

OREGON (U.S.A.)

Legislation
for

Women in industry

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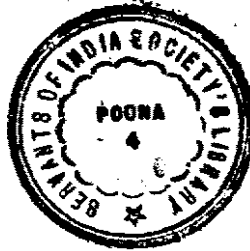
UNITED STATES DEPARTMENT OF LABOR
BULLETIN OF THE WOMEN'S BUREAU, No. 90

OREGON LEGISLATION
FOR
WOMEN IN INDUSTRY

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[PUBLIC—No. 259—66TH CONGRESS.]

[H. R. 13229.]

An Act To establish in the Department of Labor a bureau to be known as the Women's Bureau.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Department of Labor a bureau to be known as the Women's Bureau.

SEC. 2. That the said bureau shall be in charge of a director, a woman, to be appointed by the President, by and with the advice and consent of the Senate, who shall receive an annual compensation of \$5,000. It shall be the duty of said bureau to formulate standards and policies which shall promote the welfare of wage-earning women, improve their working conditions, increase their efficiency, and advance their opportunities for profitable employment. The said bureau shall have authority to investigate and report to the said department upon all matters pertaining to the welfare of women in industry. The director of said bureau may from time to time publish the results of these investigations in such a manner and to such extent as the Secretary of Labor may prescribe.

SEC. 3. That there shall be in said bureau an assistant director, to be appointed by the Secretary of Labor, who shall receive an annual compensation of \$3,500 and shall perform such duties as shall be prescribed by the director and approved by the Secretary of Labor.

SEC. 4. That there is hereby authorized to be employed by said bureau a chief clerk and such special agents, assistants, clerks, and other employees at such rates of compensation and in such numbers as Congress may from time to time provide by appropriations.

SEC. 5. That the Secretary of Labor is hereby directed to furnish sufficient quarters, office furniture, and equipment, for the work of this bureau.

SEC. 6. That this act shall take effect and be in force from and after its passage.

Approved, June 5, 1920.

UNITED STATES DEPARTMENT OF LABOR
W. N. DOAK, SECRETARY
WOMEN'S BUREAU
MARY ANDERSON, Director

BULLETIN OF THE WOMEN'S BUREAU, NO..90

OREGON LEGISLATION
FOR
WOMEN IN INDUSTRY

BY
SISTER MIRIAM THERESA, Ph. D.
(CAROLINE J. GLEASON)



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CONTENTS

	Page
Letter of transmittal.....	v
Introduction.....	1
Distribution of women in industry.....	9
Number and occupations of wage-earning women.....	9
Age distribution of female wage earners.....	10
Marital condition of female wage earners.....	10
Competition of women with men.....	11
Trade organization of women workers.....	11
Seasonal employment.....	11
Child labor law.....	14
Ten hour law for women.....	17
Minimum-wage legislation.....	20
The Oregon survey.....	20
Provisions and amendments of the law.....	22
Work of the commission.....	23
Constitutionality of the law.....	25
Direct effects of the law.....	27
Indirect effects of the law.....	30
Summary of first and latest wage and hour rulings of the industrial welfare commission.....	33
The right to follow certain professions.....	35
Women teachers.....	86

38513

LETTER OF TRANSMITTAL

UNITED STATES DEPARTMENT OF LABOR,
WOMEN'S BUREAU,
Washington, June 13, 1931.

SIR: I have the honor to submit herewith a brief report on legislation affecting women in industry in the State of Oregon.

Partly a reprint from a thesis by the same author published in 1924, the present study has been amplified and brought up to date. By this means, Oregon is added to the group of States whose history of labor legislation for women was made available to readers in Women's Bureau Bulletin 66.

The report is the work of Sister Miriam Theresa, Ph. D. (Caroline J. Gleason), of Marylhurst College, Marylhurst, Oswego, Oreg. The legal references have been verified by Judge Hall Stoner Lusk, of Portland, Oreg.

Respectfully submitted.

MARY ANDERSON, *Director.*

HON. W. N. DOAK,
Secretary of Labor.

OREGON LEGISLATION FOR WOMEN IN INDUSTRY

INTRODUCTION

The territory now included in the State of Oregon came into the undisputed possession of the United States by a treaty with Great Britain signed at Washington on June 15, 1846, when the northern boundary of this country west of the summit of the Rocky Mountains was fixed at the forty-ninth parallel.¹ The "Oregon Country" then included the present States of Oregon, Washington, Idaho, and a small part of Montana. It had been held in joint occupation with Great Britain since 1818 by two successive treaties that gave the Americans and the English the "equal right to trade and settle in any part of the country," but neither "could have absolute control over any part of it till the question of ownership, or of boundary, was settled."² In the first quarter of the nineteenth century neither Nation had made any effort to colonize the section.

By 1840 there were about 137 white persons, including 34 women and 32 children, in the Willamette Valley.³ Between 1836 and 1840⁴ three memorials had been sent by the Americans to Congress petitioning the extension of the authority of the United States over them.

We flatter ourselves that we are the germ of a great State; * * * the country must populate. The Congress of the United States must say by whom. The natural resources of the country, with a well-judged civil code, will invite a good community. But a good community will hardly emigrate to a country which promises no protection to property.⁵

Thus wrote the 36 signers of the petition, but because of the joint occupation treaty and because affairs nearer Washington seemed more important, none of the petitions resulted in action by Congress.

Early in 1841 an attempt was made by a minority of the settlers to organize and adopt a code of laws, but they were dissuaded from this by several persons who thought that numbers and conditions in the colony did not warrant it. By the spring of 1843 new settlers and new problems had revived the question of the organization of a government, and as a result of the discussions the "provisional government of Oregon" was formed. The rules and regulations adopted by it on July 5, 1843, were called the "First organic law" of Oregon. This law was in force for less than two years.

In 1845 the amended organic act, prepared by a subcommittee of the legislative committee of that year, was first passed upon by the latter body and then accepted by the people at the polls, where it received a majority of 203 votes.⁶ This new compact, the provisional

¹ Schafer, Joseph. History of the Pacific Northwest, p. 135.

² *Ibid.*, p. 93.

³ Scott, H. W. Formation of the Provisional Government, Oregon Historical Society Quarterly, vol. 2, p. 38.

⁴ Carey, C. H. History of Oregon, p. 368, note.

⁵ Schafer, J. History of the Pacific Northwest, p. 134.

⁶ Oregon Archives, pp. 241-243.

constitution, has been described as "more nearly resembling a constitution and being better suited to the needs of a growing community."⁷

With the establishment of Oregon Territory by Congress in August, 1848, and the organization of the Territorial government in March, 1849, the provisional government passed into history. To summarize the status of woman under it, one may say that she lived actually in conditions that permitted great freedom of action and initiative, but, strictly speaking, she was restricted by English common law, by the first code of Iowa Territory, and by the law of the provisional government. She was denied the vote and active participation in legislation, but she was neither silent on this account nor ineffective in her influence.

Oregon had been a State for almost 45 years before a serious effort was made to protect the workers from the disabling results of poorly regulated conditions of work. One reason for this was that the State's interest was agricultural rather than industrial; lumbering, even to-day, is first in the list of industries ranked according to value of product. The eight next in succession also show the "soil" influence in the commercial activities of the State. These eight are flour and grist mills, foundries and machine works, slaughtering and meat packing, shipbuilding (wooden), fruit and vegetable canning and preserving, bread and other bakery products, butter making, and fish canning and preserving.⁸

Concerning the absence, until recent years, of labor legislation in the West, it has been well said that "to pass the Massachusetts labor code in these States [western] would have been like passing the western mining codes in New England." As there were no mines in New England, so there were no cotton mills in the far West, and yet it was "long made a reproach to the women voters that the hours of labor of women and children in factories were not strictly controlled in these States."⁹ Early legislation that had a bearing on the working conditions of men and women gainfully employed was passed either from a religious or from a protection-to-property view rather than from a protection-to-labor view.

The first law concerning one day's rest in seven was passed in 1854 from a religious impulse to keep Sunday inviolate. It provided that—

No person shall keep open his or her store, shop, grocery, ball alley, billiard saloon, tipping house, or any place of gaming or amusement, or do any secular business other than works of necessity and mercy, on the first day of the week, commonly called the Lord's Day or Sunday.¹⁰

In cases of necessity this provision could be disregarded. The penalty for offending was not to exceed \$10, and it was to go to the common-school fund.

A master and apprentices act passed in Oregon in 1849, following an Iowa law of 10 years earlier, permitted minors of either sex to be indentured, the male infants to 21 years, the female infants to 18 years, "to serve as a clerk, apprentice, or servant in any profession,

⁷ Carey, C. H. Op. cit., p. 398.

⁸ U. S. Bureau of the Census. Fourteenth Census: 1920, vol. 9, Manufactures, p. 1237.

⁹ Porritt, Annie G. Laws Affecting Women and Children, p. 8.

¹⁰ Oregon. Statutes, 1853-54, ch. 37, secs. 1 and 2, p. 258.

trade, or employment."¹¹ This had some right to be called labor legislation, which can not be said of the act of 1853 that replaced it and that was designed to assist in the support of the poor rather than to teach children trades.¹² For in this later law there was no stipulation that the apprentice should be taught a trade, nor was the term of apprenticeship made definite. Children under 14 might be bound until that age; minors 14 and over might be bound, females until the age of 18 years or to the time of marriage and males until the age of 21 years. Girls were allowed to marry at 12 years of age when the apprenticeship law was passed. The law did require that the contract should provide "for teaching such children to read, write, and cipher, and for such other instruction, benefit, and allowance, either within or at the end of the term; as the county commissioners may think reasonable." The phrase "benefit and allowance" sounds suspiciously like an agreement for remuneration of some kind, "either within or at the end of the term," a minimum wage perhaps, for the little apprentice or servant, since it was to be a "reasonable allowance." Another just provision was that "all consideration of money or other things paid or allowed" by the master to the apprentice or servant "shall be paid or secured to the sole use of the minor."

The children under this law had one advantage that would-be apprentices 50 years later lacked. This was the duty devolving upon parents, guardians, probate judges, and county commissioners to defend them from "breach of covenant" on the part of masters, who were made liable to an action in the district court and to damages for such breach. Had this law been operative until recent times, the modern milliner and dressmaker in Oregon would have had many breaches of covenant to answer for in the almost universal custom (prior to 1913) of hiring young girls as "apprentices" to teach them the trade; the employers' method of instruction, until 1913, was to retain them for a year at \$1 or less a week, use them as errand girls, rippers, or basters, or at other simple work, and then dismiss them when they asked for real instruction or a real wage.

The law of 1849 was, if anything, harder on the apprentice than on the master who was guilty of any gross misbehavior or of refusal to do his duty, for the apprentice might be put in the county jail until he or she "be contented and will serve."¹³ The law of 1853 gave the county commissioners power to bind as apprentices or servants the minor children of any poor person actually chargeable to their county and all minor children themselves chargeable to the county. The insertion of this section does not alone argue, however, that the law was a measure to assist in the support of the poor, but the failure to stipulate that the child should be taught a trade prevents its being called labor legislation. These two measures are the only legislation passed in pre-State years that had a reference to women employed for wages.

Even though no documentary evidence of it existed, it would be very certain that pioneer women bore a full share of the work of

¹¹ Oregon. General Laws, 1843-1849, sec. 1, p. 110.

