Code of Ethics prefaces its canons with the lofty ideal that in the Philippines, *"where the stability of courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system of establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration."* That same preface sounded a warning that the future of this Republic *"to a great extent, depends upon our maintenance of justice pure and unsullied."*

We must take stock of the present situation. Admittedly, we are living in a troubled world. Internally, our problem of peace and order has risen to the stature of a steep mountain. By now it may appear trite, but nontheless true, that the morality of many is several notches below the desirable. Some have shown utter disregard of the fundamental difference between right and wrong. Others have worshipped no God other than the Golden Calf. And still many there are who have exhibited undisguised contempt for the law. The corrosive effects of moral bankruptcy and spiritual blackout remain unchecked. This situation stares at us—the citizens—coldly, relentlessly, unavoidably. We must face these problems with courage and firmness.

Now, therefore, more than ever, we feel the need for a strong judiciary; for judges whose erudition and pronouncement command respect, men of the highest type of proven ability, finite, human, and above all, men with names untarnished. For these are the judges who bear the hallmark of confidence and inspire a justified belief in them that justice will be done at all times, in all places and under all circumstances.

Conserve the faith of the people in the judiciary, and we help bolster the people's faith in our government, our country. Debase the judiciary and doom's day may not be far distant. Where justice ends, tyranny begins.

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DEDICATED TO OUR LADY, SEAT OF WISDOM

COMMENT

THE HISTORICAL BACKGROUND OF THE MINIMUM WAGE LAW

The Minimum Wage Law, otherwise known as Republic Act No. 602, opens a new era of social justice in the Philippines, a new vista in the life of every Filipino workingman. The enactment of the statutory wage law is one of the many and varied attempts of the Government to regulate wages through the exercise of the coercive power of the State. This law has been the inevitable consequence of industry's failure to pay thousands of its workers enough to enable them and their families to live in common decency. The glaring inequalities in wealth, ownership and income distribution are the roots of our present-day social problems, and it has been the prime concern of every civilized country in the world for the past decades to find the solution to these problems. Means have been sought to do away or at least minimize the injustice which has been the lot of the working masses since time immemorial and to help solve the living problems of an exploited group, and in so doing, to assure the economic welfare of society.

In general, it may be said that in any given society economic welfare will be maximized if the highest and most stable standard of living possible for each section of the community is attained in the form which the particular society desires. To secure this result it will be necessary to achieve: (1) the full employment and optimum allocation of all resources; (2) the highest degree of economic stability consistent with an optimum rate of economic progress; and (3) maximum income security for all sections of the community. The attainment of these three conditions must therefore rank among the major objectives of wage policy as of other aspects of economic and social policy.

This commentary, however, shall be limited into describing briefly the steps taken by means of minimum wage legislations, to secure the attainment of the third requisite in some of the leading countries in the world. It is hoped that in so doing, we may profit from the experience of other countries and attain one of the

chief objectives of any society, the achievement of maximum economic welfare.

A word of explanation, however, is necessary as to the precise scope of this article. By "minimum-wage regulation" is meant the fixing of legally enforceable minimum rates of wages by some authority other than the employers and workers or organizations of employers or workers directly concerned. Collective agreements, though they fix the standard or the lowest rates of wages which may be paid in any particular trade or industry, are consequently not included in this study.

HISTORY

Like many other experiments in labor legislation, minimum wage laws in their modern form found their origin in Australasia. In 1894, New Zealand passed a law providing principally for the compulsory arbitration of labor disputes, but it also authorized the mediation boards to prevent sweating by fixing minimum wages within the sweated industries.(1) The first independent minimum wage law was passed by Victoria in 1896, in an attempt to regulate six notoriously sweated trades: boat-making, shirt-making, furniture-making, baking, and the manufacture of clothing and underclothing. Four years later it was extended to other trades in which there was no evidence of sweating. Moreover, it was extended to men as well as to women workers.

