chusetts seems to have been largely due to local conditions and to have grown out of measures dictated by immediate convenience at the time of the passage of the early child labor laws, rather than a deliberately chosen system of administration. A clipping from the history of the department will make this clear.

"At first the unreliable mechanism of truant officers and local town or city officials was solely depended upon for inspection. Then, under new child labor statutes, a single deputy was in each case detailed by the police department to aid enforcement. The law of 1877, increasing the duties of factory inspection by regulations looking to the safety of employees, provided that members of the state detective department should act as inspectors of factories and public buildings, to report and prosecute violations of this act as well as of other measures relative to the employment of women and minors.

"In 1879, the governor was authorized to appoint two regular inspectors from the police department.

"Better administration was finally secured in 1888 by separating the detective and inspecting forces. . . . With the enactment of stringent steam boiler inspection laws, a new department of boiler inspectors . . . was created."

While in some ways this affiliation with the police has been helpful, there are also drawbacks in the combination under one head of work in fields that are so large and so distinctly marked off from one another not only in object, but most essentially in methods of work. It would seem that a due co-operation between district departments could be made to afford all of the advantages of the closer relationship, while it would insure the whole time and energy of the chief to a task that is quite enough to occupy his entire attention. Indeed, with the increasing number and detail of regulations, the many technicalities that arise in the application of labor laws and the rapid growth of the factory system of industry, another specialist will soon be demanded to fill such an office. The necessary increase in numbers alone must make the police connection awkward.

In framing many of these laws, for example the factory acts, much has necessarily been left to the discretion of inspectors in the decision of what is adequate provision. Especially where appliances not contemplated in the ordinary law are offered, very careful judgment is called for. Such powers cannot be entrusted to untrained and inexperienced persons, however well intentioned, nor is the training of police duty any sufficient preparation. It would not be considerd appropriate to appoint a policeman inspector of stationary steam boilers or examiner of engineers, yet under present factory laws, technical knowledge of industrial processes, machinery, etc., is sometimes equally demanded. In Massachusetts the original method of detailing police as inspectors when occasion demanded, or even permanently installing them in these positions, has been abandoned for the stricter and more adequate tests of civil service examinations open to all applicants. And again her example indicates a general trend.

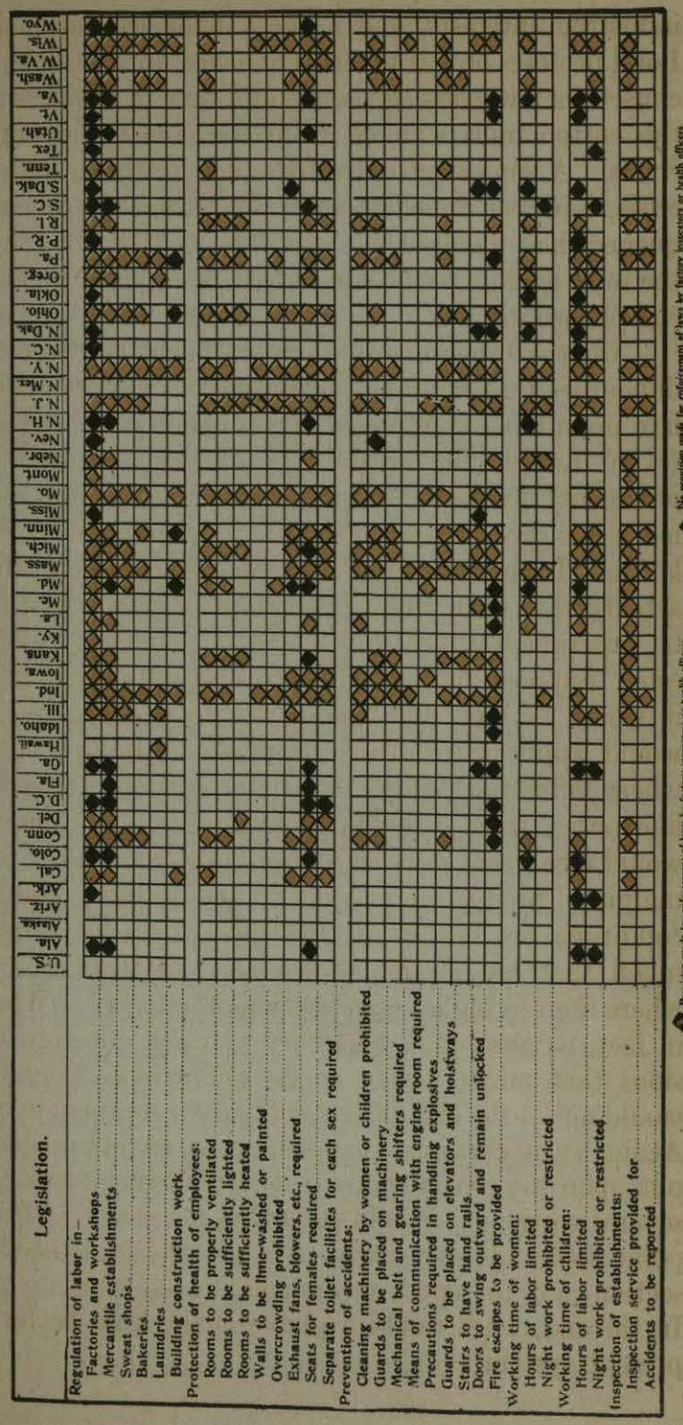
The tendency in inspection already is, and in the future must be more markedly, toward the growth of a distinct and specialized department, in which the chief and his assistants are trained for their work. Such a department, while it would not stand in the relationship which some at present hold to the police, would come into closer touch with other departments, as the board of education and bureau of labor.

