding, he remarked that they were dealing with people who were not very well able to take care of themselves. The whole justification under which the prosecution was brought was that the work-people were not able to take care of themselves in the same sort of way as an ordinary business man could with regard to contracts. Therefore they had an absolute statutory provision that any contract by which the worker agreed to accept payment at a less rate than the minimum should be void. In spite of the contract the worker, or his mother, or his father had signed, he was entitled to the full rate. Some time previous to the signing of the white list, certain matters cropped up, and among them the matter of these boys. Defendant told them that he was not able to pay them the full rate, and got them to sign an agreement that they would accept less than the minimum rate. Until that Act became obligatory he might have been right in doing it, but immediately defendant signed the "white list" he accepted the rate as obligatory, and the contract should have been dropped, and the full rate of wages paid. Instead, he continued to pay the boys at the low rate, and showed that he knew he was doing wrong, because one of the mothers of the boys would tell them that Mr. A. B. on one occasion put down the money according to the rate on the table, but took some back and paid her the balance. The boy Heath would tell them that he was told by the defendant he could not afford to give any

more. He (Dr. Ginsberg) was entitled to ask the Bench for a penalty of £20 in regard to each offence, but he did not propose to do so, because this was the first case under the Act. But the Board of Trade attached great importance to it, for a very great deal of thought and work had been gone to in framing it, and it was desirable the case should be gone into and thoroughly ventilated. This kind of evasion of the law was not right to other employers, to the employee or to the Government, and it was necessary it should be stopped. In regard to the amount which had to be paid back to each of the boys, he would like to ask his friend to go into certain papers, of which he had supplied him with copies, with Mr. Reid, and, if they could not agree they could then ask the Bench what they considered was the right amount.

Mr. Sheldon—I should strongly resist any order for the return of any money to these boys.

Dr. Ginsberg—Under those circumstances I think it will become necessary for me to put my witness in the box.

Mr. Sheldon—I much prefer that course.

Sir Henry Grey—Has the defendant ever paid the boys the full amount?

Dr. Ginsberg—Yes, the full amount on 15th August, being three days after Mr. Reid, the complainant in this case, had been round among his workpeople.

EVIDENCE FOR THE PROSECUTION

Mrs. Heath, wife of Noah Heath, examined by Dr. Ginsberg, stated that she resided at Cradley, and her son Alfred was employed by defendant. In February she saw the list of rates fixed by the Trade Board, and knew, in consequence, what rates her boy was entitled to.

Did you ever go to Mr. A. B.'s to get your boy's wages? Sometimes—about three times, I think. •

And you had some idea what money you ought to receive? Yes; I knew what I ought to receive.

Did you receive it? No, sir.

Did you make any observation as to it being less or more? I asked him to give more, and he said he could not afford to.

THE QUESTION OF REPAYMENT

Mr. Sheldon said he was afraid he had rather misled his friend. He quite agreed that they had underpaid the men, and that the Bench had a discretion which they might exercise and order this money to be refunded. All he asked them to do was to exercise that discretion and not order this money to be refunded, on the ground that the parents of these children themselves knew exactly what they were doing. If they thought fit they could go to the County Court and recover the money. If the Bench did decide to award them something he was prepared to agree as to the actual amount with his friend.

Dr. Ginsberg said upon this he would read section 6 of the Act, subsection 2, which said—

“On the conviction of an employer under this section for failing to pay wages at not less than the minimum rate to a person employed, the Court may by the conviction adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the Court to be due to the person employed on account of wages, the wages being calculated on the basis of the minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to recover wages by any other proceedings.”

He admitted it was open to the Bench to refuse to grant him this, and that it would then be open for them to recover it by civil proceedings. It was also perfectly competent for them to say that here was a man who had underpaid these people, and that the whole machinery set in motion was devised to prevent a man getting the benefit of this sort of thing, and that they were fully justified in ordering him to repay it.

Sir Henry Grey said the Bench would be quite prepared to hear arguments, if necessary, as to whether the youths should be refunded anything, and, if so, what.