¹² Oregon. Statutes, 1853-54, ch. 3, secs. 1-7, pp. 360, 365-367.

¹³ Oregon. General Laws, 1843-1849, sec. 3, p. 111.

establishing civilization in the Oregon country.¹⁴ Woman's contribution in the settlement of the Pacific coast probably was analogous in value to that of the women of the Atlantic coast in the days of the Revolutionary War and of the War of 1812. For, though men cleared the forests and made safe the road that civilization might move forward, their activities toward that end would have been largely wasted unless women had come to their aid. The latter maintained civilization in the pioneer country by their system of household manufactures. Oregon women exercised much ingenuity in supplying husbands and children with clothing, and many were their discouragements and failures after supplies from home had given out before they learned the Indian woman's art of making buckskin into wearable garments for men and boys.¹⁵

The census of 1850 was the first to give any returns for Oregon, and from its columns can be gathered some information about women. In the total female white population of 4,949 persons, 2,958 were 10 and under 60 years of age.¹⁶ No women were reported as employed, but from the list of occupations of men has been compiled the following as representing types of work with which women probably were associated: Bakers, 13; boarding-house keepers, 6; clothiers, 1; cloth manufacturers, 1; confectioners, 1; farmers, 1,702; gardeners and florists, 2; hat and cap manufacturers, 1; inn keepers, 16; merchants, 164; tailors, 26; and weavers, 2.¹⁷

From the original schedules of the United States census of 1850, which are in the possession of the State library at Salem, Oreg., it is apparent that at least 24 of the farmers were women.¹⁸ Twenty-two of these women are credited with the ownership of 1,529 acres of improved and 3,665 acres of unimproved land and six of them owned individually as much as a full section or more. The cash value of the farms is estimated at \$40,065; of the farm machinery at \$2,850. Among the property of the 24 female farmers were cattle, including milch cows to the number of 291 and 69 work oxen. Besides these animals the women possessed 70 horses, 450 swine, and 35 sheep, with an estimated value for all the livestock of \$28,620.

Nine women who raised garden produce for the market gave \$2,750 as the value of such produce. There was an interesting diversity in the crops raised. Some women seemed to specialize in butter making. The total amounts of the products follow: Bushels

¹⁴ Various stories are told of the economic activities of the women of those days, but only a few can be given here. Of Mrs. Nancy Morrison, who crossed the plains in 1843, it has been written that she was well versed in dairy management, spinning, weaving, and soap making, as well as in the rougher preparation of flax and hemp for the spinning process. She brought with her across the plains a flax wheel, flaxseed, bobbins, and weaving sleighs, necessary for the domestic manufacture of clothing. (Oregon Pioneer Association Proceedings, 1890, pp. 60-80.) Mrs. Lucinda Brown Spencer, who came to Oregon in 1847, spent the first two years in Salem, where in the winter of 1848 she made caps and men's clothing, and in the summer following made hats for men and women out of plaited wheat straw, at which she was quite expert. (Ibid., 1887, pp. 74-78.) In 1848, too, Charles F. Putnam was for eight months printer of the Oregon American and Evangelical Unionist, and during this time he taught his wife, Rozelle Applegate Putnam, to set type, and she thus "became the first woman compositor on the Pacific coast" (Centennial History of Oregon, by Joseph Gaston, vol. 1, p. 625, and vol. 4, p. 469.) Mrs. J. T. Hunsaker is said to have paid for the first piece of dress goods that she purchased in Oregon with the proceeds from the sale of a bucket of soft soap of her own manufacture. (Oregon Native Son, vol. 1, No. 7, p. 392.)

¹⁵ Oregon Pioneer Association, Proceedings, 1880, pp. 8-27; Tryon, Rolla M. Household Manufactures in the United States, 1640-1860, pp. 6, 112, 157; and Judson, Katherine Berry, Early Days in Old Oregon, p. 199.

¹⁶ U. S. Bureau of the Census. Seventh Census: 1850, pp. 988-993.

¹⁷ Ibid., pp. 1004-1005.

¹⁸ U. S. Bureau of the Census. Seventh Census: 1850. Original schedules. Schedule No. 4, Products of Agriculture.

of wheat 2,057, of oats 508, of potatoes 1,315; the pounds of butter made were 2,669, of wool raised 88; two women had made 50 gallons of wine each, and one had raised 8 tons of hay.

The enterprise of these women leads to the conclusion that many others shared largely in the production of similar commodities on their husbands' farms. In the census returns of 1850 referred to are the following articles that usually come within woman's province: 29,686 pounds of wool, 211,464 pounds of butter, 36,980 pounds of cheese, 640 pounds of flax, and 8 pounds of hops.¹⁹ The butter and cheese without doubt were the product of the women's hands, for the list of men's occupations has "Dairymen, none."²⁰ The preparation of the flax was shared by women. It is known that spinning wheels were common in Oregon, that flax was spun and woven into linen for home uses and cotton²¹ into dresses for the girls, and that home-grown wool was spun, dyed, and woven into clothing for the entire family, including suits for husbands and sons.²² What was woman's exact share on the western frontier in the production of raw materials and in the conversion of them into useful articles is a question that can not be answered, nor is it necessary to do so. One needs only to remember that in 1849 nearly two-thirds of the male population flocked to the California gold fields²³ and the labor necessary for the success of the crops of that year and of 1850 fell largely to the lot of the women; hence the products may be in equal measure ascribed to them.

Newspaper advertisements of the period²⁴ yield the information sought when news articles do not. In 1853 and the years following, the merchants printed long lists of the articles carried in stock, though one firm condensed its advertisement by saying that it carried everything "from a needle to an anchor." These articles were offered "for sale or barter," "in exchange for wheat, cheese, eggs, oats, bacon, shingles, barley, butter, lumber"; and lard was another product frequently called for. It is worthy of note that of these 10 staples 4—cheese, eggs, butter, and lard—fell entirely within the province of women's activities, and a fifth one, bacon, partly so.

The Eighth Census, that of 1860, gives more concrete data.²⁵ The population had almost quadrupled during the 10 years of territorial organization; from 13,294 in 1850 it had grown to 52,465 in 1860. Females were almost one-third at the earlier date; at the later they were about two-fifths, or 20,874, including 165 Indian and "free colored" women. In the list of "occupations" (male or female not specified) appear the following, some of which evidently were the occupations of women: Farmers 7,861, laundresses 42, milliners 5, merchants 446, nurses 5, seamstresses 15, servants 312, teachers 206, weavers 11, wool combers and carders 4.²⁶

¹⁹ U. S. Bureau of the Census. Seventh Census: 1850, pp. 1006-1010.

²⁰ Martha Gilliam Collins has left a record to the effect that in the summer of 1853 her mother saved \$800 from the sale of butter and bacon prepared in their home by Mrs. Gilliam and her children. (Oregon Historical Society Quarterly, vol. 17, p. 367.)

²¹ The Oregonian and Indian's Advocate, Lynn, Mass., in the issue of October, 1838, quotes the following from Spalding's Journal: "Flax and citrons, oranges, lemons, pomegranates, cotton plants . . . were laid out in Dr. John McLoughlin's acres."

²² Mr. Perham, a wool carder, advertised in 1853 that he would be ready to "commence carding on the 15th of June and continue as long as there is anything to do. . . . All kinds of produce taken in payment for carding. Spinning wheels kept on hand for sale." From The Oregon Statesman, July 4, 1853.

²³ Carey, Charles H. History of Oregon, p. 505.

²⁴ The Oregon Statesman, 1853 to 1857.

²⁵ U. S. Bureau of the Census. Eighth Census: 1860. Population, p. 400.

²⁶ *Ibid.*, p. 405.

A woolen mill erected in 1855 by Joseph Watts²⁷ employed 27 males and 8 females; this had four sets of cards and manufactured 52,500 yards of cloth worth \$46,000, and 6,000 pairs of blankets valued at \$39,000, using 150,000 pounds of raw wool. Lumber mills employed six women, and a flour mill one.²⁸ The list of occupations includes also "barkeepers 32"; and since besides these there were 5 boarding-house keepers, 74 innkeepers, and 85 refectory keepers, it seems safe to surmise that women cooperated in the last three enterprises.

However, manufacturing did not keep pace with the growth of population. Demand for Oregon flour, lumber, and farm and orchard products maintained the demand for agricultural labor, and kept its price so high that manufactured articles such as farm machinery, house furniture, and articles of wearing apparel could be imported from the East more cheaply than they could be made at home.

The Oregon Spectator for 1845 and 1846 has only two manufacturers among its advertisers, a "tavern and tannery" and a "hat manufactory."²⁹ In 1856, an article in The Oregon Statesman announcing the opening of the Watt Woolen Mill calls it a laudable effort to start a manufacturing business in the Territory, because "there is a constant stream of money flowing out of Oregon for woolen fabrics imported into it. There are not less than 50,000 head [of sheep] now in the Territory. There is no market for it [wool] here, and it can not be exported at a profit."³⁰

As long as Oregon remained an agricultural State, with the number of women disproportionately small, women found plenty of work at home. In the original schedules of the Seventh Census, previously mentioned, Schedule 6 contains what are called "social statistics," including the weekly wages paid to female domestics, with board.³¹ These wages range from \$6 a week in Marion County to \$10 a week in Benton, Linn, Polk, Washington, and Yam Hill Counties and \$20 a week in Clatsop County. The real wages of domestics may be gaged roughly from the price of a week's board allowed or charged to a laboring man. This varied from \$6 in Benton and the other counties paying women \$10 a week to \$12 in Clatsop and \$5 in Marion. Wages of these women employed in domestic work were low compared to men's wages; for farm hands received \$75 a month and board, and day laborers \$4 and \$5 a day and board, except in Marion County, where farm hands received \$50 a month and board, and day laborers \$3 a day and board. When the demand for male labor on farms increased, a reason was provided for inviting women to factories, laundries, and restaurants. For a different reason girls were asked eventually to take up telephone operating; boys were tried as oper-

²⁷ Robertson, J. R. A Pioneer Captain of Industry in Oregon. In Oregon Historical Society Quarterly, vol. 4, 1903, p. 150.

²⁸ U. S. Bureau of the Census. Eighth Census: 1860. Manufactures, p. 492; and Introduction, p. xxv.

²⁹ Advertisement in the Oregon Spectator, May 28, 1846: "Hat manufactory, Oregon City. John Travers and William Glaser * * * are now ready to supply their friends and customers with hats manufactured in Oregon. * * * Wool, beaver, otter, raccoon, wildcat, muskrat, mink, prairie wolf, and fox skin will be taken in exchange for hats." (Inserted for the first time Feb. 5, 1846.)

³⁰ The Oregon Statesman, Apr. 8, 1856.

³¹ U. S. Bureau of the Census, Seventh Census: 1850. Original Schedule No. 6, Social Statistics, p. 735.

ators at first, but they had to be rejected as a group because of their impatience and inability to bear the nerve strain.