The influence of state boundary lines upon the course of legislation in this country is an interesting question, and one upon which entirely diverse opinions are held. Some go so far as to claim that there never can be really successful legislation so long as such boundaries hold; that if a good labor law is passed in one state and enforced there, the benefit that may result to the few operatives is balanced by the restriction which it puts upon the producer and the consequent discrimination against capital in that state as compared with its neighbors. Capital therefore seeks investment in those sister states instead of in the law trammeled one, thus reacting against the interests of the labor market there; while states that so profit in their freedom are the more loath to give over their advantage by enacting similar measures. Thus legislation in one state becomes at once detrimental to its own

industrial interests, and a check upon legislation elsewhere. Loud protests of this tenor were heard, for example, in Massachusetts a few years ago, when at a time of business depression the cotton mills suffered from the competition of southern rivals. A somewhat extended study of the situation at that crisis, however, failed to show that these detrimental consequences had followed in actual life, or that the stress felt by the mills could have been removed by a suspension of the laws complained of.

On the other hand, when we begin to reckon with the difficulties that must be encountered in any attempt to legislate upon labor conditions in this country treated as a whole (even disregarding entirely the present constitutional impediment), we find arguments showing that local self government has probably furthered the development of labor legislation. In the first place, it is much more difficult to persuade a body with such wide jurisdiction to pass what must often be experimental measures and may endanger national interests. Suppose, however, that this legislation was undertaken, it would be well nigh impossible to frame a measure that would apply with justice throughout and in communities where industrial occupations differ entirely in kind, or, if of like order, range through many stages of development. It would mean that such legislation must conform to a very low margin of production in order to avoid injury to states where conditions are backward, and that would leave unregulated much that has clearly shown need of regulation in states where there is higher organization of industry. Would it not, in fact, be absolutely necessary to mark out territorial divisions that might not of course follow state boundaries, but would not in the end differ essentially from them in character? Again, such divisions mapped, what an impossible labor is put upon the central body if it would legislate wisely for the several sections! Would it not be necessary at least to appoint some advisory body to study the local needs of each section and to report recommending appropriate measures? In the end, what would we have in the least better than the present system?

LEGISLATION RELATING TO FACTORIES AND WORKSHOPS, MANUFACTURING ESTABLISHMENTS, ETC.



Within a single state the labor interest is united, the pros and cons of the situation can be more easily investigated, effects more easily watched and even more accurately predicted. Jevons might indeed have considered it a well fitted laboratory for his scientific experimentation in legislation. The success of a local experiment acts often as an incentive to labor elsewhere to demand like privileges, and as against the argument of an insignificant tax upon production, the political power of the labor party has very generally won the day. The second state feels itself at no greater disadvantage than that which took the initiative in the movement, and may easily take he precaution of passing restrictions that are a trifle under those of its neighbor.

