

FIRST YEAR MINIMUM WAGE LEGISLATION IN OKLAHOMA

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FIRST YEAR MINIMUM WAGE LEGISLATION IN OKLAHOMA

By

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E.R.J.

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HISTORY OF MINIMUM WAGE LEGISLATION

Theory

The theory of minimum wages applies to certain classes of low-wage workers. In the United States, for the most part, it has applied to women workers and minors. In the United States, at the present time, there are twenty-two states, Puerto Rico and the District of Columbia¹ that have minimum wage laws.

Minimum Wage Legislation is a step toward equalizing the bargaining power between employer and employees concerning wage rates. This legislation does away with the necessity of arbitration and conciliation, either compulsory or voluntary, after demands have been made by one party and refused by the other. The intervention of the state does away with the need of collective bargaining and secures for labor greater bargaining power. In most modern industrial communities there are still found great numbers of unorganized workers, seeking to better their circumstances, but apparently unable to do so. It is desirable, therefore, in most instances, to add legal force to wage demands. In most instances, it is urged that minimum wage shall not exceed worker productivity, but that it shall provide an adequate monetary return for relatively helpless workers. The theory involved would be the strengthening of bargaining power of labor and securing for it wages that are earned. Minimum Wage Legislation sets standards below which wages are not allowed to fall, thus securing for workers an adequate return for

¹ Women's Bureau U.S. Department of Labor, Washington Minimum Wage Laws and Orders, 1936-37, p. 1.

their services. In general, such legislation is designed to protect workers against the evils that are caused by low wages and low living standards.² The first nation to enact such legislation in an attempt to protect labor against low wage evils was Australia.

First Statutes

The first statute which can be recorded as the direct forerunner of the United States minimum wage legislation was an act passed in the province of Victoria in Australia by act of the provincial legislature in 1896. The primary act established minimum wages for only five specified occupations with no discrimination as to sex. Since that time frequent amendments have extended the powers of the original law. It now includes almost all types of workers except those employed in agriculture. Between 1900 and 1912 South Australia (1900), Tasmania (1910), and Queensland (1912) followed the example of Victoria. The remaining Australian provinces have since incorporated the principle of minimum wages in legal provisions for wage arbitration tribunals.³

England and most European nations have made some provisions for minimum wages. The first legislation in England, the Board of Trade Act of 1909, regulated only workers in very low-wage classes. It planned to establish wages for some 400,000 workers in eight vocational classifications. In 1918 the law was amended to the degree that it comprehended

² Dale Yoder, *Labor Economics and Labor Problems*, p. 391; John R. Commons, *Principles of Labor Legislation*, p. 43.

³ John R. Commons-Don D. Lescohier-Elizabeth Brandeis, *History of Labor in the United States, 1896-1932*, Vol. 3, pp. 501-539.

sixty occupations.⁴

The laws of most nations have not discriminated among workers upon the basis of sex. But the laws enacted by all states in the United States, with the exception of Oklahoma, have not included men engaged in private employment.⁵

History of Minimum Wage Legislation in The United States

The first legislative action pertinent to minimum wages in the United States was taken in 1911, by the legislature of Massachusetts, which authorized the appointment of a commission to investigate the condition of wage earners. One year later Massachusetts passed the first minimum wage law in the United States. The law applied only to female workers and minors under eighteen years of age. Other states shortly adopted minimum wage laws.

In 1913 California, Minnesota, Colorado, Oregon, Nebraska, Utah, Wisconsin, and Washington passed minimum wage laws for women and minors. It appeared that workers would soon be assured a living wage throughout the country by legislative action.

But such legislative status was not yet to be achieved. Only two states passed minimum wage legislation in 1915, Arkansas and Kansas. Arizona followed in 1917, District of Columbia in 1918, Porto Rico in 1919, and South Dakota in 1923. Immediately following the South Dakota Law, came a stunning blow by an adverse decision of the United States

⁴ Dale Yoder, op. cit, pp. 391-395.

⁵ John R. Commons-John B. Andrews, Principles of Labor Legislation, p. 57.

Supreme Court on the question of constitutionality.⁶ The *Adkins vs. Children's Hospital* case ruled minimum wage laws unconstitutional. The court held that the fixing of minimum wages for adult women, in any occupation in the District of Columbia, such standards to be based wholly upon what a board and its advisors may determine as an adequate wage to meet the necessary cost of living for women workers in each particular calling and to maintain them in good health and protect their morals, constitutes the deprivation of the liberty to contract without due process of law. Therefore, the law is an unconstitutional interference with the liberty of contract.⁷ After 1923, six other minimum wage laws were declared unconstitutional on the basis of the *Adkins vs. Children's Hospital Case*, only the Massachusetts non-mandatory law being upheld. From 1923 until 1933 minimum wage legislation was greatly retarded by continuous challenges upon its constitutionality.

In 1933 minimum wage laws were passed in Connecticut, Illinois, New Hampshire, New Jersey, New York, Ohio and Utah. Utah in 1929 repealed its law passed in 1913.

These measures were the product of a new minimum wage movement resulting from the depths to which women's wages were driven by depression conditions, and led (in all the states except Utah) by Nation Consumer's League, which prepared a new model "minimum fair wage" bill drafted to meet the U. S. Supreme Court decision against the constitutionality of the old minimum wage laws based on the living principle. The new model bill followed in all the 1933 laws except that passed in Utah--substituted for the living wage principle of the old legislation a minimum fair wage based on the reasonable value of the services rendered, with wage boards

⁶ John R. Commons--Don D. Lescohier- Elizabeth Brandeis, op. cit. pp. 503-504.

⁷ U. S. Supreme Court Reports, *Adkins vs. Children's Hospital*, Vol. 261, pp. 525-553.

to determine such reasonable value. The New York law was passed in March, 1933. President Roosevelt shortly after his inauguration personally urged the governors of 13 industrial states to secure the enactment of similar measures. For President Roosevelt's letter see the New York Times, April 13, 1933, p. 1.⁸

State governments were not the only jurisdictions interested in minimum wage legislation. A broader experiment in minimum wage legislation was the enactment by Congress of the National Industrial Recovery Act of 1933. In its 579 codes minimum wage rates were set up in each industry for men as well as for women and minors. The entire law was declared unconstitutional by the United States Supreme Court in 1935.

Up to the present time, Federal Legislation has made but little progress; but state governments have made marked advances. Jurisdictions having minimum wage laws are Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Illinois, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Utah, Washington, and Wisconsin. The laws in all but five of these jurisdictions apply to women and minors; those in Arkansas, Nevada, Puerto Rico, and South Dakota cover only females; the legislative enactment of Oklahoma applies to men, women, and minors.⁹ The Oklahoma law was the first state minimum wage law to include men as well as women.¹⁰

⁸ John R. Commons- Don D. Lescohier-Elizabeth Brandeis, loc. cit.

⁹ Women's Bureau U. S. Department of Labor, loc. cit.

¹⁰ John R. Commons, John B. Andrews, loc. cit.

These newly enacted laws were subjected to tests determining their constitutionality in 1936-37 by the United States Supreme Court.

The New York Law, in June 1936, was invalidated by the Supreme Court, in a five-four decision, citing the Adkins case as precedent.¹¹ In April 1937, the same court upheld the Washington "living wage" law by a five-four decision, and declared the Adkins decision "over-ruled." The decision of the United States Supreme Court regarding West Coast Hotel Co. vs. Parrish Case was that deprivation of the liberty to contract without due process of law was unconstitutional. However, restraint or regulation of such liberty, if reasonable in relation to its subject, and if adopted for protection of the community against evils menacing health, safety, morals and welfare of the people, was declared to be due process of law. This reversed the Adkins decision and declared minimum wage legislation constitutional.¹² The Federal Attorney General, on the basis of this decision, declared the District of Columbia Act to be in full effect. In accordance with this ruling of the court, New York reenacted her law. By June 1, 1937, new laws were enacted in Nevada, Pennsylvania, and Oklahoma.

¹¹

Morehead vs. People ex rel. Tipaldo, 56 Sup. Ct. 918 (1936).

¹²

West Coast Hotel Co. vs. Parrish, Supreme Court Reports, October Term, 1936, Vol. 300, pp. 379-391.