Dr. Ginsberg thanked the Bench, and added it was important. The whole object of legislation of this kind was to make it clear, not that a vindictive punishment should be dealt out, but that benefits should not be derived by doing a wrongful act.

• Mr. Sheldon intimated that he wished to put some questions to Mrs. Heath, who had left the witness-box.

Mrs. Heath, recalled, was asked by Mr. Sheldon the age of her son, and replied that he would be seventeen on 3rd October next.

Mr. Sheldon—Does he get between 17s. and £1 a week if he works? Witness—17s. 6d., I think.

Mr. Sheldon—I wish to draw the Bench's special attention to this, that this is a lad of but sixteen years of age. When was Heath first employed by Mr. A. B.? Witness—I cannot tell.

You heard about the Trade Boards Act and "white list"? Yes.

Did you fear for your son's employment by reason of the increase in wages? Were you afraid that he would not be able to get any employment? Well, he hadn't much work at the time.

Did you go to Mr. A. B. and ask him with tears in your eyes to take your son on? That I never did! (Laughter.)

Did you sign any agreement with regard to your son's wages? The boy signed.

That was the agreement roughly to accept 5s. below the list. They were to contract at prices at which they had been working? Yes.

Have you constantly asked Mr. A. B. to continue on your son at the lower rate, notwithstanding this? No.

Is your son working now? No.

Is it a fact he cannot get work? He was working for Mr. A. B. last.

Is it not a fact that at the minimum rate of wages your son is unemployable? I don't wish to say anything. (Laughter.)

Dr. Ginsberg—Has your son made hammered chain for some years? A good bit.

So when other boys were playing, he was at work qualifying to earn man's wages? Is that so? •

Sir Henry Grey—I do not think she quite understands.

Dr. Ginsberg—He was working day after day in the shop learning to make chain while other boys were playing in the fields? Mrs. Heath—Not that I know of.

Mr. Felix Fellowes—What quality has he been making?

Dr. Ginsberg replied that in the first place he had made

dollied chain, but he also made block chain. Block chain was made so that it would pass over the pulley of a block without any obstruction, and to this extent it had to be made better than the ordinary chain.

Mrs. Heath, in reply to Dr. Ginsberg, said the chain was made in the chain shop at their own home.

So that the 17s. 6d. of which you speak is gross, and you have to provide out of that 17s. 6d. the rent of the shop, or the interest on the shop, and the cost of the fuel and all the other details? Yes, sir.

You said the boy earned 17s. 6d. a week; does he earn 17s. 6d. a week every week in the year? No, he has to work for it before he has it. (Laughter.)

Does he get work every week? Pretty regular work is found him, but not every week.

He does not average 17s. 6d. a week gross on the whole? No.

Dr. Ginsberg intimated that he did not propose to go into the other cases after what his friend had said.

Mr. Sheldon said he would like one of the boys called.

Dr. Ginsberg said he would call any witness the defence liked. A plea of guilty had been given, the figures had, he understood, been agreed, and so far as he was concerned he did not propose offering more evidence.

Sir Henry Grey mentioned that he would like to know whether the figures which had been handed up were agreed to.

Mr. Sheldon—Yes, I have agreed to them.

Llewellyn Tromans, examined by Dr. Ginsberg, said he was sixteen years old.

Mr. Sheldon—What did you earn if you worked six days a week? Sometimes 14s., and 13s. and 12s.

Have you ever got 15s. or £1? No.

How long have you been in the trade? Only eight months making dollied chain.

• Dr. Ginsberg—How long have you been making chain at all? I made hammered chain before dollied for about twelve months.

How old were you when you began making chain? Thirteen.

And you are now sixteen? Yes, in October.

Does your employer provide you with coal to heat the fire? No, we have to find that ourselves.

And who pays the rent of the place in which you work ?
Mother.

And how many hours a day do you work ? Eight to eight.

How many days a week ? Six.

The Clerk suggested the other two boys should be put in the box to prove their ages.

Dr. Ginsberg observed that they appeared younger than they really were.

Alfred Heath was then called, and when asked to read the oath, said he could not do so.