Between 1900 and 1912, South Australia, Tasmania, Queensland, and Western Australia also enacted minimum wage laws covering most of their workers. The legislative changes which have been made since 1912 relate chiefly to administrative organization.(2)

In Great Britain the development has been similar, beginning with the 1909 Act, which authorized the board of trade to establish wage boards with jurisdiction over the sweated industries. The model for Great Britain's legislation was the Victoria plan, under which jurisdiction of the wage boards covered men and women, skilled as well as unskilled, in certain trades. The Trade Boards Act of 1909 applied only to four trades, namely, tailoring, paper box-making, lace and net finishing, and chain-making. Later, the preserving of food and the making of confectionery were added, and gradually the law has been applied to new trades until there

(1) The New Zealand Compulsory Arbitration Law of 1894.
(2) See George Anderson, *Fixation of Wages in Australia*, The Macmillan Company, New York, 1929, 58, 59.

are at the present time forty-eight trades covered by the Boards.(3)

Although the outstanding minimum wage systems, from the viewpoint of the student interested in the problem of wage control in a capitalistic economy, have been those of the Australasian states, Great Britain, and the United States, the movement for minimum wage legislation in some form has spread to South Africa, France, Germany, Hungary, Poland, Spain, Czechoslovakia, Switzerland, Argentina, Uruguay, Mexico, and most of the Canadian provinces. In 1925, British Columbia led the way in the Continent in providing minimum wages for all adult male employees, except farm hands, fruit pickers and packers, and fruit and vegetable canners. The labor code of Soviet Russia also includes a minimum wage for all employments, while in Italy minimum wage fixation was made a part of the Fascist variety of arbitration. Only the more essential facts about the legislation and experience of these countries can be summarized here.

New Zealand

Three main types of wage regulation are in operation in New Zealand—the fixing by law of generally applicable minimum rates of wages; the making of awards (including the fixing of minimum rates of wages) by the Arbitration Court as part of its function of settling disputes between employer and registered union of workers; and the fixing by law or by Order-in-Council, on the basis of agreements, of minimum rates for various classes of agricultural workers.

The legislation for the compulsory arbitration of industrial disputes, which is believed to have been the first of its kind in any country, was originally enacted in 1894. Various changes in the system were made from time to time, notably in the procedure for dealing with disputes by conciliation before their submission to arbitration and in the powers of the Court to extend the scope of its awards and to vary the rates of wages fixed in accordance with changes in economic conditions and in the cost of living. In essentials, however, the system remained unchanged until 1932, when an amending Act limited the jurisdiction of the Court to disputes referred to it by the almost unanimous consent of the parties concerned and to disputes in which women workers were involved. This change, which in effect substituted the voluntary

(3) The Minister of Labor issued a special order dated May 17, 1938, applying the Acts to the baking trade. Ministry of Labor Gazette, June, 1938, 246 Cf.

for compulsory arbitration and drastically restricted the Court's powers of fixing wages, was made at the instance of organized farmers and employers, who considered that the conditions of depression from which New Zealand was then suffering rendered necessary a greater degree of flexibility in wages and conditions of employment. The trade unions, which had looked to the Court for protection from the pressure for wage reductions which accompanied the depression, were opposed to this restriction of the Court's powers, and in 1936, shortly after the election of a Labour Government, the compulsory jurisdiction of the Court in unsettled disputes was restored. At the same time provision was made for the registration of unions and the making of awards covering entire industries throughout the country, and the Court was directed to fix basic rates of wages applicable to all workers covered by its awards, and adequate to enable a man to maintain a wife and three children "in a fair and reasonable standard of comfort".

The jurisdiction of the Arbitration Court has always been limited to disputes involving registered unions of workers. For unorganized workers a measure of protection has been afforded by the minimum wage provisions of the Factories Act, the Shops and Offices Act and the Agricultural Workers Act. Generally applicable minimum wages for factory workers were first fixed by the Employment of Boys or Girls without Payment Prevention Act of 1899, and were modified and extended by successive Factories Acts, the rates at present in force having been fixed by the Factories Amendment Act, 1936. Minimum rates of wages were first fixed under the Shops and Offices Act for shop assistants in 1904 (4) and for office assistants in 1936.

Minimum rates of wages for dairy farm-laborers were fixed for the first time by the Agricultural Workers Act, 1936, which links the level of wages in this industry to the level of prices guaranteed by the government for dairy products; and subsequently under the provisions of the same legislation minimum rates were fixed for other farm workers not covered by awards or agreements under the arbitration law.

Brief reference may be made also to a provision of the Finance Act, 1936, which cancelled the main wage reductions made during the preceeding depression by requiring the restoration of all rates of remuneration payable under Arbitration Court awards, industrial agreements, apprenticeship orders, and contracts of service to-

(4) The rates at present in force being those fixed by the amending act of 1936.

gether with the wages and salaries of public servants, to the levels current in the early part of 1931.