HISTORY OF MINIMUM WAGE LEGISLATION IN OKLAHOMA

Oklahoma made its first notable progress in Minimum Wage Legislation on April 22, 1937 when Senate Bill No. 399 became a law. The Senate Bill was originated by:

Broadus, Nichola, Chamberlin, Briggs Mauk, Taylor, Wright, King, Burns, and Barry of the Senate, and Schwoerke, Carleton, Billings, Gibbons, Gregory, Hunt, (Pittsburg), Beard, Peterson, Blumhagen, Hunt, (Osage), Ducan, Montgomery, Allen, Freeman, Hill, Moffett, Jones, (Carter), Hammond, Swan, Coe, Norris, Raasch, and Jones, (Dewey), of the House.

Section 3 of Senate Bill No. 399 created a commission to be known as the "Industrial Welfare Commission" which was to establish standards of wages and conditions for men, women and minors employed within the State of Oklahoma.

The Commission is composed of three members: E. W. Marland, Governor; W. A. Pat. Murphy, Commissioner of Labor and Director of the Industrial Welfare Commission; and Andrew Fraley, Chairman of the Commission. This Bill is an Act:

Prohibiting the employment of men, women or minors in any industry or occupation which is within this state under conditions of labor detrimental to their health and morals; prohibiting the employment of women workers in any industry within this state at wages which are not adequate for their maintenance; creating a commission to be known as the "Industrial Welfare Commission"; giving said commission powers to promulgate rules and regulations and to do all necessary things to effectuate the provisions of this act; prescribing penalties and setting up modes of procedure and making an appropriation therefore; making the provisions of this act severable; and declaring an emergency.²

¹ State of Oklahoma, Senate Bill No. 399, p. 3.

² Ibid.

FORM QUESTIONNAIRES AND PUBLIC HEARINGS¹

Laundry and Dry Cleaning Industries

In accordance with the provisions of Senate Bill No. 399, creating what is known as the Industrial Welfare Commission², Mr. W. A. Pat Murphy, was selected as Director at the first meeting of the Commission.

In order to ascertain the wages and conditions of women and minors, a survey of various occupations, trades and industries in which they are employed was to be made.³ The first of these industries toward which the Commission directed its attention was the Laundry and Dry Cleaning Establishments. A form questionnaire was made, together with a letter and copy of the law, which was mailed to 806 companies or individuals engaged in these industries located within the state. Owners or operators were requested to fill out the questionnaires, classifying the number of employees, wages paid, hours worked and conditions of the establishment. The results of these questionnaires, as compiled, are set forth in Table One. It was necessary that a further survey be made which would determine the average weekly expenditures of women workers in the State of Oklahoma.

¹ The materials used in this section of the study were furnished by the Industrial Welfare Commission. The materials are a matter of public records on file in the office of the Commission, room 441 Capitol Building, Oklahoma City, Oklahoma.

² Senate Bill No. 399, Section 4, See Appendix A.

³ Ibid., Section 5, See Appendix A.

TABLE ONE ⁴Average Weekly Hours and Wages in Laundry and Dry CleaningIndustries (208 enterprises)Laundry Industry (66)

	Number	Average hours	Average wage
Males employed	549	53	\$17.85
Females employed	1423	49	9.67

Dry Cleaning Establishments (142)

	Number	Average hours	Average wage
Males employed	291	52	\$16.94
Females employed	136	49	13.31

⁴ Public Records, On file in Office of Industrial Welfare Commission, data taken from reports of questionnaires as compiled by Erle Bryan, Executive Secretary, Room 441 Capitol Building, Oklahoma City, Oklahoma.

Under the provisions of the Minimum Wage Law ⁵, a survey of the cost of living was made, as a basis for determining the minimum wage in Oklahoma that would maintain a self-supporting woman in decency and in health (See Table Two). A further analysis of minimum wages was used by the Commission, this analysis being made by Dr. George Gallup, Director of the American Institute of Public Opinion. The findings of the Oklahoma survey and the analysis made by Dr. George Gallup will be found

⁵ Senate Bill No. 399, Sections 3 and 5, See Appendix A.

TABLE TWO

The Necessary Average Weekly Expenditures for Women Workers
in Oklahoma⁶

Meals	\$ 7.00
Room	3.00
Clothing	4.25
Transportation	.90
Books, Papers, Picture Shows	1.00
Religious Education (such as Sunday Schools, Churches, etc.)	<u>1.00</u>
Total per week.	\$17.15

(This report does not include Community Chest Fund, Insurance, Doctor Bills and Medicine which should be considered in establishing a minimum wage.)

"How Much Income Does Average Family Need"⁷

	Median weekly amount for decency
Professional and white-collar workers	\$35
Merchants and business men	35
Skilled laborers	35
"Lower-third"	23
U. S. Average (median)	30

⁶ Public Records, On file in Office of Industrial Welfare Commission. This survey was made by the Commission over a period of months, but the food and clothing reports are for the month of July, 1937. Data for this table may be found in Room 441 Capitol Building, Oklahoma City.

⁷ Dr. George Gallup, The Daily Oklahoman, Sunday, July 11, 1937. The article was entitled "How Much Income Does Average Family Need." The Median amounts used were taken from important population groups throughout the United States.

in Table Two. In comparing Table One with Table Two the reader will observe a considerable degree of disparity between wages received and wages needed to meet necessary expenditures.

A comparison of these tables reveals that the average weekly wage for women in the Laundry Industry is approximately forty per cent below that needed to maintain the conditions of the law, while men in the Laundry Industry are receiving approximately the minimum wage. Women in the Dry Cleaning Establishments are receiving wages nearly twenty-five per cent below average wage needed to maintain health and morals, although men in the Cleaning Establishments are receiving wages only slightly below the minimum. The maximum working hours per day and week were determined by the Conference Committees. The maximum working hours for all industries will be discussed in the section entitled Conference Committees. After compiling the reports of the Laundry and Dry Cleaning Establishments, The Commission secured public testimonials to validate the results.

In accordance with the provisions of the Law ⁸, the Commission mailed a notice of Public Hearings to the Laundry Association, Dry Cleaners Association, Union Organizations and representatives of employees. It also mailed personal letters to approximately twenty-five individual owners and operators and to one hundred fifty daily and weekly newspapers.

Public Hearings were held July 1, 1937 and July 15, 1937, in the House of Representatives, of the State of Oklahoma. Fifty-six witnesses testified for employers and employees. A record of 118 pages was transcribed, which publicly validated the reports of the questionnaires. As a

⁸ Senate Bill No. 399, Section 8, See Appendix A.

result of the Public Hearings, employers of the Laundry Industry were prompted to lend further assistance in finding facts concerning the living conditions of laundry workers.

The employers of the Laundry Association, which represents seventy-five per cent of the employees in the State of Oklahoma, volunteered to mimeograph an individual employees' questionnaire and to give the employees an envelope, addressed and stamped, to be filled in and mailed to the Industrial Welfare Commission direct by employees. The Commission received over five hundred of these questionnaires. An analysis of these reports discloses averages as found in Table Three.

A comparison of Table Three with Table One discloses that the average expenditure of one person as shown in Table Three is approximately thirty per cent above the average income of female Laundry Workers. The income of male workers is, however, approximately thirty per cent above the necessary expenditures of Table Three; although averages for one person in a family of three or four indicate that incomes are far below that necessary for needed expenditures. A comparison of Table Two with Table Three clearly shows that the income of Laundry Workers is inadequate to maintain them in health and decency.

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TABLE THREE

Average Weekly Expenditures for Laundry Workers

	(one person)	(two persons)
Rent	\$ 4.10	\$ 4.32
Food	5.05	6.80
Lights	.25	.65
Fuel	.25	1.72
Clothing	2.62	3.40
Transportation	.98	1.05
Insurance	<u>.24</u>	<u>.49</u>
Total	\$13.49	\$18.43

	(three persons)	(four persons)
Rent	\$ 4.13	\$ 3.78
Food	7.50	6.35
Lights	.60	.49
Fuel	.86	.45
Clothing	1.67	1.53
Transportation	.92	.93
Insurance	<u>.48</u>	<u>.95</u>
Total	\$15.16	\$13.48

1/3 of \$15.16 being average
for one person per week----- \$5.53

1/4 of \$13.48 being average
for one person per week----- \$3.37

⁹ Public Records, On file in Office of Industrial Welfare Commission,
Room 441, Capitol Building, Oklahoma City, Oklahoma.

Automobile Dealers, Garages and Filling Stations

After completing a survey of working conditions in the Laundry and Dry Cleaning Industry, the Commission made a study of comparable data pertinent to Automobile Dealers, Garages and Filling Stations. The regular form questionnaire was mailed to thirteen hundred ninety two Automobile Dealers, Garage Owners and Filling Station Operators. Results of the questionnaires are found in Table Four.