This discussion, however, leaves us still face to face with a confusion of local regulations, among which there is total lack of any uniformity. The situation has for some time attracted public comment, and there is a growing desire for uniformity, especially in the protection of child labor and in the curtailment of the hours of labor, which are the regulations that particularly affect the interests of capitalists. Quixotic attempts to force an amendment of the constitution, and to secure the passage of a national eight hour day law, have been chronicled in the movement, which nevertheless, with more moderate aims, has steadily gathered strength. At last, under the industrial commission of 1898, the problem of uniform legislation has been clearly recognized and carefully studied, "in order," the act reads, "to harmonize conflicting interests and to be equitable to the laborer, the employer, the producer and the consumer." Empowered to report with recommendations either directly to congress or to the several state legislatures, the commission addressed itself in this matter of domestic law to the state legislatures. The report submitted is of such interest and importance that I quote in full its recommendations so far as they apply to factory labor:

"Perhaps the subject of greatest public interest to-day is that of the regulation of the hours of labor permitted in industrial occupations, and especially in factories. . . . Obviously, congress has no power, without a constitutional amendment, to legislate upon this subject. The commission

are of the opinion that a uniform law upon this subject may wisely be recommended for adoption by all the states. We believe that such legislation cannot, under the federal and state constitutions, be recommended as to persons, male or female, above the age of twenty one, except, of course, in some special industries, where employment for too many hours becomes positively a menace to the health, safety, or well being of the community; but minors, not yet clothed with all the rights of citizens, are peculiarly the subject of state protection, and still more so, young children.

"The commission are of the opinion, therefore, that a simple statute ought to be enacted by all the states, to regulate the length of the working day for young persons in factories (meaning by young persons, those between the age of majority and fourteen); and in view of the entire absence of protection now accorded by the laws of many states to children of tender years, we think that employment in any capacity or for any time, under the age of fourteen, should be prohibited. The question of shops and mercantile establishments generally appears even more subject to local conditions than that of factories; therefore, the commission see no need for even recommending to the states any uniform legislation upon this subject. But child labor should be universally protected by educational restrictions, providing in substance that no child may be employed in either factories, shops, or in stores in large cities, who cannot read and write, and except during vacation, unless he has attended school for at least twelve weeks in each year."

These are certainly conservative recommendations and illustrate again the difficulty of finding any common ground of action even in the fundamental requirements of health and education. The exception made with reference to shops and mercantile establishments upon the ground of local differences in conditions is interesting. So much evidence has been brought of abuse of child labor in the mercantile houses of many large cities, especially in respect to these two matters of overwork through long hours and of interference with common school education (above recognized) that several states have voluntarily extended provisions of the factory laws concerning minors to cover such establishments. These conditions appear to reproduce themselves with remarkable similarity in various locations, and it is not altogether clear what local conditions could intervene to make the universal application of the measure proposed for factories undesirable.

Notwithstanding all moderation and the exceptions allowed, two of the commissioners still recorded themselves as considering it unjust and impracticable to attempt any uniform laws regulating labor in all the states, and a third concurring with these adds that the conditions to be dealt with will work themselves out better under local self government than under any ironclad rule adopted by or suggested from a central power.

The protesters are from the southern states and their protest seems peculiarly pertinent at this time, when the prevailing conditions of child labor in these states are attracting so much attention. Not to digress into a discussion that would lead us too far afield, let it suffice to sum up the evident facts of the situation in a single paragraph.

Whatever their previous condition of freedom, barbarism or poverty, there are to-day, in the cotton mills of the south, large numbers of little children, some under ten years of age, who can be and are employed sometimes eleven and more hours a day, sometimes eleven hours of the night. Indeed, conditions parallel the times of Shaftesbury in England! Attempts to pass bills that can hardly be deemed extravagant in the protection demanded, and even compulsory education measures, have been opposed and frustrated. The reasons given for such resistance of legal interference may be summarized about as follows, at least in Alabama, which has been the field of a recent encounter: That the bill presented by the Alabama Child Labor committee is outside interference and only the entering wedge; that Georgia (facing the more difficult task) in having double the number of spindles, should act first; that against the expressed desires of mill officers, parents insist upon the employment of their children or take their families to other mills where no objection is made (and this the law would make impossible); that the prodigiously early development of this particular class of

southern children, together with the length and heat of the day, which are prime factors respecting the hours that may be appropriated to labor, make it inadvisable to limit the hours of labor of children to ten out of a possible twenty four, or to require that they should sleep and not work at night. We cannot say that the movement for uniform legislation or even for labor legislation under local self government is unopposed.