Legislation on point are: The Industrial Conciliation and Arbitration Act, 1925, as amended; The Factories Act, 1921-1922, The Shops and Offices Act, 1921-1922, and their Amendments; and The Agricultural Workers Act, 1936, as amended.

AUSTRALIA

The machinery of wage regulation in Australia is complex by reason of the dual control which results from a Federal Constitution. In addition to the Commonwealth system, there are the separate systems which operate in the various States, and problems of great difficulty have been created by the existence of conflicting or overlapping jurisdictions in the sphere of industrial relations. This particular aspect of the question of wage regulation is so wide, however, that it can only be mentioned in this study.(5)

The general methods on which the Commonwealth and State tribunals operate are in their broad outlines similar. In most cases a basic or living wage is declared, and on this foundation there is erected a complex superstructure of minimum rates for various occupations and grades of skill. The system is slightly different in the two states of Victoria and Tasmania, where Wages Boards operate. No living wage is declared by these tribunals, but of recent years they have been more and more influenced by the declarations of the Commonwealth Court; and since 1936 the Victorian Wages Boards have been required to incorporate the provisions of corresponding Commonwealth awards in their decisions, except where such provisions conflict with the laws of the State.

In addition to the system of regulation by special tribunals, which constitutes the main form of wage regulation in Australia, there are provisions in the legislation of certain States for statutory minimum rates of wages for workers in factories and shops. The practical effect of such statutory minima is, however, limited, since most of the workers concerned are entitled to higher rates under awards, agreements or determination sanctioned by the various tribunals.

(5) For detailed discussion of the problems reference may be made to Studies in the Australian Constitution (edited by G.V. Portus, Sydney, Angus Robertson, 1933); W. A. Holman: The Australian Constitution: Its Interpretation and Amendment; T. C. Brennan, K.C.; Interpreting Fix- Its Interpretation and Amendment; T. C. Brennan, K.C.: Interpreting Fixation of Wages in Australia (Melbourne University Press, 1929) Chapter VI; and O. de R. Foenander: Towards Industrial Peace (Melbourne University Press, 1937), pp. 28, 29, 271, et seq.

The first instance of wage regulation in Australia by special tribunals is found in Victoria, where a system of Wages Boards was set up in 1896. In 1892 Acts were passed in New South Wales providing for the voluntary submission of disputes to arbitration. These proved ineffective, and the broad lines of the present system were laid down in 1901. In South Australia and Western Australia wage regulation began in 1900; in Queensland in 1907, and in Tasmania in 1910. The Commonwealth Arbitration Court began to operate in 1905, and in 1907 occurred the first decision defining what constituted a living wage. Not for many years, however, did the State tribunals follow suit. The first living wage declaration in New South Wales was in 1914, in Queensland and South Australia in 1921 and in Western Australia in 1926.

From time to time various modifications have been made in the methods of wage regulation, as for example the introduction in the post-war years of the use of index numbers of retails prices for the automatic adjustment of basic and other minimum rates to changes in the cost of living.

Legislation At Present In Force: The Commonwealth Conciliation and Arbitration Act, 1904-1934, as amended; The Arbitration (Public Service) Act, 1920-1934; The Industrial Peace Acts, 1920; The Acts providing for wage regulation in the various states by special tribunals are as follows:

NEW SOUTH WALES:	— The Industrial Arbitration Acts, 1912-1937
VICTORIA:	— Factories and Shops Acts, 1928-1936.
QUEENSLAND:	— The Industrial Conciliation and Arbitraiton Acts, 1932-1937.
SOUTH AUSTRALIA:	— Industrial Arbitration Act, 1912-1925.
TASMANIA:	— The Wages Boards Act, 1920, as amended.