In 1872, when the woman's sole trader bill³² was passed, the most recent census figures (those of 1870) showed 683 women 10 years of age and over, including 41 girls 10 to 15, gainfully employed.³³ The number receiving earnings must have been far greater than this, judged by data similar to those used for deductions as to women's employment in earlier years. Furthermore, the legislature would not have passed a law for which there was no demand. Though the employment of women outside the home increased steadily, if slowly, with the development of the State, no action was taken to prescribe by law the conditions of their employment until 1903. The reasons for this may be found in the slow advance made in the United States by protective legislation for wage-earning women. No compulsory limitation of their working day existed until 1879, when Massachusetts adopted an enforceable 10-hour-a-day law for women workers.³⁴ By 1890 only seven more States, and some of these not largely industrial, had followed Massachusetts's good example.³⁵ Meanwhile, in Oregon, where lumbering and agriculture still were the chief occupations of large numbers of persons, the agitation for the prohibition of intoxicating liquors and for equal suffrage engrossed women. The fact that industrial problems were developing in the State might not have been called to the attention of the population at large for 10 years later than was the case had not the State Federation of Labor been organized in 1902.³⁶

At the first annual convention of the State Federation of Labor, in Portland, May, 1902, there were 77 unions, several of which had women members.³⁷ One, the shirt, waist, and laundry workers, had two women as well as two men delegates.

Some of the purposes in the convention's "declaration of purposes" were to prevent unfavorable legislation; to foster favorable legislation; to prevent the growth of the evil of child labor; and to work unitedly for the universal 8-hour workday. Three separate resolutions were adopted concerning the passage of an 8-hour law at the coming session of the legislature.³⁸ Another resolution was concerned with the prohibition of labor for children of either sex under 15 years, and still another with the establishment of the office of commissioner of labor statistics. Among the 62 resolutions voted upon there was none concerning limitation of women's hours. This was intended, presumably, in the proposed universal 8-hour law.

There was in Oregon at this time, according to the 1900 census, a female population of 180,551, and more than 18,000 of the women as much as 10 years of age³⁹ were wage earners. Among the latter

³² This law exempted a married woman's earnings from the debts and contracts of her husband.

³³ U. S. Bureau of the Census. Ninth Census: 1870, vol. 3. The Statistics of the Wealth and Industry of the United States, pp. 808, 826.

³⁴ Commons and Andrews. Principles of Labor Legislation, p. 233.

³⁵ Women's Educational and Industrial Union: Labor Laws and Their Enforcement with Reference to Massachusetts, chs. 1 to 5.

³⁶ Individual trade-unions had been organized in Oregon as early as 1853.—Oregon Labor Commission. Second Biennial Report, 1904-06, p. 51.

³⁷ Oregon State Federation of Labor. Proceedings of First Annual Convention, 1902, pp. 17-20.

³⁸ *Ibid.*, pp. 5, 28, 31, 32, 33-36.

³⁹ U. S. Bureau of the Census. Twelfth Census: 1900, vol. 2, Population, pp. xxiv, cxxx.

slightly more than 500 were at the ages of 10 and under 16.⁴⁰ The entire group of over 18,000 was 13.3 per cent of the female population of 10 years or more, or about 10 per cent of the whole female population.⁴¹ These were in the following occupational groups:⁴²

	Number	Per cent
Agricultural pursuits.....	1,560	8.5
Professional service.....	3,366	18.2
Domestic and personal service.....	7,485	40.6
Trade and transportation.....	2,424	12.2
Manufacturing and mechanical industries.....	3,592	19.5
Total.....	18,427	100.0

Nearly two-fifths of these were concentrated in Portland, the only city having more than 50,000 inhabitants. Here the female population was 30,693, of whom 7,186, or almost one-fourth, were gainfully employed.⁴³ The question of a predominating foreign element in the female population can not be said to have complicated Oregon's industrial question at any time. In 1900 there were employed in Portland 1,434 foreign-born white women 16 years of age or more—about one-fifth of the city's employed female population—and 128 negro women. In the smaller cities and country districts there were 1,318 foreign-born women, and so the total number of that group comprised about 11 per cent of the entire female wage-earning population.⁴⁴

⁴⁰ U. S. Bureau of the Census. Thirteenth Census: 1910, vol. 4, Population, Occupations, p. 75.

⁴¹ Ibid. Twelfth Census: 1900, vol. 2, Population, p. cxxxi.

⁴² Ibid., pp. cxxxix, cxi.

⁴³ Ibid., p. civ.

⁴⁴ Ibid. Special report, Statistics of Women at Work, pp. 146, 153.

DISTRIBUTION OF WOMEN IN INDUSTRY

All the various phases of the distribution of women gainfully employed have not been completely surveyed in Oregon, owing partly to the limited funds at the disposal of the State labor commissioner and of the industrial welfare commission.

At date of writing, the 1930 census figures showing occupation by sex have not been made public. There is available only the statement that of all persons gainfully employed, 81,321 (19.9 per cent) were females; this number representing 17.9 per cent of the female population. Consequently, statistics from the Federal census for 1920 supplied much of the material for the summaries that follow.

NUMBER AND OCCUPATIONS OF WAGE-EARNING WOMEN

The female population of Oregon 10 years of age and over was 295,928 when the census of 1920 was taken. Of this number, 54,492, or 18.4 per cent, were gainfully employed, as compared to 17.5 per cent employed of the population in 1910. The occupations that enrolled the greatest numbers of women were those grouped as "domestic and personal service," where over one-fourth (26.7 per cent) of all the women workers were found. Professional service (19.6 per cent) and clerical occupations (19.7 per cent) each engaged almost one-fifth. Manufacturing and mechanical industries had slightly more than one-eighth (13.2 per cent). Trade claimed one-ninth (11.8 per cent), agriculture and transportation each between 4 and 5 per cent, public service not otherwise classified 0.6 per cent, and extraction of minerals less than one-tenth of 1 per cent.

The table that follows gives this occupational distribution for Oregon and for women similarly employed in the United States as a whole.⁴⁵ It is interesting to note the greater proportions of women in trade, professional service, and clerical occupations and the smaller per cents in agriculture and manufacturing in Oregon than in the United States as a whole. Workers in domestic and personal service are in nearly the same proportions, the Oregon percentage being the greater by 1.1 points.

Occupational distribution of females 10 years of age and over, United States and Oregon, 1920

Occupational division	United States	Oregon
All occupations.....	100.0	100.0
Agriculture, forestry, animal husbandry.....	12.7	4.2
Extraction of minerals.....	(*)	(*)
Manufacturing and mechanical industries.....	22.6	13.2
Transportation.....	2.5	4.1
Trade.....	7.9	11.8
Public service (not elsewhere classified).....	.3	.6
Professional service.....	11.9	19.6
Domestic and personal service.....	25.6	26.7
Clerical occupations.....	16.7	19.7
Per cent of total female population 10 years of age and over gainfully employed.....	21.1	18.4

* Less than one-tenth of 1 per cent.

⁴⁵ U. S. Bureau of the Census. Fourteenth Census: 1920, vol. 4, Population, Occupations, pp. 47, 55.

AGE DISTRIBUTION OF FEMALE WAGE EARNERS

Several factors have combined to keep the number of young wage earners comparatively small in Oregon. Zealous inspectors have enforced a good child labor law (see pp. 14-15), rulings of the industrial welfare commission have so regulated the employment of minors that adults often are preferred, and, finally, school authorities have attacked with some success the problem of children leaving the elementary schools. At the time of the 1920 census there were 2,632 females under 18 years of age gainfully employed. These were distributed according to age as follows: Under 15 years, 122; 15 and under 17 years, 1,095; and 17 years, 1,415.⁴⁶ During 1930, 2,230 licenses that permitted minor girls to work were issued by the board of inspectors of child labor; ⁴⁷ 662 of these allowed employment for the entire day, age and schooling being satisfactory; 18 were part-time permits, though really permitting a full-time workday on condition that the minor spend at least five hours in school, which might be night school; 1,178 were permits for work after school, on Saturdays, or during the summer vacation; and 372, classified as "in-dorsed," were simply verifications of original permits issued to new employers when children already licensed changed their work. The last named are of no assistance in an attempt to estimate the number of minor workers, nor is this number known to any State official at any time, due to the fact that neither employer nor child reports when a job is given up. From the State labor commissioner may be learned the weekly rates of 628 minor girls in 1929; ⁴⁸ 12 of these had rates of less than \$6 a week, 165 had rates of \$6 but less than \$10, 313 of \$10 but less than \$15, 107 of \$15 but less than \$20, 24 of \$20 but less than \$25, and 2 had a rate of \$25.

Women 18 years of age and over numbered 51,860 at the census of 1920. Classified according to age, the group in gainful employment in largest numbers comprised the years 20 to 24. In this were 11,201, or 21.6 per cent of the adult female wage earners and 35.3 per cent of the entire female population in that age group. In the group 25 to 44 years were 24,939 women; in the group 45 to 64 years, 10,111. Over 1,000 women 65 years of age or more were wage earners.⁴⁹

MARITAL CONDITION OF FEMALE WAGE EARNERS

Whether the husband is receiving wages inadequate to support his family, whether the wife is unwilling to have the immediate care of home and children, or whether some other cause is responsible, the fact remains that the proportion of employed married women is increasing. Of the female wage earners 15 years of age and over in Oregon in 1920, 15,155, almost 28 per cent, were married, and nearly 9 per cent of all the married women in the State were wage earners. Domestic and personal-service occupations, which ranked first in the number of women employed, also had the largest number of married

⁴⁶ U. S. Bureau of the Census. Fourteenth Census: 1920, vol. 4, Population, Occupations, p. 575.

⁴⁷ Oregon. Board of Inspectors of Child Labor. Fourteenth Biennial Report, 1929-30, pp. 11, 12.

⁴⁸ Oregon. Bureau of Labor. Fourteenth Biennial Report, 1929-30, pp. 27-64.

⁴⁹ U. S. Bureau of the Census. Fourteenth Census: 1920, vol. 4, Population, Occupations, p. 443.

women, but they did not rank first in per cent of their wage earners married. Over one-half (54.7 per cent) of the 300 women in public service were married, while manufacturing and mechanical industries, which held fourth place in the number of women wage earners, had second place in the number of married women.⁶⁰

COMPETITION OF WOMEN WITH MEN

Competition of women for positions usually filled by men seems to be very slight. Women predominate in certain kinds of work traditionally assigned to them, as in wearing apparel and knitted goods and in woolen mills. Fruit and vegetable canning and apple packing attract large numbers of women, but in the flour and cereal industries, meat packing, coffee, spices, extracts, and pickle manufacturing, creameries and condensers, and bakeries, men largely predominate. Statistics from the State labor commissioner's report for 1929-30⁶¹ showed that in wood and wood products in 1929 the men employed were 21,871 and the women 954 in number. In wearing apparel and knitted goods women were more than 70 per cent of the 1,705 employees, and they were more than half of the 443 in woolen mills. In fruit, vegetable, chicken, and fish canning and preserving there were 1,443 men and 2,360 women wage earners. In meat packing men greatly outnumbered women, 504 men to 56 women (9 to 1) being the ratio in that industry.

TRADE ORGANIZATION OF WOMEN WORKERS

Trade organization has not made great advance among women in Oregon. Only 1,667 women were members of unions in 1929. These were in 26 of the 75 groups organized in the State.⁶² The greatest number of women were in the waitresses' and cafeteria workers' union of Portland, 402. The culinary alliances registered a membership of 235, the garment workers 210, railway and steamship employees 153, musicians' associations 110, and the retail clerks' union 100. Several unions having small numbers of women used to enroll only men, as the typographical union, which in 1929 had 558 men but only 15 women. However, the pressmen and assistants' unions had 81 women and 193 men, and the bookbinders and bindery women had 80 women and 40 men.