A comparison of Tables Two and Four reveals that mechanics and office employees are not receiving wages below the state minimum, but they are somewhat lower than the U. S. Average shown in Table Two. Porters are receiving wages from twenty to forty per cent below state minimum, while attendants are receiving wages between ten and twenty per cent below minimum. The wages of all workers in this industry are not insufficient, but approximately forty per cent of them are. Validity of these questionnaires, in accordance with the provisions of the Law, was secured by public testimonials.

A Public Hearing was held on July 19th and 20th, 1937, in the House of Representatives, of the State of Oklahoma. The method used in giving notice of public hearings in all industries was the same as that used in the first industry. Twenty-nine witnesses testified for employers and employees. A fifty five page record was transcribed, which confirmed reports of the questionnaires.

TABLE FOUR ¹⁰

Average Weekly Hours and Wages in the Automobile
Dealers, Garages and Filling Stations

Automobile Dealers in Oklahoma City and Tulsa (15 enterprises)

	Number	Average hours	Average wage
Mechanics employed	148	48	\$29.77
Office employees			
Males	30	51	26.66
Females	43	50	24.75
Porters employed	57	54	13.91

Towns less than 40,000 in population (39)

	Number	Average hours	Average wage
Mechanics employed	123	56	\$21.53

Towns less than 40,000 in population (24)

Attendants employed	52	59	13.60
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Towns less than 40,000 in population (14)

Office employees			
Males	14	54	\$19.73
Females	9	48	18.54

Garage Owners and Operators in Oklahoma City and Tulsa

	Number	Average hours	Average wage
Attendants employed	80	68	\$13.24
Porters employed	15	68	10.68

Filling Stations Throughout the State

Attendants employed	58	67	\$15.42
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10

Public Records, On file in Office of Industrial Welfare Commission, data taken from reports of questionnaires as compiled by Erle Bryan, Executive Secretary, Room 441 Capitol Building, Oklahoma City, Oklahoma

Wholesale and Retail Mercantile Establishments

The Wholesale and Retail Mercantile Establishments were the next industries of which a survey was made. The regular form questionnaire, together with form letter and a copy of the law, was mailed to 3140 Wholesale and Retail Mercantile Establishments. Computations of the questionnaires are set forth in Table Five.

TABLE FIVE ¹¹

Average Weekly Hours and Wages in Wholesale and Retail
Mercantile Establishments (861 enterprises)

	Number	Average hours	Average wage
Males employed	3735	57	\$16.22
Females employed	1374	51	\$13.56

¹¹ Public Records, On file in Office of Industrial Welfare Commission, data taken from reports of questionnaires as compiled by Erle Bryan, Executive Secretary, Room 441 Capitol Building, Oklahoma City, Oklahoma.

A comparison of Table Two with Table Five indicates that male workers are receiving wages slightly below minimum, while female workers are receiving wages approximately twenty five per cent below minimum. Public testimonials were used in verifying the results of the questionnaires.

The third Public Hearing was held July 26, 1937, in the House of Representatives, of the State of Oklahoma. Forty one witnesses testified for employers and employees. A seventy seven page record was transcribed,

which sustained the reports of the questionnaires.

Wholesale and Retail Drug Industry

Upon completion of the survey of the Wholesale and Retail Mercantile Establishments, a survey of the Wholesale and Retail Drug Industry was to follow. The regular form questionnaire and a copy of the law were mailed to eight hundred forty three establishments. The results of these questionnaires are found in Table Six.

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TABLE SIX

Average Weekly Hours and Wages in Wholesale and Retail
Drug Industry (145 enterprises)

	Number	Average hours	Average wage
Males employed	631	66	\$26.99
Females employed	108	66	\$26.99

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Ibid.

A comparison of Table Two with Table Six indicates that wages on a whole in this industry are no lower than the minimum wages provided for by the Law.

Since public testimonials were needed to validate the results of the questionnaires, a Public Hearing was held on August 2, 1937, in which only registered pharmacists participated. Twenty three witnesses testified at this hearing for employers and employees. A sixty five page report was recorded for the hearing. Testimonials revealed that some registered pharmacists worked from twelve to fifteen hours per day, seven days a week,

and at a wage as low as \$60.00 a month. These testimonies showed that the questionnaires were not valid as to wages received by registered pharmacists. A comparison of the testimonials with Table Two indicates that registered pharmacists not only receive wages below state minimum; but that they receive wages that are at least fifty per cent below the average wage of professional and white-collar workers.

Another public Hearing was held August 9, 1937, in which other employees of the drug industry participated. Twenty five witnesses testified for employers and employees. A ninety page report was recorded, which publicly validated the questionnaires pertaining to the majority of employees in this industry.

Restaurants, Taverns, Hotels and Other Institutions of

This Character

The fifth industry to be surveyed was Restaurants, Taverns, Hotels, and Other Institutions of This Character. The regular form questionnaires, together with form letters and a copy of the law, was mailed to 1359 establishments of this nature. Results of these questionnaires are found in Table Seven.

A comparison of Table Seven with Table Two discloses that wages in these establishments range from twenty to fifty per cent below State minimum. The average wage of this industry as compared to the U. S. Average of Table Two is at least fifty per cent below and in most cases sixty to seventy per cent below.

For purposes of validation in Public Hearing was held August 23, 1937,

in the House of Representatives, of the State of Oklahoma, regarding Restaurants, Cafes, Cafeterias, and Taverns. Fifteen witnesses testified for employers and employees. A fifty-page record was transcribed in which the questionnaires were validated.

The next Public Hearing regarding the Hotel Establishments of this industry was called August 24, 1937. Twenty-nine witnesses testified for employers and employees. A ninety three page record was transcribed, which confirmed the reports of the questionnaires.

The last Public Hearing regarding Office Buildings of this industry was called August 27, 1937. A five page record was transcribed, which validated the questionnaires (see Table Seven). The data which have been considered in this phase of the discussion were presented to the Conference Committees, together with other data secured by the Commission pertinent to wages and hours.

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TABLE SEVEN

Average Weekly Hours and Wages in Restaurants, Cafes,
Cafeterias and Taverns (104 enterprises)

	Number	Average hours	Average wage
Males			
Cooks	137	64	\$14.95
Dishwashers	110	61	7.59
Females			
Cooks	41	52	\$11.92
Dishwashers	11	51	6.88
Waitresses	387	49	7.80

(TABLE SEVEN CONTINUED)

Average Weekly Hours and Wages in Hotel Industry (88 enterprises)

	Number	Average hours	Average wage
Males			
Clerks	68	68	\$15.78
Cooks	49	64	13.25
Waiters	33	63	7.93
Chefs	11	67	28.86
Porters and bellboys	231		
Porters		68	7.00 (plus
Bellboys		64	6.83 tips)
Females			
Maids	61	48	7.22
Housekeepers	14	56	11.84
Cooks	88	53	7.56
Waitresses	88	63	7.56

Average Weekly Hours and Wages of Workers in Office Buildings (50 enterprises)

	Number	Average hours	Average wage
Males			
Janitors	121	48	\$17.43
Elevator operators	61	48	16.23
Females			
Janitresses	60	48	13.63
Elevator operators	17	48	15.61

CONFERENCE COMMITTEES

Rules and Procedures

In the phase of the discussion just completed, data set forth in Tables One to Seven have shown that wages in Oklahoma industries as a whole are inadequate. The phase of the discussion which follows will concern itself with the character and function of the Conference Committees.¹

Rules governing the appointment and procedure of the Conference Committees, as prescribed by the Industrial Welfare Commission, are:

1. Number of Members. A Conference Committee shall consist of eight (8) members, besides the Chairman of the Industrial Welfare Commission, who shall act as Chairman of the Conference Committee, three (3) of said members representing employers, three (3) of said members representing employees, and two (2) of said members representing the public.
2. Chairman. The Chairman of the Industrial Welfare Commission shall act as Chairman of the Conference Committee at all times when it is in session.
3. Method of Selecting Conference Committee. The employers and employees may select from their own members suitable conferees to represent them on the Conference Committee and their selection will be followed by the Commission as far as practicable, but the Commission may select the members of said Committee representing the public.
4. Quorum. The Chairman and a majority of the Conference Committee shall constitute a quorum, and the recommendations or report of the Conference Committee shall require a vote of not less than the majority of its members.
5. Evidence and Information. The Commission shall present to the Conference Committee, upon its organization, all the evidence and information in the possession of the Commission relating to wages, hours and working conditions of employees in the industry for which the Conference Committee was appointed, and all other information which the Commission deems relevant to the establishment of a minimum wage and maximum hours for such employees, and interested persons may then and there present such briefs as they may deem proper and applicable concerning the matters before the Committee.