Dr. Ginsberg—What is your age ? Witness—Seventeen on 2nd October.

The Clerk—How long have you worked in the chain trade ? Witness—I have made chain since I left school—hammered chain and dollied.

When did you leave school ? When I was thirteen.

Mr. Fellowes—Have you ever been to a night school ?
Witness—No, sir.

Nowhere since you were thirteen ? No.

You ought to. It is a disgrace for you not to be able to read the oath. You ought not to neglect your education like that.

John Edward Harbach was next called, and gave his age as nineteen.

THE DEFENCE

Mr. Sheldon said that in the first place he had to contend that this was another instance of an Act of Parliament doing harm instead of good. Section 6, subsection 3, provided for certain exemptions in cases of infirmity and physical injury, and also in regard to piece work. In this case neither of these exemptions was available for the protection of his client ; no application he could make under the statute would be any assistance to him. The chain which these young men were engaged in making was dollied chain—a small size—and the price which Mr. A. B. himself obtained for it was 17s.

Mr. Ginsberg—Are you going to prove that ?

Mr. Sheldon—I will, if necessary, put my client into the box to say that the price which he actually obtains for it is the price which he is compelled to pay under the Trade

Board rules. In the circumstances now happened he has to cease making this chain, with the result that these young men will also cease to be employed. Proceeding, Mr. Sheldon said it had been equally well known both to Tromans and the others and to their parents that if the Trade Boards' rate of wages were insisted upon these youths were unemployable, and the mothers went to Mr. A. B. and asked him with tears in their eyes to keep them on. And he did so. There was no question of pressure being brought to bear upon the children or the mothers. They had got starvation on the one side, and this arrangement with Mr. A. B. on the other, and Mr. A. B., out of the tenderness of his heart, allowed them to work.

Dr. Ginsberg said that if this philanthropist went into the box he would be prepared to cross-examine him.

The Clerk—Are you prepared to put him into the box ?

Mr. Sheldon replied he was. His instructions were that the mothers went in each case to Mr. A. B. and pressed him to retain these boys, notwithstanding the Act of Parliament. In regard to signing the "white list" he urged that shortly after February his client was approached by certain other members of the chain trade, and he was told that unless he signed his workmen would be withdrawn. He was not an educated man—far from it. He had no idea of the actual result of what he was signing, and he did sign and bound himself. His friend had pointed out that from and after 2nd August, when the order was made apart from the white list, the proper rates of wages had been paid, and in future in all cases, where his client was compelled to take this class of work, he would again continue to pay the proper rate of wages. He was instructed to express regret that this state of things had arisen, but it arose out of an ill-advised and ill-considered Act of Parliament. There ought to have been provision made for the employment of youths of this kind, and he (Mr. Sheldon) proposed, after the Bench had given their decision, to put in motion certain machinery with a view to having provision made to enable youths of this kind to be employed profitably to themselves and their masters. Under all the circumstances he suggested this case might be well met by a small penalty, which would be a warning to other trades in similar positions in Cradley

and the district who, he was informed, were equally guilty with his client. His client was the scapegoat for others.

Dr. Ginsberg thought Mr. A. B. had better go into the box.

Mr. Sheldon—I do not think so, unless my friend desires it. My friend says I have made a statement and I am not prepared to substantiate it?

Dr. Ginsberg—No, I do not say that.

Mr. Sheldon—Then I do not wish to call him.

Dr. Ginsberg—I will leave it there.

THE DECISION

Sir Henry Grey, after the Bench had retired for a short time, said—We think that this is a very serious case, and what makes it all the worse is that we are clearly of opinion the defendant knew perfectly well what he was doing. We shall have to order him to refund the figures agreed, that is, to the boy Heath, £3. 15s. 3d.; to Tromans, £3. 9s. 4½d.; and to Harbach, 11s. 3½d.; we also order him in each case to pay a fine of £5 and the Court costs, and £2 in each case towards the costs of the prosecution; in default in each case one month's imprisonment, to run consecutively.

The fines, costs and money ordered to be refunded totalled £32. 4s. 10d.

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