SEASONAL EMPLOYMENT

Facts concerning the amount and extent of irregular employment in a locality are important for the wage earners because of the light that such facts throw on the whole question of unemployment and on the opportunities open to the casual worker who needs to supplement the family income.

Irregular employment is expected in those manufacturing occupations the material for which can be secured only at certain seasons of the year. Fashions, holidays, tourist attractions, and unpredictable events are responsible for other irregularities. But even when

⁶⁰ U. S. Bureau of the Census. Fourteenth Census: 1920, vol. 4, Population, Occupations, pp. 743, 785-786.

⁶¹ Oregon. Bureau of Labor. Fourteenth Biennial Report, 1929-30, pp. 24, 33, 40.

⁶² Statistics furnished by C. H. Gram, State labor commissioner.

seasonal conditions are known and provided for as far as possible, there is still an irregularity due to the uncertainty of the weather. Gathering and preserving fruit crops will always be somewhat irregular; and though the grower or producer may know within what months the rush will come, he can not know ahead whether the peak is to come early or late, with a gradual increase of material for work or with a sudden ripening of all products within a short space of time. Statistics of the employment of women in canning and preserving industries for each month of 1929 present a characteristic picture. The number of women employed from January until June, 1929, varied from 74 as a minimum in February to 277 in May. In June the number rose sharply to 3,137, and by September it reached its maximum in 4,850. By December it had dropped again to 679, and in January of 1930, as judged from other years, it probably fell to below 100. No other industry in Oregon presents a picture of such extremes. Not even logging, which employed at the peak more than 9,000 men (August, 1929), had so great a fluctuation; its minimum number of male employees was 4,122 in January. The number of women in this industry is negligible, 58 the minimum, 129 the maximum, in 1929. But in derived industries, wood and wood products, something over 1,000 females (1,089) were employed at the peak in April, 1929, the minimum being 761 in January.

Textiles, comprising the making of woolens, knitted goods, and manufactured wearing apparel, might be expected to show the influence of fashions and seasons, but employment here is regular for the large majority of women workers. At no time during 1929 did the number of women employed by firms making wearing apparel and knitted goods fall as much as 12 per cent below the maximum, the lowest point being 1,153 (in July) and the highest being 1,302 (in October). A fairly stable condition existed in the woolen mills, but the numbers employed were small. In October the maximum became 257, with September and November practically the same; this had increased from 196, the minimum in February.

Mercantile stores showed a remarkably steady level in the number of employees in 10 months of the year and heavy increases for the Christmas trade. The extremes were 1,982 in April and 2,907 in December. This means that 925 more women were employed at the busiest than at the dullest season, but the maximum was for the very short period of the Christmas rush, 600 employees being added during the month of December alone. Hotels, restaurants, and cafeterias, as would be expected, had their largest force of workers in the summer, each month showing an increase until the peak was reached in August and each showing a decline after that. At the maximum, 773 women were employed. At the low point in January, the number was 666, a difference of 107. Laundries, due to changes of methods in housekeeping and of style in dress, show less seasonal employment than in former years. The difference between extremes of employment in laundries in 1929 was 106 only, 1,009 women having been registered in February and 1,115 in September.

Emergency permits issued by the industrial welfare commission for overtime work may be considered in a discussion of irregular employment. In 1930, 326 of these were issued. They were dis-

tributed among industries as follows: Mercantile 187, manufacturing 129, laundries 2, and offices 8. The report of the industrial welfare commission states that the largest number of requests came during the taking of inventories. Distribution according to months indicates that April had the largest number of emergency conditions and September the least.**

** Oregon. Industrial Welfare Commission. Ninth Biennial Report, 1929-30, p. 5; files of Industrial Welfare Commission and Bureau of Labor.

CHILD LABOR LAW ⁵⁴

On January 15, 1903, the retiring governor, T. T. Geer, and the incoming governor, George E. Chamberlain, in farewell and inaugural messages, respectively, recommended that a child labor bill be passed, "as a measure for prevention rather than for cure." Governor Chamberlain's message, valuable as a review of the labor history of the State to that time, included the following:

Troubles between capital and labor have not at any time seriously affected the business interests of the State. A spirit of toleration has existed between employer and employee which is to be commended, and incipient troubles have been easily settled by discussion and mutual concession. It is greatly to be desired that the friendly relations which have always existed between these great forces in Oregon may continue for all time. * * * Labor organization has come to stay, and will stay as long as conditions exist requiring it. In principle it is right. * * * A healthy public sentiment is driving the courts from the extreme position once taken by them which scarcely recognized the rights of the working classes. * * * In this connection, while yet Oregon is in its infancy of industrial and commercial development, a law ought to be passed regulating the employment of children and minors in factories and workshops. Such legislation would not be seriously opposed at this time, because as yet, be it said to the credit of the State, child employment is measurably limited. * * * Conditions have changed and are changing so rapidly that conservatism ought to be observed in all legislation along the lines suggested.⁵⁵

Two child labor bills were introduced, one in the House, which did not emerge from committee because of the Senate bill on the same subject. The latter was introduced by Senator Henry McGinn on the day of the governor's inaugural speech and recommendation.

The State federation of labor had wished to prevent the employment of children under 15 years. The Senate judiciary committee, to which the bill was referred, asked to submit a substitute bill, and this was allowed.⁵⁶ The provisions of this bill, which unanimously passed the Senate, may be summarized as follows:

- 1-2. No child under 14 years was to be employed in any factory, store, or workshop, or in or about any mine, or in telegraph, telephone, or public messenger service; nor in any work nor form during school hours.
3. Attendance of children at school was made compulsory during the whole of the school term for children under 14 and for children under 15 when not employed.
4. None under 16 were to be employed before 6 a. m. nor after 7 p. m., nor more than 10 hours a day and 6 days a week. Such children were to have not less than 30 minutes' lunch period outside of work hours, and employers were required to keep the hours posted that those under 16 were employed.

⁵⁴ Of the labor bills introduced in the legislature in 1903, the most important were an act for the protection of employees, popularly called the "fellow servant bill"; an act creating the office of commissioner of labor statistics and factory inspection; and the child labor and 10-hour law for women bills. The "fellow servant bill" seems to have been the only one enacted that involved much difference of opinion. The *Oregonian* of Feb. 5, 1903, reported that it was "warmly debated." The need for a commissioner of labor was generally acknowledged and no opposition arose to this bill. Only the child labor and 10-hour bills will be discussed here.

⁵⁵ Senate Journal, 1903, appendix, pp. 30-33.

⁵⁶ *Ibid.*, pp. 253-260.

5. No person, not even a parent, might employ his child who could not read at sight and write legibly simple sentences in the English language while a school was maintained in the same town or city.

6. Corporations and individual employers were required to keep a register of their employees under 16 and a record of ages and other information. When the physical fitness of a minor appeared unsuited to his employment, a physician's certificate of the child's state of health might be required by the child labor board.

7-8. In the case of the employer, the penalty for violation was set at not less than \$10 nor more than \$25 for the first offense, with greater penalties for succeeding offenses. In the case of the parent, the penalty was not less than \$5 nor more than \$25.

9. The governor was authorized to appoint a board of five persons as inspectors of child labor. Three of these were to be women, and all were to serve without compensation. Their terms were to be from one to five years, respectively.⁴⁷

Two points are to be noted in the bill: (1) That it did not prevent the employment of children outside of school hours, and (2) that it had no effect whatsoever on the so-called street trades.

This report is not considering legislation concerning children except where it is part of the legislation for women, but the first child labor act has been discussed so as to show the good start that the legislators made to curb the child labor evil and their sympathetic attitude toward the State's initial labor legislation.

In 1905 the law was amended by shortening the span of a day's work, which for minors under 16 might not begin before 7 a. m. nor continue after 6 p. m. The required proofs of a child's age and school experience were made more explicit, and failure to produce these by an employer was made *prima facie* evidence of illegal employment. The board of inspectors of child labor was given permission to issue permits for children of 12 to 14 years to work in vacation periods.⁴⁸

Appropos of amendments to the child labor law, one of the resolutions proposed by two women delegates at the eighth annual convention of the State federation of labor in 1911 should be noticed here. This resolution, introduced by Mrs. L. Gee and Mrs. Frank Cottrell, was as follows:

Whereas * * * the child labor law is not strictly enforced, and the law itself not being broad enough; * * *

Resolved, That a bill be drawn and introduced to the legislature providing compensation (such as the child would naturally earn) to be paid to the parent during the compulsory school age, instead of making exceptions to the present child labor law.

The resolution was adopted by the convention.⁴⁹ This proposal is interesting even now, in the light of the practice existing in France, Holland, Belgium, and other European countries where employers have cooperated to establish funds from which parents are paid allowances for their dependent minor children. Further details as to amendments of this law will be omitted, and a word as to its constitutionality will finish this discussion.

In 1906, Mr. J. F. Shorey was convicted and fined for employing a minor more than 10 hours in one day. In an appeal to the State

⁴⁷ Oregon. General Laws, 1903, pp. 78-81.

⁴⁸ *Ibid.*, 1905, ch. 208, p. 848.

⁴⁹ Oregon. State Federation of Labor. Proceedings of Eighth Annual Convention, 1911, p. 28.

supreme court a decision was rendered upholding the constitutionality of the law because of the minor's limited ability to contract and because of the position of the State as "parens patriæ," which entitled it to "exercise unlimited supervision and control over their contracts" and to protect "the life, person, health, and morals of its future citizens."⁴⁰ Newspapers have championed the legislation from the beginning.

⁴⁰ State v. Shorey, 48 Or. 396, 36 Pac. 881.

TEN HOUR LAW FOR WOMEN

The women's 10-hour law had an equally peaceful course through the house and senate.⁶¹ Through deliberate intent, the text of the act was not so wide in its application as its title indicated. The title read, "An act to regulate and limit the hours of employment of females in any mechanical or mercantile establishment, laundry, hotel, or restaurant," while the first section of the act read "No female [shall] be employed in any mechanical establishment, or factory, or laundry in the State more than 10 hours during any one day." Thus, in order to get the bill through, stores, which formed one of the large groups employing women, were allowed their former privilege of unlimited hours.

It is to be observed that this first section permitted employment for 70 hours a week, for though Oregon had a Sunday-closing law, this could be complied with outwardly while in a real or fancied emergency women might be employed most of Sunday behind closed doors. Section 2 required every employer of women in the establishments mentioned in section 1 and in mercantile stores, "or any other establishment employing any female," to provide suitable seats for them and to permit them to use such seats when, not engaged in the active duties of their employment. No restriction was placed on night work. Violation of the act was made a misdemeanor, punishable for each offense by a fine of not less than \$10 nor more than \$25. Justices of the peace were given concurrent jurisdiction, but in that case they might not impose a fine greater than \$5. The act as thus outlined was the result of amendments in the senate, one of which declared that as women employees in the State—

are not now protected from overwork, an emergency is hereby declared to exist, and this act shall be in full force and effect * * * after its approval by the governor.⁶²

In 1907 the law was amended to include mercantile establishments, but a vicious exception in their favor permitted them to employ women not to exceed 12 hours in any one day for one week immediately preceding Christmas Day.⁶³ This precedent was tenaciously clung to until 1913, when it was set aside by the industrial welfare commission after a difficult struggle.⁶⁴ In 1907, too, the penalty for violation of the law was raised to a minimum of \$25 and a maximum of \$100.⁶⁵ It was further amended in 1909 to cover any telegraph or telephone establishment or office or any, express or transportation company, and a limit of 60 hours in any one week was set.⁶⁶

⁶¹ House Journal, 1903, p. 527; Senate Journal, 1903, p. 636.