¹ Senate Bill No. 399, Section 9, See Appendix A.

6. Stenographic Report. The Chairman of the Conference Committee shall cause a stenographic record of the proceedings to the Conference Committee to be made, but only the findings and recommendations of said Conference shall be transcribed and transmitted to the Industrial Welfare Commission.
7. Report of the Conference Committee. Within thirty (30) days from its organization, the Conference Committee shall submit a report, including its recommendations as to the minimum wage and maximum hours and ²conditions of labor for employees, in the industry in question.

Conference Committees for all industries were called and organized between September 30, 1937 and November 22, 1937. The recommendations of the Conference Committees were submitted to the Industrial Welfare Commission for approval in December, 1937. The Commission approved the recommendations of the Conference Committees, with the exception of a few minor changes. The regulations of minimum wages and maximum hours for all industries, as determined by the Industrial Welfare Commission and set up in the Obligatory Orders, becomes effective May 1, 1938.

Maximum Hours and Minimum Wages as Determined by the Industrial
Welfare Commission Based Upon the Recommenda-
tions of the Conference Committees.

The Conference Committees, upon completing their organization, formulated certain decrees pertinent to Maximum Hours and Minimum Wages. The nature of the decrees will be embodied in Table Eight. A comparison of Table One with Table Eight reveals that wages and hours have been divided into Classes "A", "B", and "C" for males and females. The comparison shows that hours in the Laundry Industry are not excessive. An analysis of wages discloses that the wages of male workers in all classes are not below the

² Memography copy of rules governing the appointment and procedure of the minimum wage conference committee, on file in Office of Industrial Welfare Commission, Room 441, Capitol Building, Oklahoma City, Oklahoma.

minimum as set forth in Table Eight; although the wages for women are below minimum in Classes "A" and "B". Table Eight shows that wages have been raised from twenty to forty per cent in these classes. An analysis of the Dry Cleaning Industry indicates that the working hours for men are not excessive, but that the working hours of women have been lowered approximately two per cent per week. The wages for men and women have been raised from ten to twenty per cent respectively.

A comparison of Table Four with Table Eight will show that hours in Class "A" are not excessive, with the exception of attendants and porters whose working hours have been lowered twenty-six per cent. In Classes "B" and "C" working hours are not excessive, with the exception of filling-station attendants whose working hours have been decreased fifteen to seventeen per cent. Wages in the Automobile Industry are not below the requirements as set up in Table Eight, with the exception of porters whose wages have been raised from thirty to forty per cent. Wages of filling-station attendants are below the state minimum. They have been increased from ten to thirty per cent.

A comparison of Table Five with Table Eight indicates that the working hours of male workers in Class "A" of the Retail Mercantile Industry have been lowered five and one half per cent per week, while the working hours of females have been lowered approximately five per cent per week in Classes "B" and "C". All other working hours in this industry are within the requirements set forth in Table Eight. The wages received by male and female workers in Class "A" have been increased approximately twelve per cent, while the wages received by workers of both sexes in Classes "B" and "C" have not been changed.

A comparison of Table Six with Table Eight discloses that the working hours of male and female employees have been decreased from eight to sixteen per cent in the Retail Drug Industry. Wages have increased in this industry from nine to sixteen per cent for workers of both sexes.

A comparison of Table Seven with Table Eight shows that the working hours of males in the Restaurant Industry was excessive. They have been lowered six to eighteen per cent per week. The working hours for females are excessive and they have been decreased from two to eight per cent. The wages of male workers in this industry have been increased from twenty to one hundred fifty per cent. The wages of female workers have been increased from ten to one hundred twenty per cent. A further comparison of these tables shows that the working hours of males in the Hotel Industry have been decreased from sixteen to twenty four per cent, while the working hours of female workers have been lowered seven per cent in some instances and have remained constant in other instances. The wages of male workers have generally been raised from ten to fifty per cent, but in some extreme cases wages have been increased one hundred seventy per cent (usually such high increases are listed in the exemptions, as in the case of porters--note exemptions in the Administrative Regulations (See Appendix C)). The wages received by female workers in the Hotel Industry have had an average increase of approximately thirty-four per cent. A concluding analysis of Table Seven with Table Eight discloses that the working hours of males and females in the Office Building Industry are not excessive. The wages of male workers are not below the minimum requirements, but the wages received by females are below the state minimum. The wages received by female workers have been increased ten per cent in

some cases and in others they have remained constant. A comparison of Tables One to Eight inclusive clearly shows that wages in most industries have been raised and working hours have been lowered. These comparisons prove that the living conditions for some workers in Oklahoma are below the state minimum; thus, the change in working conditions seems to be an attempt to raise the standards of living of certain low wage workers in this state.

In order to eliminate any misunderstanding that may arise as to the terms used in the Obligatory Orders, the writer will disclose in Appendix B definite legal definitions concerning each industry and the terminology of each industry.

The most important facts concerning the minimum wages and the maximum working hours of each industry are found in Table Eight. A further attempt to clarify these facts as to their meaning and their administrative application for each industry is found in the Administrative Regulations. (See Appendix C). These administrative regulations give the exact legal limitations of computations of wages; waiting time; minors, learners, aged infirm and physically handicapped; child labor; records; deductions; part time employees; posting; student employees; piece work; similar industries; inter-mingled industries; working equipment; hours of work and emergencies for each industry. A thorough knowledge of Definitions and Administrative Regulations tends to indicate that the Commission in all of its procedures is attempting to do away with low incomes and long hours of work.

TABLE EIGHT ³

Weekly Minimum Wages and Maximum Hours for All Industries
in the State of Oklahoma.

Industries	* Class "A"		Class "B"		Class "C"	
	Hours	Wages	Hours	Wages	Hours	Wages
Laundry						
Males	54	\$16.20	54	\$13.50	54	\$10.80
Females	48	14.40	48	12.00	48	9.60
Cleaning and Dyeing						
Males	54	19.44	54	16.20	54	13.50
Females	48	14.40	48	13.20	48	12.00
Retail Mercantile						
Males	54	18.00	57	16.00	59	13.00
Females	48	15.00	48	12.00	51	11.00
Restaurant						
Males	54	20.00	56	20.00	58	18.00
Females	48	15.00	48	15.00	48	13.00
Hotel						
Males	54	19.00	57	17.00	59	15.00
Females	48	10.00	48	9.00	48	8.00
Office Building						
Males	48	15.00	54	14.00	54	13.00
Females	48	15.00	48	12.50	48	12.00
Wholesaling and Dist.						
Males	48	18.00	48	18.00	48	18.00
Females	48	18.00	48	18.00	48	18.00
Automotive						
Males	54	18.00	57	16.00	59	14.00
Females	48	18.00	48	16.00	48	14.00
Retail Drug						
Males	57	32.00	58	28.00	62	25.00
Females	57	32.00	58	28.00	62	25.00

³ State of Oklahoma Industrial Welfare Commission Minimum Wage Standards, Obligatory Orders No. 1, 2, 3, 4, 5, 6, 7, 8, and 9.

*Class "A" Cities and Towns of 40,000 or more population.
Class "B" Cities and Towns of not less than 10,000 nor more than 40,000 pop.
Class "C" Cities and Towns of less than 10,000 population.

Violations of the Minimum wage law are subject to civil or criminal offenses plus court costs. These penalties are set forth in the Obligatory Orders for each industry.⁴

⁴

Senate Bill No. 399, Sections 16, 17, 19, 22, See Appendix A.

Summary

In this brief discussion of the Oklahoma Minimum Wage Law, consideration may be given to some of the most popular objections of the law. These contentions may be briefly summarized as follows: (1) Minimum wage laws provide that workers cannot receive a wage below a certain level, which in many cases is the worker's maximum wage. In a world of changing price levels, as we have today, the purchasing power of workers' incomes at one time may be below that income necessary to maintain health and decency and at another above; thus leaving the worker in a state of insecurity. (2) Such legislation is a dangerous interference with the economic process. (3) It encourages inefficiency by setting a minimum wage below which no worker is allowed to receive. (4) It forces workers out of employment who are apprentices, aged, physically or mentally handicapped and incapable of average performance, because the employer can afford to employ only those who are the most efficient. (5) It is an invasion upon the rights of individual workers. (6) Minimum wage legislation tends to drive capital and industry out of the state where it functions, due to reduced profits. (7) This type of legislation places industry in Oklahoma at a disadvantage in its competition with concerns of other states that are not restricted by minimum wage laws.

