

MAINE STATE LEGISLATURE

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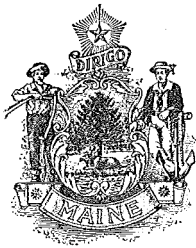
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STATE OF MAINE
RECESS COMMITTEE
REPORT

ON

WAGE AND HOUR
LEGISLATION

Presented to the
Ninetieth Legislature



January 23, 1941

REPORT OF RECESS COMMITTEE ON WAGE AND HOUR LEGISLATION

The Committee organized by the election of Senator Gail Laughlin as Chairman, and Representative G. Joseph Arzonico as Secretary, the Resolve creating the Committee having provided that the Committee select its own Chairman; organization having awaited the decision of the United States Supreme Court as to the constitutionality of the Federal Wages and Hour Law.

On December 5, 1940, a public hearing, which had been widely advertised, was held in the Hall of the House of Representatives at the State House at Augusta. At this hearing representatives of the State Federation of Labor, of the Congress of Industrial Organization, and of the Communist Party presented their views; an employer of labor also was heard and several representatives from various organizations of Business and Professional Women stated their views.

The representatives of both groups of organized labor advocated the enactment of a general wage and hour law which would fix a low minimum wage and a standard work week but with exemption for certain classes of labor, notably domestic and agricultural workers. The Secretary of the Communist Party advocated a law fixing a minimum wage for all classes of workers, including domestic and agricultural workers. The employer who spoke opposed any and all legislation regulating hours and wages. The representatives of the Business and Professional Women's Clubs stated that they and the organization which they represented, including the State Federation of Women's Clubs, stood for the principle that whatever law might be enacted, it should apply to men and women alike, as special legislation applying to women workers and not to their men competitors inevitably acted as a handicap to women and placed them at a disadvantage in competition with men workers. Also to one member of the Committee came abundant evidence that

when a minimum wage law in other states applied to women workers but not to men workers, many thousands of women lost their jobs by reason of the employment of men at a wage lower than the minimum wage fixed for women; and that when the work hours for women were limited, with no provision for overtime work, men workers, not subject to such restrictions and able to work overtime, usually at time and a half pay, were preferred and given employment.

Mr. Henry J. Hart, counsel for the Bangor and Aroostook Railroad, discussed wages and hour legislation generally and the provisions of the Federal Wage and Hour Act. There was considerable discussion by the members of the Committee and Mr. Hart concerning the jurisdiction of the Federal law in view of recent decisions of the United States Supreme Court as to scope of interstate commerce; also of how the provisions of the Federal law for employment for more hours than the standard work week at time and a half pay affected the unemployment situation. It developed that most workers preferred to work extra hours at the increased pay per hour than to limit their hours of work to the standard work week. Naturally this increased the number of the unemployed and evidenced the fact that in effect the fixing of a standard work-week provision for overtime is a wage regulation rather than a maximum hours regulation.

Mr. Hart also gave an illustration of the disadvantage to women of the existing law limiting the employment of women, but not of men, to fifty-four hours per week and nine hours per day, with no provision for overtime at either time and a half or at the regular rate, stating that when emergency conditions made overtime work necessary or desirable, women were likely to be displaced by men. He suggested that the present law be amended exempting from its provisions women engaged in executive, secretarial or professional work.

The Committee also received a number of written communications. There was a letter from a taxi driver stating that he worked eighty-four hours per week for a wage of \$10.00 per week. There were letters from workers in restaurants stating that they worked eighty hours per week for a wage of \$7.00 to \$8.00 per week and their meals. A

complaint came also concerning the hours and wages of clerks in retail stores.

Members of the Committee made personal investigation of conditions in their respective localities of the wages and work hours of workers. Evidence also came to some members of the Committee to the effect that in certain instances, where a minimum wage was fixed by law as a living wage standard, and where wages paid in some lines had been slightly higher than the minimum wage, the wages were reduced to the minimum wage level, so that while some workers were better off, others suffered.

The Committee learned of a situation which developed in a textile mill in this State, engaged in interstate commerce and so subject to the Federal Wages and Hour Act. Some elderly women and some younger women, previous to the Act, had been employed in the same class of work on a piece basis of payment. The young women earned from \$16.00 to \$18.00 per week. The older women had slowed up and earned only from \$7.00 to \$8.00 per week. However, they could get by on that, be self-supporting and be free from needing relief in the form of old age assistance or otherwise, and thus preserve their spirit of independence and self-respect. Under the minimum wage provisions of the Federal Act the younger women were not affected. Their earnings at the piece-work rate had been higher than the minimum wage rate; but with the older women it was different. They could not produce enough in the hours fixed to justify the minimum wage fixed. Therefore, they lost their jobs and their means of livelihood.

Maine, not being a highly industrialized State, it appeared by evidence before the Committee that there are many small enterprises in which there are only a few employees, or even only one employee, and the relation between employee and employer is largely personal, and the hours are fixed by personal arrangements, which would be adversely affected by a general wage and hour law.

The problem before the Committee simmered down to determining, if possible, how to secure the good of the greater number, and on that there proved to be widely divergent views. Every member of the Committee was in

favor of relief to the underpaid and overworked employees, if that could be accomplished without inflicting greater injury on other workers not so exploited and on employers of labor.