⁶² Oregon, General Laws, 1903, p. 148.

⁶³ Ibid., 1907, ch. 200, p. 360.

⁶⁴ Oregon, Industrial Welfare Commission, Order No. 3, 1913.

⁶⁵ Oregon, General Laws, 1907, ch. 200, p. 361.

⁶⁶ Ibid., 1909, ch. 138, pp. 204-205.

Meanwhile, enforcement of the law had not been altogether easy. The labor commissioner had adopted from the very beginning, in the enforcement of this and the child labor law, "a policy of avoiding expensive litigation" by warning an employer accused of working his employees overtime, and the commissioner felt that this method was securing cooperation in the enforcement of the law. In the third biennial report it was stated that "The 10-hour law for females during the last two years has been violated many times," but all except three cases were first complaints; the second complaints had been prosecuted and the offenders fined. In the fifth biennial report a change of policy was recorded.

The law * * * has been in force so long that all who employ females know or ought to know its provisions. Therefore, this office has discontinued the practice of merely warning violators upon first offense and is proceeding to prosecute promptly upon proof of violation. * * * The change has caused more arrests and convictions but less violations of the law."

The violations reported in the biennial period 1911-12 were 27. Twelve of the offenders paid fines, 3 forfeited bail, 6 received suspended sentences, 2 were dismissed before trial by the commissioner for lack of evidence sufficient to convict, and 4 failed of conviction.

In the year 1906 two employers had been convicted. One of these, a laundryman, Curt Muller, attacked the constitutionality of the law.⁶⁸ He had for his encouragement the decision of the Illinois Supreme Court, which in 1895 had declared the 8-hour law for women unconstitutional.⁶⁹ But the employees had for their encouragement the more recent decisions of the Pennsylvania, Nebraska, and Washington supreme courts, which in 1900 and 1902 upheld similar laws in their respective States.⁷⁰ The Oregon Supreme Court upheld the constitutionality of the law and the case was immediately appealed to the United States Supreme Court, whose decision in 1908, written by Mr. Justice Brewer, has made "Muller v. Oregon" the precedent for all subsequent hour legislation for women.⁷¹

The honorable Justice may be quoted as follows:

The single question is the constitutionality of the statute under which the defendant was convicted so far as it affects the work of a female in a laundry. * * * It is the law of Oregon that women, whether married or single, have equal contractual and personal rights with men. * * * It thus appears that, putting to one side the elective franchise, in the matter of personal and contractual rights they stand on the same plane as the other sex. * * *

That woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity continuance for a long time on her feet at work, repeating this from day to day, tends to injurious effects upon the body; and as healthy mothers are essential to vigorous offspring, the physical well-being of woman becomes an object of public interest and care in order to preserve the strength and vigor of the race. Still, again, history discloses the fact that woman has always been dependent upon man. He established his control at the outset by superior physical strength,

⁶⁸ Oregon, Department of Labor, Second Biennial Report of Commissioner, 1904-06, p. 5; Third, 1907-08, p. 16; and Fifth, 1911-12, pp. 8, 19-20.

⁶⁹ *Ibid.*, Second, 1904-06, p. 47; and State v. Muller, 48 Or. 252, 85 Pac. 855.

⁷⁰ *Ritchie v. People*, 155 Ill. 98, 40 N. E. 454.

⁷¹ *Commonwealth v. Beatty*, 15 Superior Court, Pa., 1900; *Wenham v. State*, 65 Nebr. 304, 91 N. W. 421; and *State v. Buchanan*, 29 Wash. 602, 70 Pac. 32.

⁷² *Muller v. Oregon*, 208 U. S. 412-423.

and this control in various forms, with diminishing intensity, has continued to the present. As minors, though not to the same extent, she has been looked upon in the courts as needing special care that her rights may be preserved * * *. Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained. It is impossible to close one's eyes to the fact that she still looks to her brother and depends upon him * * * that her physical structure and a proper discharge of her maternal functions—having in view not merely her own health, but the well-being of the race—justify legislation to protect her from the greed as well as the passion of man. The limitations which this statute places upon her contractual powers, upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but also largely for the benefit of all. Many words can not make this plainer. The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long-continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence. This difference justifies a difference in legislation and upholds that which is designed to compensate for some of the burdens which rest upon her * * *.

MINIMUM-WAGE LEGISLATION

Sentiment in favor of government regulation of wages had been growing throughout the world for 25 years before Oregon's minimum-wage law was enacted in 1913. A report of a royal commission in Melbourne, Australia, had aroused that eastern continent to the pitiable condition of its sweated workers as early as 1884.

In the United States, two epoch-making works appeared not far apart: Dr. John A. Ryan's book, *A Living Wage*, published in 1906, and the United States Bureau of Labor's Report on the Condition of Woman and Child Wage Earners in the United States, published in 1910. The latter presented in its 19 volumes an array of facts that convinced many Americans, before unbelieving, that women as wage earners were liabilities rather than assets, and that through their exploitation the country was being drained of that strength and vitality on which its future existence depended.

Meanwhile, New Zealand in 1894, with the purpose of preventing strikes, and Australia in 1896, in an attempt to end sweating, had demonstrated the practicability of compulsory regulation of wages. When England established wage boards in 1909, the applicability of the principle to America began to appear more feasible. Shortly, such organizations as the National Consumers' League, the Women's Trade Union League, and the American Association for Labor Legislation began to advocate and work toward the embodiment of the idea in legislation.

THE OREGON SURVEY

The example of Massachusetts, which in 1912 created a minimum-wage commission, aroused an interest in other States in their own industrial conditions. Early in the summer of that year the Oregon Consumers' League determined to investigate the question of family cost of living and the wage rates of family breadwinners. In the month of July, under a special social survey committee, with Rev. Edwin V. O'Hara as chairman, such an investigation was begun. Before much had been accomplished, John Mitchell, of the American Federation of Labor, during a visit to Oregon, advised the survey committee to confine its attempt to an inquiry into the cost of living and the wage rates of women, on the ground that both information and future legislation would be more easily obtained for women's work than for work involving the male wage earner. His advice was followed and the information sought was restricted to what concerned the hours, wages, sanitary conditions of work, and the cost of living of female wage earners. The findings of the investigation were embodied in a report published as the Consumers' League Social Survey Report⁷² and were used in urging upon legislators the need of action during the session of 1913.

⁷² Consumers' League. Report of Social Survey Committee, 1913.

There were in Oregon in 1910, according to the Thirteenth Census of the United States, 40,473 females 10 years of age and over gainfully employed, of whom 19,547 were in Portland; 12,911 of the latter group were in occupations other than domestic and personal service.⁷³ The Consumers' League committee published hour regulations and details of the sanitary conditions surrounding the work of a great many of the group last mentioned and wage statistics for about 5,000 of them. Many women and girls were interviewed, but fear of losing their jobs made large numbers of them reticent about giving exact information. To insure accuracy in the information obtained, the director and her assistants worked in 12 different factories. A cost-of-living estimate was derived from expense lists that workers were asked to make out, through visits to houses in typical middle-class and poorer neighborhoods and boarding-house and hotel districts, to learn the cost of room and board, and through lists of current market prices of food and clothing. The estimate finally arrived at was that \$10 a week was the smallest sum on which the average self-supporting woman could maintain herself. Even then, no allowance was made for recreation during the year and for summer vacation.⁷⁴ Furthermore, this had to be an actual all-year wage, not a nominal, irregular one yielding a much reduced total income for the year. While the field workers were gathering facts, the survey committee was preparing the bill, which eventually was introduced by Senator D. J. Malarkey as an act—

To protect the lives and health and morals of women and minor workers, and to establish an industrial welfare commission * * * to provide for the fixing of minimum wages and maximum hours and standard conditions of labor for such workers.⁷⁵

This passed the Senate unanimously, and, with three nays only, the House.⁷⁶

There are several reasons for such general consent that are interesting in view of the radical nature of the measure. First, the survey committee and its investigators worked very quietly, the latter very cautiously, in order to avoid opposition from employers. Second, the moderate tone of the bill helped greatly to win it favor. It set no sum as a wage, but left this to be announced after great deliberation in which employers would have a part. Third, the fact that women had been given the ballot in the general election of 1912 and that the bill was indorsed by the State Federation of Women's Clubs and all other women's organizations gave the legislators "a long, long pause." Many of them were frank to say that now that women had the vote their influence in politics would have to be reckoned with. Fourth, it is probable that the emotional response of the lawmakers to the revelation of disgraceful, insanitary conditions in some factories had as much to do with the passage of the bill as had anything else. While insanitary conditions could have been remedied without a minimum-wage regulatory power, the hardest headed among them did not seem to think of this, but were

⁷³ U. S. Bureau of the Census. Thirteenth Census: 1910, vol. 4, Population, Occupations, pp. 87, 194, 206.

⁷⁴ Consumers' League. Report of Social Survey Committee, 1913, p. 20.

⁷⁵ Oregon. General Laws, 1913, ch. 62, p. 92.

⁷⁶ House Journal, 1913, p. 584; and Senate Journal, 1913, p. 403. The bill was signed by the governor, Feb. 17, 1913.

willing to establish the industrial welfare commission and to allow it general oversight of conditions surrounding wage-earning women. The reasons for the passage of the act are given thus in the preamble.⁷⁷

Whereas the welfare of the State of Oregon requires that women and minors should be protected from conditions of labor which have a pernicious effect on their health and morals, and inadequate wages and unduly long hours and insanitary conditions of labor have such a pernicious effect: Therefore * * *.

After such preamble the body of the act declares the conditions that shall govern the buying and selling of women's and minors' labor, and the means whereby these conditions shall be fulfilled.

PROVISIONS AND AMENDMENTS OF THE LAW

The provisions of the law are 9, 5 major and 4 minor provisions. The major provisions are as follows:

First, the declaration that "it shall be unlawful to employ women or minors in any occupation within the State of Oregon for unreasonably long hours; * * * under such surroundings or conditions—sanitary or otherwise—as may be detrimental to their health or morals; * * * for wages which are inadequate to supply the necessary cost of living and to maintain them in health; * * *."

Second, the creation of a commission of three persons to be appointed by the governor, one of whom shall represent the employer, one the employee, and one the disinterested public.⁷⁸ This body is to administer the provisions of Section I by ascertaining and declaring—

a. Standards of hours of employment, of conditions of labor, and of minimum wages for women and minors in any occupation in the State.

Third, the stipulation that an order establishing a minimum wage shall be issued only after a board, designated a "conference," representing the three interests above mentioned, shall have investigated conditions of work and shall have recommended the order to be made. The recommendations of this conference may be accepted or rejected by the commission but may not be changed.