It is difficult to evaluate some of these arguments on the basis of sound economic analysis; because, first, the law is not yet in effect; second, a tendency to predict the activities of this law by comparing it with the laws of other states is difficult, due to the fact that this is the only state in the Union that includes men as well as women; third, the facts pertinent to some of the criticisms are not available; fourth,

many of these contentions are highly debatable. That which urges workers income is insecure at a time of changing price levels cannot be a valid criticism of this law. The law provides that wage rates may be changed once a year and that the Commission of Labor, for the State of Oklahoma, shall furnish to the Commission such statistics as the Commission may require; thus supplying the Commission with an adequate method of measuring the purchasing power of wages in Oklahoma.¹

The contention that the Oklahoma Minimum Wage Law is an interference with the economic process can scarcely be upheld in an era that justifies income taxes, sales taxes, antitrust laws, regulations of utilities, and numerous laws regulating the activities of business. If such convictions are to be held, it is necessary to renounce most recent legislation dealing with economic activity.

The argument which states that minimum wage laws encourage inefficiency is a difficult question to prove. The meager data now available on this in other states are not satisfactory as a comparison; such data are limited and inadequate. If such data were available, their value would be relatively unimportant, since Oklahoma is the only state that has regulated the wages of men. The only satisfactory evaluation of this contention that can be made will have to come after the law goes into effect, when sufficient data may become available. Although it would seem that with 175,601 people totally and partially unemployed that the most efficient workers would retain the positions.²

¹ Senate Bill No. 399, Sections 10, 14, 15, See Appendix A

² John D. Briggs, U. S. Census of Partial Employment, Unemployment, and Occupations as of November 16-20, 1937.

The contention that the minimum wage law forces out of employment apprentices, the aged, the physically or mentally handicapped, and those incapable of average performance is not a valid criticism of this law. The law states that certain workers incapable of average performance may be exempted from the regulations of the law.³ With the provisions of the law as they are, it seems improbable that this argument is justifiable, although a valid analysis of such a contention cannot take place until after the law goes into effect and sufficient data may become available.

That which holds that minimum wage legislation is an invasion of the individual rights of workers is a matter of opinion. The prevailing social opinion indicates no conformity to this point of view. Compensation laws, the Social Security Act, sanitation laws, factory inspections, and legal provisions as to the time, place and method of wage payments, are equally serious invasions of individual rights. Yet they are generally accepted as proper. As stated in the *West Coast Hotel Co. vs. Parrish Case*, restraint or regulation of such liberty is not an unjustifiable interference with individual rights.⁴ The decision of this case alone is enough to substantiate the fact the law is in line with social opinion.

Other of these contentions can only be evaluated by time and experience. The changes resulting in an increase in labor cost in states with minimum wage laws, for the most part, have been insignificant.⁵

³ Senate Bill No. 399, Section 13, See Appendix A.

⁴ A detailed discussion of this decision will be found in the section entitled *United States History of Minimum Wage Legislation*.

⁵ Dale Yoder, *op. cit.*, p. 394.

Therefore, it seems reasonable to deduct that the occurrence of labor costs in this state will be similar. If such an assumption is correct, a movement of capital and industry from this state is highly speculative. It will also tend to invalidate the opinion that industries of this state will be at a disadvantage with industries in other states not complying to minimum wage laws.

Enterprises among the nine industries restricted by the "Obligatory Orders" of this state have created an organization known as the Associated Industries of Oklahoma for the purpose of invalidating the Oklahoma Minimum Wage Law. Lucius Babcock, District Judge of El Reno, has issued a temporary court order restraining the "Obligatory Orders" one to nine inclusive. The hearing is scheduled for May 7, 1938. Mac A. Williamson, Attorney General for the State, has asked for a thirty day extension in order to give the state time to prepare for the trial.⁶

Although the restraining order restricts the Industrial Welfare Commission from enforcing the law on May 1, 1938; W. A. Pat Murphy declared Friday 29, 1938 that the majority of Oklahoma Industries are making plans to comply with the law. Employers who do not comply with the law will have to pay the back wages on those wages below the minimum if the law is upheld.⁷

A 1234 page petition was presented to Lucius Babcock stating the grounds upon which the court order was issued. Some of the allegations of the petition are: the law is unfair, the law is unreasonable, it is oppressive, it is an unjust interference with the liberty of contract

⁶ Daily Oklahoman, April 28, 1938. Propaganda was gathered from the Daily Oklahoman and the Oklahoma City Times from March 20th to April 29th, 1938.

⁷ Daily Oklahoman, April 30, 1938.

and is in violation of the fourteenth and fifth Amendments of the
Constitution of the United States.⁸

At the present time, constitutionality of the law is in question.

⁸ These facts were supplied to the writer by Lucius Babcock and Mac.
Q. Williamson on May 2nd and 3rd, 1938.

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- ① Adkins vs. Children's Hospital, U. S. Supreme Court Reports, Vol. 261, pp. 525-553.
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APPENDIX A

SENATE BILL NO. 399

Sixteenth Legislature 1937
(Commonly Known as the Minimum Wage
Law)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

Section 1. The welfare of the State of Oklahoma demands that women and minors be protected from conditions of labor which have a pernicious effect on their health or morals. The State of Oklahoma, therefore, exercising herein its police and sovereign power declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect.

Section 2. It shall be unlawful to employ women or minors in any industry or occupation within the State of Oklahoma under conditions of labor detrimental to their health or morals; and it shall be unlawful to employ women workers in any industry within the State of Oklahoma at wages which are not adequate for their maintenance.

Section 3. There is hereby created a Commission to be known as the "Industrial Welfare Commission" for the State of Oklahoma, and to be composed of the Governor, Commissioner of Labor and Chairman of the State Industrial Commission, to establish such standards of wages and conditions of labor for women and minors employed within the State of Oklahoma as shall be held hereunder to be reasonable and not detrimental to health and morals and which shall be sufficient for the decent maintenance of women and minors; provided further, that the tenure of service of said Commission shall be coterminous with the office they now hold, and that members of said Commission shall serve without compensation.

Section 4. The Commission shall be and is hereby empowered to designate any one of its members to serve and act as Director to be known and designated as "Industrial Welfare Director" whose duties shall be assigned or prescribed by the Commission, but said director may not exercise any power judicial or quasi-judicial in character, except as directed after full hearing and pursuant to order of the Commission.

Section 5. It shall be the duty of the Commission to ascertain the wages and conditions of labor of women and minors in the various occupations, trades and industries in which said women and minors are employed in the State of Oklahoma. To this end, said Commission shall have full power and authority to call for statements and to examine, either through its members or other authorized representatives, all books, pay rolls or other records of all persons, firms and corporations employing females or minors as to any matters that would have a bearing upon the question of wages of labor or conditions of labor of said employees.

Section 6. Every employer of women and minors shall keep a record of the names of all women and minors employed by him, and shall on request permit the Commission or any of its members or authorized representatives to inspect such record.

Section 7. For the purpose of this Act a minor is defined to be a person of either sex under the age of eighteen (18) years.

Section 8. The Commission shall specify times to hold public hearings, at which time employers, employees, or other interested persons may appear and give testimony as to the matter under consideration. The Commission shall have power to subpoena witnesses and to administer oaths. All witnesses subpoenaed by the Commission shall be paid the same mileage and per diem allowed by law for lay witnesses before the District or Superior Court in civil cases.

Section 9. If, after investigation, the Commission shall find that in any occupation, trade or industry, the wages paid to female employees are inadequate to supply them necessary cost of living and to maintain the workers in health, or that the conditions of labor are prejudicial to the health or morals of the workers, the Commission is empowered to call a conference composed of an equal number of representatives of employers and employees in the occupation or industry in question; together with one or more disinterested persons representing the public; but the representatives of the public shall not exceed the number of representatives of either of the other parties; and a member of the Commission shall be a member of such conferences and chairman thereof. The Commission shall make rules and regulations governing the selection of representatives and the mode of procedure of said conference, and shall exercise exclusive jurisdiction over all questions arising as to the validity of the procedure and of the recommendations of said conference. On request of the Commission, it shall be the duty of the conference to recommend to the Commission an estimate of the minimum wage adequate to the occupation or industry in question to supply the necessary cost of living, and maintain the workers in health, and to recommend standards of conditions of labor demanded for the health and morals of the employees. The findings and recommendations of the conference shall be made a matter of record for the use of the Commission.