GREAT BRITAIN

The first statutory application of the minimum wage principle in Great Britain was effected by the Trade Boards Act of 1909, passed after more than twenty years of agitation for the suppression

of "sweating." This Act, providing for the setting up of Trade Boards in certain industries where wages were found to be abnormally low, originally covered the four trades of readymade and wholesale bespoke tailoring, paper-box-making, machine-made lace and net finishing, and chain making; provision was, however, made for an extension of the scope of this machinery to other indutries by means of a Provisional Order subject to confirmation by Parliament, and in 1913 the Act was thus extended to the trades of sugar confectionery and food preserving, shirt making, hollow-ware making, tin-box making and linen and cotton embroidery.(6) About half a million workers were employed in these nine trades.(7) During the war period the wages of employees affected by Trade Boards were either governed or influenced by the Statutory Orders of the Ministry of Munitions; in consequence Trade Boards were thus, for practical purposes, temporarily superseded in certain trades. Towards the end of the war, however, two Committees recommended that the machinery of the Act should be used to temper the inevitable post-war disorganization of industry and the accompanying fall of wages.(8) Partly for the purpose of bridging over the period before the wages of all ill-organized sections of the workers could be covered by Trade Boards or other wage-regulating machinery, the Wages (Temporary Regulation) Act, 1918, was passed. By this Act wages were stabilized for a short period at the rates payable at the date of the Armistice and became legally enforceable minima.(9)

The amending Trade Boards Act came into operations on October 1, 1918. Under this Act the Minister of Labour was empowered to extend the scope of the 1909 Act in industries where there was little or no organization of labour, by means of Special Orders not requiring specific parliamentary sanction.

During this period there was much talk of the establishment

(6) Parliamentary confirmation of the application of the Act to the laundry trade was at this time refused.

(7) This total includes workers in Ireland. Originally both the 1909 and the 1918 Acts applied to Ireland as well as to Great Britain. When the Irish Free State and the Legislature of Northern Ireland were constituted, the Irish Free State continued to apply the Acts without modification, but in Northern Ireland certain changes were made by the Trade Boards Act (Northern Ireland), passed in 1923.

(8) A. G. B. Fisher: Some Problems of Wages and their Regulation in Great Britain since 1918, London, 1926, p. 181. The two Committees were the Women's Employment Committee and the Reconstruction Committee (Second Report, Cd. 9002/1918).

(9) These stabilized wage rates were subsequently prolonged until 30 September 1920.

of a national minimum wage(10) and it is not surprising that the provisions of the new Act were promptly put into effect: in 1919, 14 Boards were set up and by 31 December 1921 a total of 63 Boards had been brought into existence, applicable to trades employing about 3,000,000 workers.(11)

By this time, however, the post-war depression had become a dominating factor in the economic life of the country; not only had the Draft Bill on Minimum Wages, laid before Parliament in August 1919, been abandoned, but the Government had announced that "it is desirable in the present circumstances to proceed with caution in the establishment of new Trade Boards."(12) Work on a number of proposed Boards ceased and it was thought necessary to appoint a Committee to inquire into the "Working and Effects of the Trade Boards Acts." The Report issued by the Committee (known as the Cave Committee) expressed the view that the operations of some of the Boards had contributed to the volume of trade depression and unemployment,(13) and recommended that the power of the Minister of Labour to apply the Acts to a trade to be confined to cases where he was satisfied (a) that the rate of wages prevailing in the trade or any branch of the trade is unduly low as compared with those in other employment, and (b) that no adequate machinery exists for the effective regulations throughout the trade.

Although no legislation was passed incorporating the recommendations of the Cave Committee, the Minister of Labour announced that he intended to limit the scope in accordance with the Committee's views, in so far as this could be done by administrative action. With regard to rates in trades already operating under the Acts, he promised to "bear in mind" the recommendation that rates for skilled workers should be set by agreement of the employers and employees and enforced only by civil action.(14) Only five new

(10) Report of Provisional Joint Committee presented to the Industrial Conference, H. M. S. O., London Cmd. 501/1920, pp. 8, 9. The principle "that minimum rates of wages should in all industries be made applicable by law" was accepted by the Prime Minister. See U. K. Ministry of Labour: Report on Conciliation and Arbitration, 1919 (London, H.M.S.O., Cmd. 221/1920, p. 42).

(11) U. K. Ministry of Labour: Report of Committee of Enquiry into Working and effects of the Trade Board Acts (London, H.M.S.O. Cmd. 1645/1922, pp. 10, 54, 55).

(12) U. K. Parliamentary Debates, Commons, 13 April 1921, 5th Series, Vol. 140, col. 1092.

(13) U. K. Ministry of Labour: Report of Committee of Enquiry into the Working and Effects of the Trade Board Acts (London, H.M.S.O. Cmd. 1645/1922, p. 22).