Fourth, the requirement that public hearings shall be held on the recommendations of the conference, before orders based on these recommendations may be issued. After an order has been issued legally by the commission, appeal from that order is allowed only on questions of law.

Fifth, the provision that different orders may be issued for various localities when investigation shows that the cost of living differs.

The minor provisions permit the promulgation of special rates for workers at piece rates as distinguished from workers at time rates, lower wage rates for apprentices and minors, a limit to the time during which women may be classed as apprentices, and special licenses to women physically defective or crippled by age or otherwise, authorizing their employment at a wage less than the minimum time rate.

By an amendment to the law in 1915,⁷⁹ the commission may issue permits in case of emergencies for longer hours than are allowed by statute or by commission rulings. An emergency was later defined by the commission as a situation which requires overtime work "in order to prevent suffering or distress on the part of the consumer or

⁷⁷ Gleason, Caroline J. A Living Wage by Legislation and the Oregon Experience. In the Oregon University Commonwealth Review, July, 1918, vol. 1, No. 3, pp. 348-349.

⁷⁸ As a result of discussions extending over several years on the question of consolidation of State commissions and boards, the legislature in 1931 created a State welfare commission that is to replace the industrial welfare commission and the board of inspectors of child labor. The labor commissioner is named as the secretary of the State welfare commission, which is given the powers and duties of the two boards that it replaces.—House bills 423 and 426.

⁷⁹ Oregon. General Laws, 1915, ch. 35, p. 48.

general public."⁶⁰ An emergency was not merely a matter of trade convenience.

The canners, who have always chafed under restrictive hour legislation, scored a double victory in the amendment of 1917 by which canneries were removed from the authority of the commission and practically from the province of the females' 10-hour law; they are permitted to work their women employees more than 10 hours a day on condition that rates of time and a half are paid for all hours over 10.⁶¹

WORK OF THE COMMISSION

The first commissioners were Rev. E. V. O'Hara, as chairman to represent the public, Miss Bertha Moores to represent the employees, and Mr. Amedee M. Smith to represent the employers. The commission organized on June 4, 1913, the day after the law went into effect, and on June 6 appointed a secretary. The work of calling conferences as directed by law was then begun. While these were being organized the commissioners decided to issue wage and hour rulings for minor girls, as only public hearings, and not the lengthy conference process, were necessary for this. Furthermore, they realized that if the wages of the youngest and least skilled workers were agreed upon, such decisions would furnish some basis of comparison for older and experienced workers. Within six months rulings were issued that applied to all women wage earners in the State except those in domestic service, student nurses, and the professional women who were earning more than a living wage. The number of women affected by these rulings was approximately 24,000.

The wage established for minors was \$1 a day. For adults the rulings varied from \$9.25 a week and \$40 a month, respectively, for mercantile and office work in Portland, \$8.64 a week for manufacturing occupations in the same city, to \$8.25 for other occupations in Portland and for any occupation elsewhere in the State.⁶² Compared with the amount determined upon as the minimum sum necessary for the decent subsistence of self-supporting women—\$10 a week—these rates seem low, but compared with the wage rates over which they were in advance—that is, for minors from 50 cents a week to \$6, and for adults from \$3 a week to \$9.25—they are high. In issuing these rulings the commissioners were facing bitter hostility, open and secret, from employers. Probably this opposition would have been more injurious to the interests of women employees had not the commissioners ruled at the outset that all its conferences should be open to the public and to representatives of the press. Thus full and free advertising was given in the news columns of the daily papers to the facts of the conditions of work and of the struggle for existence of wage-earning women and to the opinions of employers concerning their obligation to pay a living wage. The employers therefore were hampered by such advertising in the full expression of their genuine feelings about the law.

⁶⁰ Oregon. Industrial Welfare Commission. Fourth Biennial Report, 1920, p. 9.

⁶¹ Oregon. General Laws, 1917, ch. 183, pp. 208-209.

⁶² Oregon. Industrial Welfare Commission. First Biennial Report, 1913-14, pp. 6-13.

At the same time that wage rates were being raised, hours of labor were being reduced, the reductions ranging from 6 a week in some industries to 12 a week in others. To have decreed high-wage rates under such conditions would have given the employers ground for their claim that the provisions of the act were unreasonable, and would have jeopardized its future existence, with the possibility of repeal, even if the courts did hold it valid. Furthermore, the commission took into consideration that these wage rates need not be permanent. New conferences could be called and more adequate rates established after the first rates had been applied and both employers and employees had been familiarized with the workings of the law. The situation, when the law first was administered, was one that frankly called for a compromise for the sake of the good that it might effect; hence recommendations for wage rates lower than the survey committee had advised were accepted from the conferences, and rulings based on them were promulgated.

Neither Washington nor California, which passed laws modeled on Oregon's that same year, had to contend with the problem of a simultaneous reduction of hours and increase of wages. Washington had an 8-hour day and a 56-hour week, California an 8-hour day and a 48-hour week, while Oregon's day and week were, respectively, 10 and 60 hours. The fruit and vegetable canners, who are most insistent on unduly long hours, were exempt from the California 8-hour law, whereas they were not exempt from the Oregon 10-hour law. The Oregon commission, therefore, compromised on the question of hours, for though a 48-hour week was its ideal, the length of the day allowed by its rulings varied from 8 hours and 20 minutes to 9 hours, and the week varied from 50 hours to 54. Lunch periods of not less than 45 minutes were insisted upon. Work after 6 p. m. was prohibited for minors in all occupations in the State, and women might not be employed in mercantile stores in Portland after 6 p. m. nor in factories and laundries after 8.30 p. m. The hour last mentioned was the latest permitted for women in stores, factories, and laundries in all sections of the State other than Portland.

In a number of places where women were employed, conditions were unhealthful; in some cases they were a disgrace to a civilized community. The commission issued individual orders for improvements until a sanitary code could be prepared. Safety conditions had been the province of the State labor commissioner since the creation of his office in 1903. Thus was put into operation the first compulsory industrial welfare act for women and minors in the United States.⁵²

Time proved the wisdom of the commission's policy of moderate regulation and revealed what legislation was inadequate, what loopholes existed for evasion by employees and employers, and what untouched fields awaited attention. Consequently, conferences to revise the first rulings and to propose new ones were called in 1916, 1918, 1919, 1920, and 1922. A summary of the first rulings and of those in effect in 1931 is presented on pp. 33-34.

By a provision of the law the State labor commissioner was charged with its enforcement. From the first his policy in the case

⁵² Authority for the publication of these statements concerning the policy of the first industrial welfare commission was given by Rev. E. V. O'Hara, first chairman.

of a violation was one of adjustment rather than prosecution if an adjustment could be made. Such adjustment was easy, especially in the case of evident wage violations, since the law permits a woman to sue for the difference between the wage paid and the legal minimum due her, while it prohibits the employer from dismissing an employee for testifying in any proceedings relative to this act. This last provision is capable of evasion, but it has a salutary influence in compelling obedience to the law because of the publicity that may attend a prosecution.

Another reason for correcting violations by adjustment rather than by prosecution is that such prosecution is entrusted to the district attorneys of the various counties. Unless these officials are sympathetic with the purpose of the act, it is difficult to secure more than a half-hearted prosecution, and consequently conviction is uncertain.

Complaints are reported to the offices of the industrial welfare commission or to the State labor commissioner. So successful have these offices been in adjusting complaints that the former office had to resort to one prosecution only in the biennium 1929-30 and the latter none.⁵⁴ The State labor commissioner was able to adjust 183 claims of females for wages amounting to \$3,289.38; 168 wage claims, amounting to \$11,997.72, were unadjusted. This lack of adjustment was due in part to insolvency of the debtor, in part to the inadequacy of other State laws, but it is hoped that this situation has been remedied by the legislature of 1931.⁵⁵ Cooperation of employers with the commission was made possible through such employers' associations as the merchants and manufacturers, the northwest canners, the laundrymen, the office-building owners, and the hop growers. When a violation of the law by a member of one of these groups is reported to the industrial welfare commission, the secretary of the association is informed, and he immediately instructs the offending employer to comply with the law.

CONSTITUTIONALITY OF THE LAW

The first rulings issued for minimum wages for women were made the basis for two suits to test the constitutionality of the law. A paper-box manufacturer in Portland, Mr. F. C. Stettler, brought the first suit on the ground that the law confiscated his property without due process of law, and an employee of his, Miss Elmira Simpson, brought the second suit, claiming that the statute interfered with her constitutional rights to make a free contract. Both plaintiffs asked for an injunction to prevent the commission from enforcing a minimum wage in manufacturing establishments in Portland.⁵⁶ Both were denied by Judge T. J. Cleeton of the circuit court, who declared in his decision, "Whether or not this legislative act is within the police power of the State is controlling in the determination of most of the questions * * * against it."⁵⁷

⁵⁴ Oregon. Industrial Welfare Commission. Ninth Biennial Report, 1929-30, p. 8; Bureau of Labor, Fourteenth Biennial Report, 1929-30, p. 15.

⁵⁵ House bill 819 provided a revolving fund of \$500 for the use of the bureau of labor in instituting suits to collect unpaid wages.

⁵⁶ Stettler v. O'Hara et al., 89 Or. 519, 139 Pac. 743 (1914); and Simpson v. O'Hara et al., 70 Or. 261.

⁵⁷ Decision of Judge T. J. Cleeton, Circuit Court of Oregon for Multnomah County, printed by Industrial Welfare Commission, 1913.

The cases were carried to the State supreme court, which handed down a unanimous decision, written by Judge Eakin, declaring the law constitutional. The arguments of the plaintiffs had been that it abridged freedom of contract; that the legislature in giving authority to the commission to promulgate wage rulings had invalidly delegated to the latter body a power vested only in itself; that the act took away property without due process of law; and that the statute was class legislation.⁸⁵

Justice Eakin's decision in the case of the complaining employer included the following declaration:⁸⁶

It is conceded by all students of the subject, and they are many and their writings extensive, that woman's physical structure and her position in the economy of the race renders her incapable of competing with men either in strength or in endurance.

He then quoted extensively from *Muller v. Oregon* in support of this contention and stated the question at issue as previously framed by Judge Cleeton:

The first and principal question for decision is whether the provisions of the act before us are within the police power of this State. * * * We use the language of Mr. Malarkey: "The police power, which is another name for the power of government, is as old and unchanging as government itself. If its existence be destroyed, government ceases. There have been many attempts to define the police power and its scope; but, because of confusing the power itself with the changing conditions calling for its application, many of the definitions are inexact and unsatisfactory. The courts have latterly eliminated much of this confusion by pointing out that, instead of the power being expanded to apply to new conditions, the new conditions are, as they arise, brought within the immutable and unchanging principles underlying the power. When new conditions arise which injuriously affect the health or morals or welfare of the public, we no longer say that we will expand the police power to reach and remedy the evil. Instead we say that a new evil has arisen which an old principle of government—the police power—will correct."

The court concluded that every argument put forward to sustain the maximum hours law or upon which it was established applied equally in favor of the constitutionality of the minimum-wage law as also within the police power of the State and as a regulation tending to guard the public morals and the public health.