Section 10. Upon the receipt of such recommendations from a conference, the Commission shall review the same and may approve any or all of such recommendations, or it may disapprove any or all of them and recommit the subject or the recommendations disapproved of, to the same or a new conference. After such approval of the recommendations of a conference the Commission shall issue an obligatory order to be effective in sixty (60) days from the date of said order, or if the Commission shall find that unusual conditions necessitate a longer period, then it shall fix a later date specifying the minimum wage for women in the occupation affected, and the standard conditions of labor for said women; and after such order is effective, it shall be unlawful for any employer in said occupation to employ women over eighteen (18) years of age for less than the rate of wages, or under conditions of labor prohibited for women in said occupation. The Commission shall send by mail so far as practicable to each employer in the occupation in question a copy of the order, and

each employer shall be required to post a copy of said order in each room in which women affected by the order are employed. When such Commission shall specify a minimum wage hereunder, the same shall not be changed for one year from the date when such minimum wage is so fixed.

Section 11. Provided, that any order made by the Commission shall, as far as possible, equally affect similar industries or occupations, or parts of industries or parts of occupations in competition with each other.

Section 12. Whenever wages or standard conditions of labor have been made mandatory in any occupation, upon petition of either employer or employees, the Commission may at its discretion reopen the question and reconvene the former conference or call a new one, and any recommendations made by such conference shall be dealt with in the same manner as the original recommendations of a conference.

Section 13. For any occupation in which a minimum rate has been established, the Commission through its secretary may issue to a woman physically defective or crippled by age or otherwise, or to an apprentice in such class of employment or occupation as usually required to be learned by apprentices, a special license authorizing the employment of such licensee for a wage less than the legal minimum wage; and the Commission shall fix the minimum wage for said person, such special license to be issued only in such cases as the Commission may decide the same is applied for in good faith and that such license for apprentices shall be in force for such length of time as the said Commission shall decide and determine is proper.

Section 14. The Commission may at any time inquire into wages, and conditions of labor of minors, employed in any occupation in the State and may determine wages and conditions of labor suitable for such minors. When the Commission has made such determination in the cases of minors, it may proceed to issue an obligatory order in the manner provided for in Section 9 of this Act, and after such order is effective it shall be unlawful for any employer in said occupation to employ a minor for less wages than is specified for minors in said occupation, or under conditions of labor prohibited by the Commission for said minors in its order.

Section 15. Upon the request of the Commission the Commissioner of Labor of the State of Oklahoma shall furnish to the Commission such Statistics as the Commission may require.

Section 16. Any employer who discharges, or in any other manner discriminates against employees because such employee has testified or is about to testify, or because such employer believes that said employee may testify, in any investigation, or proceedings relative to the enforcement of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of from Twenty five (\$25.00) Dollars to One Hundred (\$100.00) Dollars for each such misdemeanor.

Section 17. Any person employing a woman or minor for whom a minimum wage or standard conditions of labor have been specified, at less than said minimum wage, or under conditions of labor prohibited by the order of the Commission; or violating any other of the provisions of this Act, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than Twenty five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars.

Section 18. Any worker or the parent or guardian of any minor to whom this Act applies may complain to the Commission that the wages paid to the workers are less than the minimum rate and the Commission shall investigate the same and proceed under this Act in behalf of the worker.

Section 19. If any employee shall receive less than the legal minimum wage, except as hereinbefore provided in Section 11 of this Act, said employee shall be entitled to recover in a civil action the full amount of the legal minimum wage as herein provided for, together with costs and attorney's fees to be fixed by the Court, notwithstanding any agreement to work for such lesser wage. In such action, however, the employer shall be credited for any wages which have been paid upon account.

Section 20. All questions of fact arising under this Act shall be determined by the Commission and there shall be no appeal from its decision upon said question of fact. Either employer or Employee shall have the right of appeal to the District of Superior Court on question of law.

Section 21. The Commission shall biennially make a report to the Governor and State Legislature of its investigations and proceedings.

Section 22. This Act and every provision whereof shall apply to men as though they be specifically mentioned in the provisions thereof.

Section 23. The provisions of this Act shall not apply to any person or persons engaged in agriculture, horticulture, or dairy or stock raising.

Section 24. There is hereby appropriated out of the general Revenue Funds of the State, not otherwise appropriated, the sum of Five Thousand (\$5,000.00) Dollars for the period from the beginning of the operation of the Act until June 30th, 1939 to carry out the purposes of this Act, to be expended under order of said Industrial Welfare Commission, the warrants to be issued as now provided by law.

Section 25. The provisions of the Act are severable and if any section, paragraph, sentence or provision thereof be held to be void by any court of competent jurisdiction, the decision of the court shall not affect the validity of this Act as a whole, or any part thereof, other than the portion so held to be invalid. The Legislature hereby declares that it would have passed this Act had any such invalid portion been omitted.

Section 26. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this Act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 20th day of April, 1937.

Passed the House of Representatives the 15th day of April, 1937.

Brower Broaddus
Acting President of the Senate

LaVerne Carleton
Acting Speaker of the House of Representatives

Approved the 22nd day of April, 1937.
By the Governor of the State of Oklahoma
E. W. Marland.

Correctly enrolled
Willard Sowards
Chairman Committee of Engrossing
and Enrolling.

¹ Sessions Laws of Oklahoma 1936-37, pp. 387-391

APPENDIX B

Definitions of Each Industry in the State of Oklahoma as

3

Determined by the Obligatory Orders

Laundry Industry: Shall mean (1) washing, ironing or processing incidental thereto, for compensation of clothing nappery, blankets, bed clothing, or fabrics of any kind whatsoever in private plants where labor is employed; (2) the producing of laundry service for their own use by business establishments, clubs, hotels, hospitals or institutions, shall not be included in this definition.

Laundry Occupations: Shall be construed to mean any person engaged in any phase of the industry in any capacity in the nature of an employee irrespective of the method of his or her compensation, unless hereinafter specifically exempted.

Cleaning and Dyeing Industry: The Cleaning and Dyeing Industry as used herein includes any place or vehicle where the service of dry cleaning, wet cleaning, each a process incidental to dry cleaning, spotting and/or finishing any fabric which is rendered for hire or sold, resold or offered for sale or resale. The term does not, however, include establishments where any such service is performed in the course of the manufacture of the fabric.

Fabric: Any article of wearing apparel including hats, household furnishings, rugs, textiles, furs and leather.

Cleaning and Dyeing Occupation: Shall be construed to mean all processes connected with the Cleaning and Dyeing Industry as set out in the definitions of the Cleaning and Dyeing Industry herein.

Employee: The term employee is defined to mean any person engaged in any phase of the industry in any capacity in the nature of an employee, irrespective of the method of his or her compensation, unless hereinafter specifically exempted.

Exemption: Persons employed as plant maintenance men, drivers, office workers, delivery men, a plant foreman and plant superintendent in plants having more than five (5) employees are exempt from the provisions of the Order.

Retail Mercantile Industry: as used herein shall mean all selling of merchandise to the consumer and not for the purpose of resale in any form.

Retail Mercantile Occupation: shall mean and include the work of all people employed in establishments operated for the purpose of Retail Industry, as defined in the definition of Retail Mercantile Industry, and shall include all those processes in the servicing, purchase or sale of any goods, wares or merchandise, and includes the sales force, the wrapping force where retail selling is required, the auditing or checking force and the shippers in the mail order department and outside delivery men.

Employee: is defined to mean any person engaged in any phase of the industry in any capacity in the nature of an employee, irrespective of the method of his or her compensation, unless hereinafter specifically exempted.

Exemption: The following persons are specifically excluded from this definition and terms of this Order: Office employees, janitors, and one executive for each five full time employees may be exempted from the provisions of this Order, provided such executive shall draw not less than \$25.00 per week.

Restaurant Industry: as used herein shall be construed to mean any establishment which prepares and offers for sale for profit food for consumption, either on any of its premises, or by catering and banquet service, or by box lunch service, or by curb service.

Food: Food as used herein shall include nutritive material intended for human consumption, in solid or liquid form, whether cooked or uncooked, or otherwise prepared, excluding, however, medicinal or quasi-medicinal preparations, but shall not be construed to include fountain products, such as all carbonated and aerated drinks, ice cream and its derivatives, bottle beverages and drinks.