The recommendations of the commission also include the following:

"Further regulations, especially in the line of bringing states which now have no factory acts up to a higher standard, is earnestly recommended.

"In states which have many factories the well known factory act of Massachusetts or New York, based upon the English act which served as a model to all such, is recommended for adoption.

"The sweatshop law also, which is now practically identical in the important states of New York, Massachusetts, Pennsylvania and Ohio, is recommended for general adoption.

"A simple and liberal law regulating the payment of labor should be adopted in all the states, providing that laborers shall be paid for all labor performed in cash or cash orders, without discount, not in goods or due bills, and that no compulsion, direct or indirect, shall be used to make them purchase supplies at any particular store."

The report refers also to other statutes which reinforce certain common law doctrines, such as those concerning intimidation, strikes, boycotts and blacklisting, to those protecting the political rights and legal rights in suit of labor, and to the recognition accorded to trade unions in provisions for incorporation and protection of labels, making however no special recommendation concerning them to the states.

We see, therefore, that beyond the elementary regulation of child labor and hours of labor for minors, the commission would have the states establish a standard of good sanitation and of safe conditions in factories everywhere, and above this, especially suggests a scientific and well tested law for adoption in states having large manufactures. The restriction of hours is always looked upon chiefly as a health measure, but it is certain that the general bodily vigor of the worker has been more markedly affected by modern improvements in ventilation, lighting, and sanitation than by any of the shorter day statutes. Factory acts assist materially in forcing this advance and have received a due recognition of their usefulness. In recommending the universal passage of a sweat shop act, the commission endorses the old saying, that an ounce of prevention is worth a pound of cure. As a matter of fact, such laws have been passed, and in an incredibly short time (since 1892, when New York passed the first of this series), in those states in which the evil is important. Attempts to extirpate the evil in these states threaten to drive it into neighboring sections. Connecticut, for example, lying between Massachusetts and New York, in both of which quarters the anti-sweatshop war is being vigorously pushed, has enacted a similar statute simply as a protective measure.

It is clear that the ultimate effect of uniform labor legislation will not be one law applying throughout the length and breadth of this great land, but rather a graded system. It will determine a minimum standard of regulations, a basal plane of competition for American industry. Above this it will still be necessary for the local government in many places to impose stricter requirements where there is complexity of organization, but in that which is fundamentally essential to the common well being of the community there will be one limit approved for all that may not be transgressed.

The suggestion made in the industrial commission's report as to how this standard may be determined is especially well considered:

"In conclusion the commission would recommend the establishment by all the states of labor bureaus or commissioners, who shall, besides their local duties as now defined, be charged with that of exchanging their statistics and reports, and of convening at least once in a year in national conference for general consultation, which national conference shall have power to submit directly to congress its recommendations for such federal legislation as a majority of the state commissioners may deem advisable, and shall also submit to all the states,

through the commissioners of each separate state, their recommendations for such uniform state statutes upon labor subjects as may seem wise and desirable."

If we rightly interpreted the action of local governments in establishing these bureaus of labor, as a step towards more scientific legislation in those states, surely this plan of a national conference of state commissioners of labor stands for a still more important extension of the scientific method in questions of labor legislation. It also illustrates a tendency that is becoming more and more evident, namely, the fuller reliance that is being placed upon intelligence as a social regulator and publicity for controlling industry and commerce. Make known the actual conditions that prevail, point out the appropriate remedy, and the weight of an informed public opinion will go far to force reform whether through an act of legislation or through the influence which may be exerted by consumers upon producers. Indeed the battle cry of the day is, Give us but an enlightened public opinion and our fight is three quarters won.