(14) U. K. Ministry of Labour: Statement of Government's Policy on the Administration of the Trade Boards Acts (London, H.M.S.O., Cmd. 1645/1922).

trades have been brought under the Acts since 1921 and one trade, that of grocery, has been withdrawn from their jurisdiction. Nineteen of the original Boards had been concerned only with Ireland, so that at the end of August 1938 the number of trades covered in Great Britain stood at 48. The number of workers covered at the end of 1935, when the number of Boards was 47, was estimated at 1,134,870, of whom about 73 per cent, were women.(15)

Apart from the Trade Boards Acts, the most important application of the minimum wage principle has been in the sphere of agriculture. The Corn Production Act of 1917 guaranteed to farmers a minimum price for certain corn crops and provision was at the same time made for the constitution of an Agricultural Wages Board. Although the main purpose of the Act was to encourage production, its benefits were thus extended to the agricultural worker. Pending the fixing of minimum wage rates by the Board, a universal minimum of 25s. a week was laid down to act as temporary protection to the worker during the period of initial negotiation. This machinery, which applied to Scotland as well as to England, was abolished in October 1921, when the subsidies to farmers were withdrawn. The Repeal Act substituted a system of Conciliation Committees were only given legal sanction in cases where the Minister of Agriculture was requested to register the agreement. Only six of the 63 Committees which were set up requested such registration to be and, consequently, the great majority of agreements reached were not legally binding upon either side. It is generally agreed that this system of Voluntary Conciliation Committee did not enjoy any marked degree of success.(16)

In view of the rapid fall in agricultural wages, State regulation was again applied three years later. By the Agricultural Wages (Regulation) Act of 1924 the Minister of Agriculture was empowered to establish an Agricultural Wages Committee for each country in England and Wales and an Agricultural Wages Board for the whole country. Under this Act, unlike the system established under the Corn Production Act of 1917, wages are fixed locally—the Central Board can only act if the local Committees fail in their duty—and no provision is made for agricultural workers in Scotland or Northern Ireland. The original intentions, it may be noted, was that

(15) U.K. Ministry of Labour: Report for the Year 1935 (London, H.M.S.O., p. 127).

(16) U. K. Ministry of Agriculture and Fisheries: Report of Proceedings under the Agricultural Wages (Regulation) Act, 1924, for the Two years ending 30th September 1930 (London, H.M.S.O., 1931), p. 19.: G. Williams: The State and the Standard of Living (London, 1936) pp. 123, 124; E. M. Burns: Wages and the State (London, 1926), pp. 96, 97.

Scotland should be covered, as well as England and Wales, but the organized Scottish agricultural workers believed that they could obtain better terms by voluntary bargaining than could be secured under the Act, and at their express wish Scotland was excluded. By 1935, however, it had become clear both that the system of voluntary agreements afforded insufficient protection in time of depression, and that the Agricultural Wages (Regulation) Act had worked well in England and Wales; and the Scottish workers had come to favour the establishment of a similar system of regulation in Scotland. A Committee was accordingly appointed in 1936 to inquire into the conditions of agricultural workers in Scotland. This Committee reported that the collapse of the system of voluntary agreements, which had worked fairly well until the depression of the early thirties, had resulted in a considerable fall in wages; they had, therefore, "come unhesitatingly to the conclusion that there is a direct and immediate need for the introduction by statutes of some form of machinery for securing the proper regulation of wages and conditions of employment."(17) The Committee therefore recommended that the application of the Agricultural Wages (Regulation) Act, 1924, should, subject to one or two alterations, be extended to Scotland. The Committee's recommendation, which had the support of the organized Scottish agricultural workers. was accepted by the Government and was put into effect by the Agricultural Wages (Regulation) (Scotland) Act, 1937.

Minimum-wage legislation has also been applied in the Coal Mines (Minimum Wage) Act of 1912, the Coal Mines (Minimum Wage) Act (1912) Amendment Act, 1934, the Cotton Manufacturing Industry (Temporary Provisions) Act, 1934, and the Road Haulage Wages Act, 1938. The purpose of the Coal Mines (Minimum Wage) Act was to protect the wages of miners working in abnormal places rather than to lay down a minimum for the industry as a whole; the Cotton Manufacturing Industry (Temporary Provisions) Act introduced machinery for giving legal effect to rates of wages agreed upon by the organizations of employer and workpeople in the industry; and the Road Haulage Wages Act, 1938, provided for the regulation of the wages of road haulage workers by Ministerial Orders based on Wages Board proposals or by decisions of joint bodies for the settlement of disputes or of the Industrial Court.