Employee: is defined to mean any person engaged in any phase of the Industry in any capacity in the nature of an employee, irrespective of the method of his or her compensation, unless hereinafter specifically exempted, provided however, that yardmen, bus boys, dishwashers and porters may be classified under Section 13 and 14, Chapter 52, Article 1, Session Laws 1937.

Exemption: The following persons, when classed as executives or supervisors, are exempt from the provisions of this order: In Class "A", one executive or supervisor who receives not less than \$20.00 per week, for every eight persons employed in said establishment; in Class "B", one executive or supervisor who receives not less than \$19.00 per week, for every eight persons employed in said establishment; in Class "C", one executive or supervisor who receives not less than \$18.00 per week, for every eight persons employed in said establishment.

Hotel Industry: The term Hotel Industry is defined to mean all businesses within the State which extend lodging to the general public for a profit and which have, at least ten (10) or more guest rooms available for such lodging.

Employee: The term employee is defined to mean any person engaged in any phase of the industry in any capacity in the nature of an employee irrespective of the method of his or her compensation, unless hereinafter specifically exempted. Provided, however, that bell boys and porters may be classified under Sections 13 and 14, Chapter 52, Article 1, Session Laws 1937.

Exemption: Persons employed as hotel detectives and one executive for each establishment are hereby exempted from the provisions of this order.

Office Building Industry: The term Office Building Industry is defined to mean any building which is used for office purposes in which office building service is rendered, such as elevator, light, heat and janitor service.

Employee: The term Employee is defined to mean any person engaged in any phase of the Industry in any capacity in the nature of an employee, irrespective of the method of his or her compensation, unless hereinafter specifically exempted.

Exemption: All employees in this Industry are exempted from provisions of this Order except elevator operators, janitors, janitresses, maids, and charwomen.

Wholesaling and Distributing Industry: For the purposes of this order, Wholesaling and Distributing Industry shall be defined as any individual, partnership, association, corporation, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service, which buys, sells or maintains, or stores at his or its place of business a stock of the lines or merchandise which it distributes; or which through salesmen, advertising, and/or sales promotion devices, sells to retailers, and/or to institutional, commercial and/or industrial users, but does not sell in significant amounts to ultimate consumers, and shall include such institution or institutions who perform a wholesale distribution function to its or their own retail stores, or such store or stores over which it or they may exercise control.

Employee: The term employee is defined to mean any person engaged in any phase of the Industry in any capacity in the nature of an employee, irrespective of the method of his or her compensation, unless hereinafter specifically exempted.

Exemption: Persons employed as executives or supervisors who receive \$30.00 per week or more, and/or outside salesmen who receive \$25.00 per

week or more, are hereby exempted from the provisions of this Order, provided, however, that if part of the duty of such salesmen is to make deliveries of merchandise, then said salesmen shall not be excluded but shall be specifically included in this Order.

Motor Vehicle Retailing: shall mean the business of retailing new or used motor vehicles and the servicing or repairing of new or used Motor Vehicles, and includes the sale and/or installation of new or used automobile parts or accessories.

Motor Vehicle: as used herein shall mean automobiles, passenger cars, trucks, truck tractors, busses, taxicabs, trailers and other commercial vehicles.

Garages, Storage and Parking: shall mean and include parking, the rendering of parking service and/ or keeping for a consideration, expressed or implied, motor vehicles, placed on parking lots within public garage buildings, or within any other place where motor vehicles are kept or parked for a consideration and includes the following supplemental services; washing and other cleaning, lubrication, repairing, towing, and driving of customers cars.

Filling Station: is defined to mean any establishment or place of business or subdivision thereof whose principal business is the selling at retail of gasoline, oils, greases, lubricants, and other petroleum products, and includes the sale of automobile equipment, supplies, and accessories.

Employee: Employee is defined to mean any person engaged in any phase of the industry in any capacity in the nature of an employee, irrespective of the method of his or her compensation, unless hereinafter specifically exempted, provided however, that porters may be classified under Sections 13 and 14, Chapter 52, Article 1 of the Session Laws, 1937.

Exemption: Salesmen of new or used cars, outside filling station and/or storage and parking solicitors, whose duties are away from the regular place of business, and who receive the minimum wage or more, and/or Managers or Department Managers who receive \$30.00 per week or more in establishments employing three (3) full time regular employees, are hereby exempted as to hours but shall not be permitted to work more than six (6) consecutive days in any seven day period.

Retail Drug Industry: The term Retail Drug Industry, as used in this Order shall mean all selling to consumer and not for resale in any form of drugs, medicines and poisons required to be compounded or prepared on the premises or to be sold by a Registered Pharmacist as provided by the laws of the State of Oklahoma.

Retail Drug Establishment: This term, Retail Drug Establishment, as used herein shall mean any store or department of a store engaged in the Retail Drug Industry as defined herein.

Drugs: The term Drugs as used herein, shall mean all drugs, medicines, and poisons required to be compounded or prepared on the premises or sold by a Registered Pharmacist as provided by the laws of the State of Oklahoma.

Employee: Employee is defined to mean any person engaged as a Registered Pharmacist in any phase of the Industry in any capacity in the nature of an employee irrespective of the method of his or her compensation, unless hereinafter specifically exempted.

Apprentices: Apprentices as used herein shall mean a graduated Registered Pharmacist, not having sufficient practical experience in the compounding and filling of prescriptions to justify the minimum wage required herein; however, no employee shall be considered an apprentice for a period longer than one (1) year.

General Definitions Applicable to all Industries

Wages: The term wages as used herein shall be construed to mean the fixed definite money rate at which service rendered is recompensed under contract of employment, and gratuitous gifts or tips constitute no part thereof.

Legality: The provisions of this Order are severable and if any provision, paragraph or sentence thereof shall be held void by any court of competent jurisdiction, the decision of said court or courts shall not affect the validity of this Order as a whole, or any part thereof, other than that portion so held to be invalid.

Effective Date of Order: This order shall come into force and be effective on and after May 1, 1938.

³ State of Oklahoma Industrial Welfare Commission Minimum Wage Standards, Obligatory Orders No. 1, 2, 3, 4, 5, 6, 7, 8, and 9.

APPENDIX C

Administrative Regulations of Each Industry in the State of
Oklahoma as Determined by the Obligatory Orders ⁴

General Administrative Regulations Applicable to all Industries.

Computation of Wages: Wages shall be computed on a weekly basis.

Waiting Time: Time during regular working hours, and at other periods when employees are required to wait on the premises and no work is provided by the employer, shall be counted as working time and paid for at the individual employee's regular wage rate. (Waiting time is applicable to all industries except the Retail Drug Industry, for which there is no such regulation.)

Minors, Learners, Aged, Infirm and Physically Handicapped: The same minimum wage standards which apply to persons over eighteen (18) shall apply to all minors, learners, aged infirm and physically handicapped persons, except such as may be specially licensed under sections 13 and 14, Chapter 52, Article 1 of the Session Laws 1937, and no learner or apprenticeship period shall be recognized except those indentured under the Federal apprenticeship training program.

Child Labor: The provisions of the State Child Labor Law, Oklahoma Statutes 1931, Chapter 52, Article 2, and the Compulsory Education Law, as amended by the 16th Legislature, Article 11, Chapter 34, Session Laws 1937, shall apply to (all industries except Retail Drug Industry, for which there is no provision) in every respect, except where the Child Labor Law conflicts with the Minimum Wage Law, Chapter 52, Article 1, Session Laws, 1937.

Posting: Each employer shall keep a record of the name and address of each employee, showing the hours worked and the wages received by each such employee and shall on demand, submit a sworn copy of such record to the Commission.

Deductions: No deductions shall be made from the minimum wage rate established in the Order, except such as may be provided by law. (Deductions are different in the Restaurant Industry and will be quoted under the Restaurant Industry.)

Part Time Employees: Any part time employee required to report for work shall not be paid for less than four (4) hours at the standard weekly wage rate. (Regulations regarding part time employees have not been made for the Retail Drug Industry.)

Student Employees: Student employees regularly enrolled and attending an accredited school or college within the State may be specially licensed under Sections 13 and 14, Chapter 52, Article 1 of the Session Laws of Oklahoma, 1937.

Laundry Industry--Hours of Work: In Classes "A", "B", and "C" no Male Employee shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than fifty four (54) hours in any one (1) week, nor more than ten (10) hours within any twenty four (24) hour period, In Classes "A", "B", and "C" no Female Employee shall be permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than forty eight (48) hours in any one (1) week, nor more than nine(9) hours within any twenty four (24) hour period.