The following are the reports of the various committee members :

Report of Certain Members of the Committee

It is the opinion of the undersigned members of this Committee that a State minimum wage and hour law would not guarantee a fair and equitable adjustment for the following reasons :

1. Our conclusion is based upon an analysis of wage and hour legislation and its inherent weakness when imposed as a measure upon all types and kinds of employment. For illustration, the employee who is receiving a dollar an hour for forty hours a week and who receives time and a half overtime is probably a skilled worker and even at forty or forty-eight hours a week is able to produce sufficiently to warrant that pay and also the return at that rate would provide a comfortable living wage, but the unskilled worker whose hourly wage is thirty cents and who is only able to work forty hours a week is limited in his production by the limitation of the weekly hours and it would be difficult for one to conclude that \$12.00 a week would provide the necessities of life or its comforts to that worker without at least limiting the number of his or her dependents. The proponents of wage and hour legislation in its National aspect claimed two things could be accomplished by its adoption : A better standard of living for the employee and an increase in employment by making it possible to reduce the weekly hours of those gainfully employed. Recently before the United States Supreme Court another claim was advanced in behalf of this type of legislation by stating that it guaranteed a uniform price for goods produced. The first claim is not particularly substantiated when one considers that today under the Federal Act the minimum of \$12.00 for a full week's pay has been supplemented in many industries by a working agreement approved by the wage and hour Administrator in Washington providing for a higher mini-

mun in same industries. The second claim that such a measure would relieve unemployment could only be substantiated by a circumstance entirely unrelated to the Act in that the demand for the goods would increase and thereby require more goods or services to be needed for the supply. The last claim that wage and hour legislation provides a fair price for goods produced may exist in fact in some instances but it doesn't necessarily add anything to the first two claims of those who advocate this type of legislation, in that price fixing would either raise the standard of living of an employee or relieve unemployment.

2. A wage and hour law presumes the existence of a money economy which does not exist in the relationship of employer and employee in many parts of the State of Maine. For example, in some instances an employee in the State of Maine engaged in intrastate commerce may receive no money but will receive rent, food or other things of value. For instance, the clerk in the retail store, in addition to what may appear as a small weekly wage, may receive a discount on all merchandise purchased by that clerk for his own use or his immediate family on things bought at that store. A great many other illustrations could be used which would apply to other types of employment within this State.

3. A minimum wage law furnishes no guarantee that an existing higher wage may not be readjusted to a minimum established by law resulting in lower wages to the employee. Actual cases of employees receiving less money under the Federal Wage and Hour Law than formerly were brought to the attention of this Committee. Aside from the individual dislike by the majority members of the Committee for regulatory measures in a State and Nation still hopeful of retaining personal freedom and individual enterprise, the inventive genius and natural resources of this country still behold the willing entrepreneur, we entertain the opinion that a minimum wage and hour law is a sinecure for the indolent and a deterrent to the ambitious and apt worker.

4. In the opinion of the majority of the members of the Committee a wage and hour law which exempted all businesses other than a few wherein specifically low standards were maintained would not be upheld under our Constitu-

tion. It would be discriminatory legislation. To illustrate this more clearly, the Committee noted that the greatest number of complaints conspicuously related to the restaurant, laundry and retail businesses but under the police powers of the State it could not be said that the health and safety of the employees in those businesses was of any more concern than that of employees engaged in other employment within the State and therefore the discrimination would be fatal before the constitutional issue.

If one were to regulate the economics of life by law, it would necessarily be based upon a great many relationships such as a standard worker, a standard plant or a standard of equipment and a standard of resources and undoubtedly a standard of consumption at a standard price. The analysis of such an economy would show its obvious weaknesses when related to the things for which there is no standard or for which minds would conceivably differ in the definitive characteristics of descriptive standards.

The undersigned members of this committee are of the opinion, therefore, that a blanket wage hour law for the State of Maine is not feasible.

The recommendation for a method of establishing wages in specific industries upon complaint and hearing, which is contained in the report of certain other members of the Committee, we do not feel we can sign because of the fact that it seems to us that the same objections to a blanket wage hour law would arise in connection with a specific industry.

G. Joseph Arzonico
Frank A. Farrington

Report of Certain Members of the Committee

The undersigned believe that a blanket wage and hour law with certain specified exemptions is not feasible at this time. We believe, however, that relief for underpaid and overworked employees may be secured in another way which will not injure any workers or overburden any employer. We recommend that the Commissioner of Labor, whenever

any complaint is made to such Commissioner by at least five employees engaged in any business, industry or occupation, other than domestic or agricultural labor, or by at least ten disinterested citizens, that less than a living or adequate wage is paid to any employee in any such business, industry or occupation, or that the work week is excessive, shall forthwith provide for the creation of a committee, which committee shall consist of three representatives of the employers in such business, industry or occupation, to be appointed by the Commissioner from nominations submitted by such employers, three representatives of the employees employed in such business, industry or occupation, to be appointed by the Commissioner from nominations submitted by such employees, and three disinterested citizens to be appointed by the Governor; that said committee, after a public hearing and due investigation and consideration, shall determine upon a minimum wage, a standard of wages, and a standard work week with such provision for overtime as it shall agree upon, and shall report its findings to the Commissioner of Labor, which said report within fifteen days after the filing thereof shall become effective and be certified by such Commissioner under such procedure as shall be provided by law.

By this method we believe that relief will be afforded to those workers who are underpaid or overworked, without any disadvantage to other workers; while at the same time the expense to the State will be but a fraction of what the cost would be for the enforcement of blanket minimum wage and hour legislation.

Gail Laughlin, Chairman
Richard W. Gustin
Horace E. Howe

Report of John G. Marshall

It seems inadvisable to adopt a blanket minimum wage and hour law with exemptions. I do agree with the other members of the Committee who advocate legislation providing for means of fair bargaining between employee and employer as to standards of wages and weekly work hours.

I am opposed to a minimum wage law, as such, for the reasons set forth in the Committee report opposing wage and hour legislation, but I do believe that a fair means of collective bargaining has been proposed by the Chairman and other members of the Committee, and I recommend that legislation be adopted along that pattern, except for the minimum wage provision.

John G. Marshall