The provisions of those laws which are at present in force in the United Kingdom are summarized below. No account of State

(17) U. K. Scottish Offices: Reports of the Committee on Farm Workers in Scotland (London, H.S.M.O., Cmd. 5217/1936, p. 30).

Control of minimum wages would however, be complete, without some mention of the Fair Wages Clause which arose out of a Resolution in the House of Common in 1909. By this Resolution Government contractors must "under the penalty of a fine or otherwise, pay rates of wages, and observe hours of labour, not less favourable than those commonly recognized by employers and trade societies... in the trade in the district where the work is carried out". If the Clause is violated firms are struck off the list of those invited to tender by the Government. The Fair Wage Clause has also been adopted by Local Authorities.

An interesting development in connection with the payment of "fair wages" is to be found in the British Sugar (Subsidy) Act, 1925, which requires that the wages paid by employers in connection with the manufacture of sugar or molasses in respect of which a subsidy is payable shall not be less than would be payable under a Government contract containing the usual "fair wages" clause. Similar provisions relating to employers engaged in the transport of passengers or goods by roads are contained in the Road and Rail Traffic Act, 1933.

Legislation at present in force: The Trade Boards Act, 1909 and 1918; The Agricultural Wages (Regulation) Act, 1924; The Agricultural Wages (Regulation) (Scotland) Act, 1937; The Cotton Manufacturing Industry (Temporary Provisions) Act, 1934.

United States of America

Introduction

Minimum-wage legislation in the United States is concerned almost entirely with private industry. Until recently its application has been confined to women and minors. It has been presented for the most part by State rather than by Federal laws. This, however, has not been the case exclusively, as a few Federal measures have been attempted to deal with the regulation of wages. With the passage by Congress of the Fair Labor Standards Acts of 1938 a new chapter in the history of minimum-wage legislation is opened and the role of Federal action becomes vastly more important.

History of Legislation

Minimum-wage legislation has had a stormy course in the United States, in which court action, economic depression, and public opinion have been prominent factors. This has been the case both with the early legislation and with the more recently enacted laws.

Early Legislation

The first minimum-wage law in the United States was the "recommendatory" measure passed by Massachusetts in 1912. This measure provided for a Minimum-wage Commission authorized to establish wage boards for separate occupations and to recommend minimum rates of wages for the women and minors employed in those occupations, the rates to be based on the findings of the wage boards. In making their findings, the wage boards were required to take into account the cost of living for working women and the financial condition of the industry.

Enactment of this measure was part of the movement for progressive legislation which characterized the early part of the twentieth century. It was a result of public opinion aroused over the disclosure in the published reports of an investigation made by the United States Department of Commerce and Labor about this time of the low wages paid to women and children. Public opinion was also influenced by the passage in 1909 of the British Trade Boards Act.

Two features which have characterized much of the subsequent minimum-wage legislation in the United States were found in this original Massachusetts measure. These were: first, the principle of wage protection based on the cost of living for those workers whose bargaining power was weakest; and second, recognition of society's responsibility to help in meeting the problem through provision of representation of the public, employers, and workers on the wage boards established to recommend minimum rates for different occupations.

In the following year, 1913, eight other States enacted minimum-wage laws. All of these, with the exception of the Nebraska law, were of the "mandatory" type; that is, the minimum rates of wages fixed became legally binding. During the succeeding decade eight more laws were enacted, all of which were "mandatory". Two laws, however, those of Nebraska and Texas, were repealed during this time. There were therefore only 15 jurisdictions with minimum-wage legislation by 1923.

Effect of Court Opinions

Further development of minimum wage legislation was checked for a decade by Court opinions holding that mandatory minimum-wage laws based on the cost of living were unconstitutional. This

is one of the major influences that has shaped the course of minimum-wage legislation in the United States.