Piece Work: Persons employed on piece work basis shall be employed at piece work rates which yield to each such employee not less than the minimum wage established for time workers under this order.

Similar Industries: This Order shall be equally binding on similar industries or occupations, or parts of industries, or parts of occupations in competition with this industry.

Intermingled Industries: Any employee engaged in the Laundry Industry who works any part of the time in the Dry Cleaning and Dyeing Industry shall receive not less than the minimum wage provided in the order governing the Dry Cleaning and Dyeing Industry.

Cleaning and Dyeing Industry: (The Administrative Regulations for this industry are the same as those for the Laundry Industry, as cited in previous paragraph.)

Restaurant Industry--Hours of Work: In Class "A" no male employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 54 hours in any one week, nor more than nine hours within any 24 hour period. In Class "B", no male employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 56 hours in any one week, nor more than 10 hours within any 24 hour period. In Class "C" no male employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 58 hours in any one week, nor more than 10 hours within any 24 hour period. In Classes "A", "B", and "C", no female employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 48 hours in any one week, nor more than eight hours within any 24 hour period.

Not more than 12 consecutive hours shall elapse between the beginning and the termination of the standard work day by any male employee in any 24 hour period and not more than one interval off duty shall be permitted during the course of such 12 consecutive hour period of employment. Not more than 10 consecutive hours shall elapse between the beginning and the termination of the standard work day by any female employee in any 24 hour period and not more than one interval off duty shall be permitted during the course of such 10 consecutive hour period of employment.

Deductions: \$6.00 per week may be deducted for 18 bona fide meals, provided they are actually purchased or consumed on the premises by employees in Class "A" and "B" Cities and \$5.00 in Class "C" Cities, and no other deductions from the wages of said employees shall be made, except such as are provided by law. \$5.00 per week may be deducted for 18 bona fide meals provided they are actually purchased or consumed on the premises by female employees in Classes "A" and "B" Cities and \$4.00 in Class "C" Towns, and no other deductions from the wages of said female employees shall be made, except such as are provided by law. From the wages of part-time employees, the employer may deduct 35¢ for each bona fide meal purchased or consumed on the premises by any male employee, and 30¢ for each bona fide meal actually purchased or consumed on the premises by any female employee.

Similar Industries: This Order shall be equally binding on similar industries or occupations, or parts of industries, or parts of occupations in competition with this industry.

Retail Mercantile Industry--Hours of Work: In Class "A", no male employee shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than fifty four (54) hours in any one (1) week, nor more than nine (9) hours in any twenty four (24) hour period, except one (1) day of each week not to exceed twelve (12) hours within any twenty four (24) hour period. In class "B" no male employee shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than fifty seven (57) hours in any one (1) week, nor more than 10 hours in any twenty four (24) hour period, except one (1) day of each week, not to exceed twelve (12) hours within any twenty-four (24) hour period. In Class "C" no male employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 59 hours in any one week, nor more than 10 hours in any 24 hour period, except one day of each week not to exceed 12 hours within any 24 hour period. In Classes "A" and "B" no female employee shall be permitted to work more than six consecutive days in any seven day period nor more than 48 hours in any one week, nor more than nine hours in any 24 hour period. In Class "C" no female employee shall be employed or permitted to work more than six consecutive days in any seven day period nor more than 51 hours in any one week, nor more than nine hours in any 24 hour period.

Piece Work: Persons employed on piece work basis shall be employed at piece work rates which yield to each such employee not less than the minimum wage established for time workers under this Order.

Similar Industries: This Order shall be equally binding on similar industries or occupations, or parts of industries, or parts of occupations in competition with this industry.

Hotel Industry—Hours of Work: In Class "A" no Male Employee shall be employed or permitted to work more than six (6) days in any seven (7) day period, nor more than fifty four (54) hours in any one (1) week, nor more than nine (9) hours within any twenty four (24) hour period. In Class "B" no Male Employee shall be employed or permitted to work more than six (6) days in any seven day period, nor more than fifty seven (57) hours in any one (1) week, nor more than ten (10) hours within any twenty four (24) hour period. In Class "C" no Male employee shall be employed or permitted to work more than six (6) days in any seven (7) day period, nor more than fifty nine (59) hours in any one (1) week, nor more than ten (10) hours within any twenty four (24) hour period. In Classes "A", "B", and "C" no Female Employee shall be employed or permitted to work more than six (6) days in any seven (7) day period, nor more than forty eight (48) hours in any one (1) week, nor more than eight (8) hours within any twenty four (24) hour period. When mutually agreed to between employer and the employee a split shift with a sixteen (16) hour spread of ten (10) hours within any twenty four (24) hour period may be worked, this to apply to male front office help only. Provided, further, that when mutually agreed to between the employer and employee that two (2) half days may be taken off in lieu of one (1) complete day in any seven (7) day period by both male and female employees.

Similar Industries: This Order shall be equally binding on similar industries or occupations, or parts of industries, or parts of occupations, in competition with this industry.

Office Building Industry—Hours of Work: In Class "A" no Male Employee shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than forty eight (48) hours in any one (1) week, nor more than eight (8) hours within any twenty four (24) hour period. In Class "B" no Male Employee shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than fifty four (54) hours in any one (1) week, nor more than nine (9) hours within any twenty four (24) hour period. In Class "C", no Male Employee shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than fifty four (54) hours in any one (1) week, nor more than nine (9) hours within any twenty four (24) hour period. In Classes "A", "B", and "C", no Female Employee shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than forty eight (48) hours in any one (1) week, nor more than eight (8) hours within any twenty four (24) hour period.

Similar Industries: This Order shall be equally binding on similar industries or occupations, or parts of industries, or parts of occupations in competition with this industry.

Wholesaling and Distributing Industry--Hours of Work: No employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 48 hours in any one week, nor more than nine hours within any 24 hour period.

Piece Work: Persons employed on piece work basis shall be employed at piece work rates which yield to each such employee not less than the minimum wage established for time workers under this Order.

Similar Industries: This Order shall be equally binding on similar industries or occupations, or parts of industries, or parts of occupations in competition with this industry.

Working Equipment: All working equipment must be furnished, repaired, and maintained at the expense of the employer and no employee shall be permitted to contribute directly or indirectly to such furnishing, repairing, or maintenance.

Automotive Industry--Hours of Work: In Class "A" no male employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 54 hours in any one week, nor more than nine hours within any 24 hour period. In Class "B" no male employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 57 hours in any one week, nor more than 10 hours within any 24 hour period. In Class "C" no male employee shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 59 hours in any one week, nor more than 10 hours within any 24 hour period. In Classes "A", "B", and "C" no female shall be employed or permitted to work more than six consecutive days in any seven day period, nor more than 48 hours in any one week, nor more than nine hours within any 24 hour period.

Piece Work: Persons employed on piece work basis shall be employed at piece work rates which yield to each such employee not less than the minimum wage established for time workers under this Order.

Similar Industries: This Order shall be equally binding on similar industries or occupations, or parts of industries, or parts of occupations in competition with this Industry.

Retail Drug Industry--Hours of Work: In Class "A" no Registered Pharmacist shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than fifty seven (57) hours in any one (1) week, nor more than ten (10) hours within any twenty four

(24) hour period. In Class "B" no Registered Pharmacist shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than fifty eight (58) hours in any one (1) week, nor more than ten (10) hours within any twenty four (24) hour period. In Class "C" no Registered Pharmacist shall be employed or permitted to work more than six (6) consecutive days in any seven (7) day period, nor more than sixty two (62) hours in any one (1) week, nor more than eleven (11) hours within any twenty four (24) hour period. In Classes "A", "B", and "C", when mutually agreed to between employer and employee, two (2) one-half days may be taken off in lieu of one complete day in any seven (7) day period.

Emergency: In the event an emergency arises employees may be required to work in excess of the maximum hours prescribed herein.

Apprentices, Aged, Infirm and Physically Handicapped: The same minimum wage standards which apply to persons over eighteen (18) shall apply to all apprentices, aged, infirm and physically handicapped persons, except such as may be specially licensed under Sections 13 and 14, Chapter 52, Article 1, of the Session Laws, 1937.

⁴ State of Oklahoma Industrial Welfare Commission Minimum Wage Standards, Obligatory Orders No. 1, 2, 3, 4, 5, 6, 7, 8, and 9.

Typed by

Mary Elizabeth Criswell