Justice C. J. McBride wrote the decision in *Simpson v. O'Hara et al.*, and he held that—

Having determined in the preceding case that the police power of the State legitimately extended to the right to prevent the employment of women and children for unreasonably long hours or at unreasonably small wages, * * * it would seem to follow as a natural corollary that the right to labor for such long hours and at such wages as would reasonably seem to be detrimental to the health or welfare of the community is not a privilege or immunity of any citizen. * * * But that the effect of this [fourteenth amendment] would be to limit the power of the States to enact reasonable laws for the protection of their women and children against the consequences of labor for a length of time tending to impair health or at a wage barely sufficient to sustain life never entered the imagination of the statesmen who framed it."

An appeal was taken to the United States Supreme Court, where *Stettler v. O'Hara* was argued in the spring of 1916; no decision was reached, and the case was called for reargument in January, 1917.

⁸⁵ *Stettler v. O'Hara, Simpson v. O'Hara*, brief for the plaintiffs, C. W. Fulton; brief for defendants, Louis D. Brandeis, Josephine Goldmark; supplemental brief for defendants, Malarkey, Seabrook, and Dibble; brief on rearguments, defendants, Felix Frankfurter, J. Goldmark.

⁸⁶ *Stettler v. O'Hara et al.*, 89 Or. 525, 531-532.

⁸⁷ *Simpson v. O'Hara et al.*, 70 Or. 261-263.

By that time, Mr. L. D. Brandeis, who had prepared a brief for the hearing before the State supreme court, had been appointed a member of the United States Supreme Court. The vote of the honorable justices stood four to four, Justice Brandeis not voting, and the law was allowed to operate without a decision on its constitutionality.

DIRECT EFFECTS OF THE LAW

There were certain effects that the operation of the law, because of its intent and its methods of administration, was calculated to bring about. The more immediate and tangible ones were those that sprang from situations claimed by opponents of the law as inescapable sources of failure for wage legislation. For this very reason, these obvious and tangible effects were the ones on which popular opinion based its judgment as to the success or failure of the minimum-wage act. These were the effects on the crippled, slow, or aged workers, on the number of women workers, on their efficiency, and on the leveling of wages.

Provision against working an injury to the crippled, slow, or aged woman who could not earn the required wages was made by a clause in the statute that permitted the commission to grant special licenses to such workers. The number who obtained these permits was surprisingly small in view of the frequent assertion that there were many women so slow that they could not earn a living wage. During the first six years of the commission's existence, the licenses issued to adult women to work for less than the prescribed wage averaged six a year. In 1924, 15 were issued, but several of these were renewals to aged women who returned each year to the fruit canneries during the busy season.⁹¹ Hence it may be concluded that the wage act was not detrimental to the physically handicapped wage earner.

What the immediate effects of the law were on the numbers of women employed and their displacement by men, the efficiency of women workers, and the leveling of wages was brought out by an investigation of the United States Bureau of Labor Statistics, in 1914, on the effect of minimum-wage determinations.⁹²

As to the effect on the number of women employed and the displacement of women by men, the investigators stated that though the number of women had decreased after the determinations went into effect, the number of men (who were not affected) had decreased also, and that "little if any of the loss of employment among women as a group can be related to the minimum-wage determinations"; further, "The wage determinations have not put men in positions vacated by women," partly because of the advanced rate required for women.

Five years later, in 1919, an agent of the Federal Bureau of Labor Statistics, seeking new information on the operation of the law, visited 13 establishments in Portland, employing 5,500 women, and 10

⁹¹ Oregon. Industrial Welfare Commission records of 1916 and 1925; and U. S. Department of Labor. Bureau of Labor Statistics. Minimum-Wage Laws of the United States: Construction and Operation. By Lindley D. Clark, 1921, Bul. 235, p. 175.

⁹² U. S. Department of Labor. Bureau of Labor Statistics. Effect of Minimum-Wage Determinations in Oregon. By Marie L. Obenauer and Bertha von der Nienburg, 1915. Bul. 176, pp. 9 and 12.

establishments in two smaller cities, with 360 employees.⁹³ He records from a report of the commission "that there was no case known of actual deprivation of opportunity to work due to the law."

Census statistics for 1910 and 1920 supply interesting information as to the number of women employed three years before and seven years after the law went into effect.⁹⁴ In 1910, 17.5 per cent, and in 1920, 18.4 per cent of Oregon's female population 10 years of age or over were wage earners. As there was a decrease of three points in the percentage of men employed during the same period, it might be concluded that women, with an increase of practically one point, had displaced the men. But another explanation of the census figures is available. The census officials ascribe the decrease in the number of persons gainfully employed to the change of the date for collecting statistics in 1920. Statistics for the census of 1910 were collected on April 15, when work in logging camps, general construction lines, and agriculture was opening up. The facts for the 1920 census were collected on January 1, when these and other seasonal industries were closed, and fewer employees, especially men, were reported as gainfully employed than would have been the case at a later date.

As to the effect of the wage rates on the efficiency of the workers, the study of 1914, made in the mercantile stores, states that "a comparison of sales made by women raised to, receiving, or who should have received the minimum with those of women receiving above the minimum does not reveal differences that would indicate a decrease in the efficiency of those affected by the wage determinations."⁹⁵

Testimony of employers concerning the work of women during the war, when wages were decidedly above the minimum, disproves the allegation that women "soldier" at their work when well paid.⁹⁶

The employers * * * stated without exception that the women were as capable as men, could in time become as skillful in the more complex tasks, were steadier, quicker, and more dependable workers. A number declared they would not discharge the women after the close of the war upon the return of the soldiers, believing that women had made a new place in industry for themselves.

The Federal inquiry of 1919 has this to say on this point:

The law had never interfered with the employment of girls, nor did it increase the actual selling cost, as attention given to the training of the selling force enabled the workers to become more efficient.

One employer felt that the law "was advantageous in attracting a better class of workers and in stabilizing employment."⁹⁷

The opponents of minimum-wage legislation had based part of their argument on the supposition that if some women were not dismissed so that salaries might be utilized to raise those below standard, the wages of the highly paid would certainly be reduced to make

⁹³ U. S. Department of Labor. Bureau of Labor Statistics. Minimum-Wage Laws of the United States: Construction and Operation. By Lindley D. Clark, 1921, Bul. 285, pp. 171-185.

⁹⁴ U. S. Bureau of the Census. Fourteenth Census: 1920, vol. 4. Population, Occupations, pp. 22, 46, 47.

⁹⁵ U. S. Department of Labor. Bureau of Labor Statistics. Effect of Minimum-Wage Determinations in Oregon. By Marie L. Obenauer and Bertha von der Nienburg, 1915, Bul. 176, p. 3.

⁹⁶ Oregon. Industrial Welfare Commission. Third Biennial Report, 1917-18, p. 18.
⁹⁷ U. S. Department of Labor. Bureau of Labor Statistics. Minimum-Wage Laws of the United States: Construction and Operation. By Lindley D. Clark, 1921, Bul. 285, pp. 184-185.

up the difference. That neither of these happened is proved conclusively by the 1914 report.¹⁰

The rates of pay for women, as a whole, have increased. Wherever the wage rates of old employees have been changed since the minimum-wage rulings, the employees were benefited. * * * More girls under 18 years received over \$6 a week after than before the minimum-wage determinations. Among the experienced women not only the proportion getting \$9.25 (the legal minimum) but also the proportion getting over \$9.25 has increased. The proportion of the force receiving over \$12 has also increased, although the actual number has decreased. * * * The per cent receiving \$9.25 * * * was increased from 8.4 per cent to 22.4 per cent. The per cent of the force receiving over \$9.25 per week was increased from 40.6 per cent to 44.8 per cent * * *. As a whole, therefore, the rates of the women employed in these 40 stores have been materially increased since the wage rulings.

The Federal inquiry of 1919 gives further information to show that the minimum wage has not become the maximum, and that, what is equivalent to this, the higher wages have not been forced down to any extent to make up the deficit in the lowest ones. To quote from the report: "

The experience of employers is fairly expressed in the remark of one that the minimum wage did not supply them with workers, so that it was necessary to pay more to secure the desired help; * * *. Dry goods, telephone, and restaurant workers were receiving about the minimum, and the rate established in 1919 had been of no effect so far as they were concerned.

In the city of Portland but two establishments, both department stores, reported that the higher rate of 1919 affected their pay roll directly, though another quite large one found that the law had the effect of forcing up wages indirectly, since the girls objected to receiving the minimum, as a sort of reflection on their capacity. * * * Hotel and restaurant employees were found to receive considerably above the minimum, employers reporting the law beneficial, one saying that it afforded satisfaction to both parties to know that the wages paid and received were above the minimum * * *.

Complete statistics of wage rates paid in 1930 are not available. An approximation of the standards maintained is possible, however, from a study of the wage rates of 16,149 women and 623 minor girls employed in manufacturing, mercantile, laundering, and personal-service positions such as hotels and restaurants. The State labor commissioner's report does not give the hours per week that were the basis for the weekly wage rate. In the case of those women receiving under \$6 a week, the surmise is made that this sum was for a short week; \$13.20 a week has been the minimum wage since 1919 for experienced adult workers in all occupations except office work; and \$9 a week has been the minimum for adult apprentices when beginning work. The statistics for 16,149 women have been segregated, therefore, with these two minima in mind, to ascertain how nearly wages paid at present attain these standards.¹

Weekly wage rates of 16,149 adult women employed in Oregon in 1929

Number having weekly rate of—							
Under \$6	\$6 and under \$8	\$9 and under \$13	\$13 and under \$14	\$14 and under \$20	\$20 and under \$40	\$40 and under \$60	\$60 and over
658	900	1,825	1,945	3,271	3,975	68	5

¹⁰ U. S. Department of Labor. Bureau of Labor Statistics. Effect of Minimum-Wage Determinations in Oregon. By Marie L. Obenauer and Bertha von der Nienburg. 1915, Bul. 176, pp. 8, 18-19.

¹ *Ibid.* Minimum-Wage Laws of the United States: Construction and Operation. By Lindley D. Clark. 1921, Bul. 285, pp. 184-185.

² Oregon. Bureau of Labor. Fourteenth Biennial Report, 1929-30, pp. 22 to 66.

As already described, 623 minor girls had rates ranging from less than \$6 a week to \$25 but less than \$30. The minimum wage for minor girls between 14 and 15 years of age is \$6 a week, between 15 and 16 years \$7.20 a week, and between 16 and 18 years \$8.50 a week. Twelve girls had rates of less than \$6, 82 had rates of \$6 but less than \$9, 283 of \$9 but less than \$13, and 246 of \$13 to \$25 inclusive.

These figures would indicate that the weekly wage rates for the majority of women at the present are above the minimum required by law.

INDIRECT EFFECTS OF THE LAW

The most far-reaching effects of minimum-wage legislation, and from some points of view the most important, are by no means the most obvious. These are, that the law serves as a means to promote industrial conciliation, to train the unorganized woman worker to a sense of her place in the community, and to arouse in the public a realization of its share in the adjustment and prevention of industrial problems.

The belief is prevalent that labor and capital are opposed to each other; that what is to the advantage of one is to the disadvantage of the other. Capital too often reads into labor's constant struggle for shorter hours, better wages, and clean conditions of work merely a lazy man's desire to get the most for the least effort. Labor, unfortunately, too often sees behind capital's wage offerings an inhuman greed that loses sight of all rights of fellow men if only it may blaze a path for itself.