Before 1923, the courts have sustained minimum-wage legislation in the cases brought before them. The first serious setback to the legislation came in 1923 when the United States Supreme Court declared the minimum-wage law of the District of Columbia unconstitutional as applied to adult women. (*Adkins v. Children Hospital,* 261 *U.S.* 525 [1923]). This decision raised doubts as to the constitutionality of all similar legislation and made enforcement difficult, as administrative officials hesitated to prosecute violators, fearing that the issue would be taken to the courts and the law invalidated. The only law that was not endangered by this decision was the recommendatory Massachusetts law. This law, the constitutionality of which had been upheld by the highest State Court in 1918 (*Holcombe v. Creamer,* 231 *Mass.* 99,120 *N.E.* 354), was again upheld by the State Supreme Court in 1924 (*Commonwealth v. Boston Transcript,* 249 *Mass.* 477 [1924]), following the adverse opinion of the United States Supreme Court in the case involving the District of Columbia law. The Massachusetts Court, however, took this position because the State law at that time was recommendatory. Several other laws were declared unconstitutional.

In general, the effect of the adverse court opinons was a showing -up of the minimum-wage movement throughout the country. Enforcement in most of the States that still retained minimum-wage laws was possible only to the extent that the employers, workers and the public cooperated.

Effect of Depression

In 1933 there was a revival of interest in minimum-wage legislation as a means of meeting the wage cutting and sweat-shop conditions that occurred during the severe economic depression of 1930 and thereafter. As the result of a vigorous campaign in 1932-33 by a number of organizations interested in labour legislation, seven States in 1933 enacted minimum-wage laws.

Support for the movement was given by the passage in 1933 of the National Industrial Recovery Act, with its recognition of the principle of minimum wage as one of the factors of a fair labour code. Further assistance came through joint conference between Federal Labor Department officials and code administrators with State minimum wage executives. These conferences were intended to aid in formulating State standards and in securing an approach to uniformity in State procedure.

Federal Regulation

Only a few measures have been passed containing provisions regarding minimum wages. Of the six measures of this nature enacted up to July 1938, two were invalidated with respect to such provisions. These were the National Recovery Act and the Guffey Coal Act. The four remaining measures are the Public Contracts Act, the Merchant Act, the Sugar Act, and the Fair Labor Standards Act.

PHILIPPINES

The Minimum Wage was first made the subject of legislation in Section 5 of Commonwealth Act No. 103. Under said section, the Court of Industrial Relations is given the power upon the direction of the President, to investigate the conditions of the workers in a given industry or locality, and to establish minimum wages for such industry or locality to be effective upon the approval of the President of the Philippines. Since liberation, however, there has never been an instance in which the Court of Industrial Relations has been called upon by the President to perform this function mainly because it is already over-burdened with work concerning the settlement of industrial agrarian disputes. According to the Explanatory Note of Senate Bill No. 202 [18] the following reasons are stated:

> "The Court of Industrial Relations should be specialized agency for the settlement of industrial and agrarian disputes by means of arbitration and the work of fixing minimum wages, should properly be divorced from such function. For this reason, and the one mentioned above, this bill proposes to transfer the responsibility for fixing minimum wages from the Court to the Secretary of Labor and the wage boards to be established under it. The fixing of minimum wages is normally a function of a Department of Labor or a Ministry of Labor."

However, there are more compelling reasons which prompted Congress to enact Republic Act No. 602, otherwise known as the Minimum Wage Law. Foremost among these reasons is the lack of power of the Court of Industrial Relations to make determinations regarding terms and conditions of employment applicable to an enterprise other than that brought before said Court. An award or

(18) Amendment by way of Substitution to S. No. 202 by the Committee on Labor and Immigration, An Act to Provide for the Establishment of Minimum Wages for Agricultural and other Employees, and for the Enforcement of the Provisions thereof and for other purposes.

decision of this Court is binding only upon the parties to the court before it. Furthermore, it is generally believed that as the Court is actually constituted and considering the facilities at its disposal and the procedure it follows in handling labor disputes, it cannot fix a satisfactory minimum wage scale of general application. Finally, there is the crying need for the exercise of the coercive power of the State to set a floor wage as a consequence of industry's failure to provide a living wage sufficiently adequate to enable a worker and his family to live in common decency.