A statute such as the Oregon act thus becomes the means of industrial conciliation, by bringing together on the administrative board itself (the commission) and on its advisory board (the conference) these diverse elements, and by compelling them to explain their difficulties it causes them to adjust their differences and to realize that there are means of cooperation that will work for their mutual benefit.

There is needed no better evidence as to the conciliatory effects of the law than a bulletin issued in 1923 by the directors of the Manufacturers and Merchants Association of Oregon to the members of the association. The signer of this bulletin was the representative of the employers on the industrial welfare commission from January 1, 1924, until his death in October, 1926.

MANUFACTURERS AND MERCHANTS ASSOCIATION OF OREGON 510 Oregon Building

Portland, Oregon

May 19, 1923

U. S. SUPREME COURT DECISION AND ITS EFFECT ON MINIMUM WAGE—CHILD LABOR LAW

The United States Supreme Court in a recent decision held the minimum-wage law (for women) of the District of Columbia to be unconstitutional. * * * It is unfortunate that a test of the law was necessary, as unquestionably the law has been of great benefit to those for whose protection it was enacted.

That laws of this kind are objectionable to a certain class of employers and employees is to be expected, as in dealing with human beings the human element must be taken into consideration, and that is a variable quantity.

It is a glowing tribute, however, to the human propensities of the average employer of to-day, that once he became acquainted with the purpose and the benefits of the law, he gave it his unqualified support, principally from a humanitarian standpoint, with the result that he was benefited by the reaction of the employees in reciprocation of that attitude; and by that reaction the employees were spurred to seek higher ideals of efficiency and were in consequence benefited by an increased wage, until now (particularly in this State) few, if any, employers are paying the minimum wage prescribed by the rules of the industrial welfare commission but much in excess of it.

The purpose of this bulletin is to plead with all employers of Oregon to still acknowledge the authority of the industrial welfare commission's rulings, and in no case deviate from them, nor in any instance where a higher wage than the prescribed minimum is now being paid, to reduce such wage to the minimum; but on the contrary, where production and efficiency justifies it, rather to increase the wage * * *. As evidence of the spirit that abounds in employers of Oregon * * * the directors of the manufacturers association resolve that:

"Whereas the experience of a great majority (if not all) of the employers of Oregon who employ women is that the minimum-wage law of this State has been of such material benefit to both employers and employees (aside from the humanitarian side of the question) that it would be most unfortunate as well as a disgrace to the State to disturb the equitable and harmonious relations now existing where women are employed in our industries: Therefore, be it

Resolved, That the Manufacturers and Merchants Association of Oregon pledge to the industrial welfare commission their support and cooperation in maintaining the present status of the Oregon law, and that we will use every effort to discourage anyone from testing the validity of the law in the courts, and will also use every effort to prevent the repeal of the law by the legislature should such a thing be attempted; and as an evidence of our sincerity we hereby pledge ourselves to be governed in the future, as we have in the past, by the rulings of the industrial welfare commission."

We would esteem it a great favor if all employers who receive this would write us, expressing their purpose to conform to the position taken by our association, so that the industrial welfare commission may be encouraged to continue the good work they have been doing.

It must be remembered that the court's decision did not affect the child labor law, as this was not an issue before the court; therefore our law in relation thereto still stands, and the rulings of the child labor board must be observed.

Very truly yours,

THOS. McCUSKER, *Secretary-Manager*.

An illustration of the presentation of difficulties by employees is found in the recommendations of the woman-employee representatives, who were members of the Cannery Conference, to their employers in 1922. The recommendations are moderate in tone and eminently sensible. They cover several points that may seem trivial, as favoritism and supernumerary bosses; but just such causes sometimes are sufficient to upset and alienate an otherwise good working force.²

We are in favor of eliminating piece rates from Order No. 47, for the following reasons: First, that any fixed piece rates will not secure for either the worker or the cannery men a just return. If the rate is very low and the fruit is soft or poor or unripe or mixed with leaves, stems, etc., the worker is compelled to work too fast so that she may earn a decent wage to be able to do good clean work. * * * We believe also that the guaranteed hourly minimum will do away with the trouble so many of us have had with the forelady showing favoritism, as it will then be her business to see that each worker is busy. * * * There is one question which we are asking the cannery themselves to consider at this time, and that is the question of too many bosses. We believe there would be greater harmony if we knew whom we had to obey.

² Oregon. Industrial Welfare Commission. Fifth Biennial Report, 1921-22, pp. 7 and 8

Industrial peace must be promoted, too, by another indirect effect of the law, and this is its effect on the less desirable type of employer. Maud Swett, director of the women's department, Wisconsin Industrial Commission, in a public address³ in May, 1923, stated that the Wisconsin commission uses "the example of the most progressive employers to help to pull up the poorer ones to their level." Not every man who attempts to conduct a business is capable of doing it with success. Scientific management has demonstrated that large labor turnover is tremendously expensive, and that often it is due to poor methods of "hiring and firing" and to low wages. An employer of poor training, experience, or conscience may not realize where his real difficulties lie. This type of man meets at the conference table the high type of employer—"the best and busiest," who has always been ready to serve on the conference—and so the poorly trained business man receives the benefit of friendly criticism that he might not get in any other way. As a result, he begins to look with less tolerance at his own actions and with more tolerance on the actions of his employees.

A second far-reaching effect is the training of the unorganized women workers to a sense of their place in the community. Women's world-old timidity due to their inferior strength has gone with them into the industrial world. Thus protective laws for women are harder to enforce because of their dislike of a fight and of the notoriety attached to a court action. Where they have others dependent upon them, their spirit of self-sacrifice inclines them to put up with abuse rather than to subject their dependents to possible suffering by refusing to suffer themselves. Then, the position of being dictated to in the family prepares them for accepting silently in the industrial world what is offered to them. "It never occurred to me when I was starting out," said one highly trained, valuable worker, "to question whether I was receiving adequate compensation for my work; I thought that I had to take whatever was given to me."

But the Oregon statute or similar statutes readjust abuses for women in industry without causing suffering to the unseen dependents; the statute brings to them the feeling that the Commonwealth values them sufficiently as citizens to obtain for them the justice they may not have been able to obtain, and by increasing their appreciation of their own worth instills into them a confidence to work for their own rights and emoluments. This is especially instanced in the penalty attached to the dismissal of an employee for testifying in case of violation of the law and in the provision that she may sue by civil suit for back wages, even though, under the force of circumstances, she has agreed to work for less than the law has provided.

The third indirect effect of the statute has been to arouse in the public a realization of its share in the adjustment and prevention of industrial hardships on women and minors, for it has become apparent that the ultimate success of the legislation rests with the people at large. They are the ones on whom, as taxpayers, the cost of the underfed, overworked employee eventually falls; they are the ones

³ Association of Government Labor Officials of the United States and Canada. Proceedings of Tenth Annual Convention, 1923, p. 26.

whose pleasure is the all-important objective of many employers; and an active interest of the consumer in the wages, hours, and conditions of work of an establishment is as powerful as anything else to effect decent conditions in that establishment.

The operation of the statute brings to the attention of the public the fact that the solution of some industrial problems begins even farther back than the age of majority, when a woman is supposed to be able to earn a self-supporting wage. It lies in the preindustrial period, the school life of the child until she is 16 years of age, before she is in the hands of the employer and while she is in the hands of those who have charge of the education of youth. Recent legislation tends more and more to tighten the restrictions against allowing minor children to enter the industrial world. Their presence there is a concession, partly to the need of the family and partly to the expressed need of the employer for cheap help. The term "apprenticeship" as applied to the learning period of inexperienced workers in machine industry to-day is deceptive and a misnomer. Real apprenticeship as an institution has practically disappeared, and nothing in industry as it is organized at present is supplying its service. Thus the public is confronted at the conference table with personal representatives of the "blind-alley job," the industrial tramp, the young "jack-of-all-trades and master of none," and after a few sessions the thinking man and woman ask themselves these questions: Does the solution of the problem of the young worker who starts his working life with little or no equipment rest with the educational system? Must the secondary schools be turned into trade schools, to train children chiefly for their advancement in commercial life? Does the solution lie in the part-time school? Does it lie with the employing establishments? Can these save the young worker the drifting years from 15 to 20, and will intelligent selection of an employee, careful placement in occupation, sympathetic oversight in the performance of her duties, and the prospect of more than a minimum wage as an incentive, offer the solution?

SUMMARY OF FIRST AND LATEST WAGE AND HOUR RULINGS OF THE INDUSTRIAL WELFARE COMMISSION

Experienced adult women, 1913.

Portland.—Mercantile occupations, \$9.25 a week; maximum weekly hours, 50.

Manufacturing occupations, \$8.64 a week, time rates; maximum weekly hours, 54.

Office occupations, \$40 a month; maximum weekly hours, 48.

All other occupations, \$8.25 a week; maximum weekly hours, 54.

Remainder of State.—All occupations, \$8.25 a week; maximum weekly hours, 54.

Inexperienced adult women, 1913.

Any adult woman who had less than one year's experience in an occupation was considered an inexperienced worker. The minimum

wage for an inexperienced woman, employed at time rates of payment, was fixed at \$6 a week for the first year.

Minor girls, 1913.

Minor girls, for the purpose of this ruling, were girls under 18 years of age.

Entire State.—Wage, \$6 a week; maximum weekly hours, 50.

The foregoing rulings were in effect until September, 1916. Those that follow are in force at the present time. Details and dates are omitted. Details of all rulings are in the biennial reports of the Industrial Welfare Commission.

Experienced adult women.

Entire State.—Office occupations, \$60 a month.

All other occupations,⁴ \$13.20 a week; maximum hours, 48 a week; student nurses, 56 hours.

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Term during which a woman may be called inexperienced, one year. Beginning wage, \$9 a week. Subdivisions of the year into periods of three or four months have been required by the commission, and at the end of each period the apprentice, if retained, is given a higher wage. The subdivisions of the year and the wage for each period have been ruled upon for the various occupations.

Other rulings.

Minor girls may not be employed after 6 p. m. Mercantile stores in Portland may not employ women after 6 p. m., and mercantile establishments in other sections of the State not after 8.30 p. m. Factories and laundries in the State may not employ women after 8.30 p. m. Maximum hours in all occupations in State, 48 a week, 9 a day.

⁴ Fruit and vegetable canneries have special piece-rate wage rulings; the commission, by an amendment to the act, has no authority to regulate hours in the canning industry.

THE RIGHT TO FOLLOW CERTAIN PROFESSIONS

Oregon has never had a statute that expressly forbade women to enter upon the professions formerly considered as prerogatives of men, such as the practice of medicine, law, or dentistry. Women physicians have practiced in the State since 1869.* Women attorneys sought admission to the Oregon bar in 1878, through a bill intended as an enabling act, but the bill did not emerge from the committee⁶ and the matter rested until 1885. In that year, a Mary Leonard, who had been admitted to practice before the Supreme Court of Washington Territory, asked to be admitted as a member of the bar in Oregon. The action on her application and the attitude of Oregon's Supreme Court on the question of "lady lawyers" appear in the decision of the court on the motion,⁷ from which the following is quoted:

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It is gratifying to record that the legislative assembly, at a special session that same year, passed an act declaring that—

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WOMEN TEACHERS

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