Perhaps, despite the existence of the aforementioned reasons, no minimum wage legislation would have been enacted were it not for the United States Economic Survey Mission's Reports, more commonly referred to as the Bell Report. The said report cited the fact that despite the very prosperous condition of agriculture and industry since the end of the war, "little of this prosperity has seeped through to the working forces". It therefore recommended that "the first step in ameliorating the economic position of workers is the prompt enactment of minimum wage legislation", with the purpose of improving the living conditions of the low salaried workers, "without reducing the supplements to income which agricultural workers now have". However, the same report admitted that "minimum wage legislation in itself will not solve the problem of inadequate wages; it will provide some relief only for the poorest paid workers".

Republic Act No. 602 has been enacted by the Congress of the Philippines to provide a remedy to the problems above mentioned and to fill the gaps existing under prior legislations, and in pursuance of the Bell Report recommendations. The Wage Administration Service, created by Republic Act No. 602 as the agency charged with its enforcement, in Interpretative Bulletin No. 1, states that "the law provides for basic statutory minimum wages for the workers. It also provides for improvements in the minimum wage in particular industries as economic conditions warrants through the machinery of wage boards".

The Explanatory Note of Senate Bill No. 202, which became Republic Act No. 602, after many changes and amendments, explains the choice of method of fixing the minimum wage, as follows:

> "There are three methods of fixing minimum wages: (a) by statute; (b) by wage board; and (c) by a combination of both methods. After careful consideration of existing circumstances and conditions, it is thought advisable to provide the third in this bill. This method serves the dual purpose of providing at once a basic floor under wages for all employees covered by the terms of the bill, and providing also a just and flexible procedure for setting more adequate minimum wages in industries and under conditions where such higher minima are warranted. The statutory component in the bill offers immediate benefits and protection of their subsistence to large numbers of wage earners. The fixing of such a basic floor in the bill has the greatest advantages of being specific and readily understood by those who thus become entitled to receive the minimum wages and by those who concurrently become obligated to pay it to their employees."
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> "The provision for wage boards to set minimum wages above the basic statutory rates adds flexibility to the bill. This authorization of a machinery whereby such adjustments can be made in minimum wages both as to the level of the wage and designation of the industries as to which it will apply, is an important element in minimum wage legislation. The bill provides for the operation of a wage board consisting of three representatives of the employers and three representatives of the employees in the industry, with a public member who represents impartially the public interest and who serves as chairman of the wage board.
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> "Only minimum wages are established under this bill. The essential need is to establish a floor under wages, representing the least amount necessary to maintain the health, efficiency, and well-being of the employees, in relation to the circumstances of their employment. The question of 'fair wages,' or of what is reasonable above the legal minimum, is left for determination through collective bargaining or voluntary agreement, between enlightened and fairminded parties at interest."

The validity of this legislation within this jurisdiction is beyond question in view of the constitutional provision with reference to protection to labor; to quote, the Constitution states that "the State shall afford protection to labor, especially to working women and minors, and shall regulate the relations between landowner and tenant, and between labor and capital in industry and in agriculture. The State "may provide for compulsory arbitration". Furthermore, "the promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State." (20) That minimum wages should be established for employees is a principle that is accepted in all civilized countries of the world. The enactment of Republic Act No. 602 is merely but a recognition of the principle underlying Section 5 of Commonwealth Act No. 103. The various deci-

(20) Art. II, Sec. 5, Constitution of the Philippines.

sions of the Supreme Court of the Philippines upholding the constitutionality of Section 5, of Commonwealth Act No. 103 may, therefore, be relied upon to sustain the validity of Republic Act No. 602.(21)

The Supreme Court of the Philippines, reiterating the doctrine announced in previous cases in upholding the constitutional validity of the fixing of minimum wages for workers by the Court of Industrial Relations in settling disputes before it, in the case of Leyte Land Transportation vs. Leyte Farmers and Laborers Union stated:

> "Indeed, the power in question was said to have been granted to the Court of Industrial Relations in virtue of the Constitutional mandates that 'the promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State' (Constitution, Article II, Section 5): 'the state shall afford protection to labor, especially to working women and minors, and shall regulate the relations between landowners and tenant, and in agriculture.' (Id., Article XIV, Section 6); 'the State may provide for compulsory arbitration.'"

Finally, it is not amiss to say at this point, that this important piece of legislation is a necessary prerequisite to the adoption of a much needed social security program in the Philipines. It is hoped that this legislation would go a long way in the social amelioration of the working masses, and to eventual achievement of a maximum economic welfare which is one of the chief objectives of any society.

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