The suggestion of regulating business relations through the pressure of public sentiment has been seized upon with almost too great avidity by some who would apply it as the immediate and sufficient solution of all labor difficulties and as an argument against the enactment of any statutory regulations whatever. Such a proposition appears, however, of doubtful value at present under the conditions of unenlightenment that unfortunately prevail, and it may be feared, does not proceed from the best friends of labor.

Recurring to this fact of opposition, already earlier noted, it has been questioned whether this counter movement does not offer a real menace to the future growth of the labor laws, and indeed to the continued existence of the present body of legislation. In a number of instances where labor laws have been brought to the test of a court decision they have been pronounced unconstitutional and annulled upon the ground that they contravene freedom of contract, are class legislation, and so forth. This has been the fate of statutes regulating the hours of labor for women over twenty one years of age in Nebraska, California, and Illinois; of weekly payment laws

in Pennsylvania, Illinois, Missouri, West Virginia, and Indiana; of anti-truck acts in Pennsylvania, Ohio, Illinois, and West Virginia; and of those prohibiting company stores or coercion of purchase in Pennsylvania, Illinois, and Tennessee.

In Massachusetts, on the contrary, the regulation of hours was sustained as a health or police regulation. Also at the time when the bill for the extension of the act covering weekly payments was before the legislature the justices returned as their opinion to the house of representatives that such an act was within the constitutional power of the general court to pass. It is also worthy of notice, that in spite of the decision by the Supreme court of Nebraska in 1894, a new law defining hours of labor for women was passed in 1899, and to-day applies not only in factories, but in restaurants and hotels as well. Again, in the report just reviewed, the commissioners have recommended the general enactment of an anti-truck and freedom of purchase act in spite of the decisions of Pennsylvania, Illinois, and Tennessee courts.

Verdicts of unconstitutionality have therefore hardly affected more than the very border of the factory laws; the regulation of child labor, of workroom conditions, of hours of labor for minors, have never been questioned. It hardly seems likely that any of these laws will ever be put to the court test at all. Both in England and in this country, they have proven generally beneficial to public interest, they have been pretty cheerfully accepted and obeyed; they have gained public approval; they have the political support of a large labor party. Perhaps the apparently adverse action of the courts ought to be looked upon as a healthfully conservative influence against possible evil results of hasty and ill considered legislation or attempts to interpose legislation where the object could be better obtained by the effective organization of labor and should be left to the initiative of the unions.

Factory legislation has been inevitably necessitated by the action of economic and social forces, and may, in fact, be regarded as a natural phenomenon accompanying the growth of the factory system of manufacture. It has developed against the opposition of extreme doctrines of free contract, and having demonstrated itself in the facts of actual life

has also created a new theory of the relation of the state to labor and industry.

The state may determine the plane of competition; it may equalize the conditions of contract as between employer and employee; it may intervene to protect the standard of living of the workers. The only limits that theory places upon these lines of interference are consideration of the general good.

In the historical development of factory laws, well marked tendencies are traceable. The early attitude of timidity has given place to that of peremptory command. Progress has been steadily toward increased severity in the regulations imposed, increased exactness in detail and definition, towards distinctly placed responsibility and towards more adequate inspection.

The expansion of industry in this country has of course been accompanied by a like territorial extension of the labor laws. Accomplished through the independent action of the several state legislatures, the result has been an unfortunate confusion of unrelated and nonuniform measures. One of the recent and most important tendencies of this legislation is the movement for greater uniformity, made especially prominent by the attention given to it as a part of the study of the industrial commission. It indeed seems probable that these efforts will eventually issue in the determination of a minimum standard of labor legislation for the country as a whole, above which common basis the states will rise in grade according to the development of industrial organization and consequent increase of regulation demanded. This is necessarily a matter of voluntary conformity on the part of the separate state legislatures and therefore a fulfillment to be awaited with all patience.

CO-OPERATION OF LABOR AND CAPITAL.

BY WILLIAM H. PFAHLER.

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There is no subject of greater general importance before the world to-day, none more simple in its character, and yet none so handicapped by fanaticism, as that of the relation of employer and employee.

Remove the curtain between the two real parties to the controversy, which is often held by men of selfish purpose on both sides, and you behold two simple factors, the wage payer and the wage earner, each dependent upon the other and both serving the same master, the great consuming public, of which they are also equal and very important parts.

The wage payer, being directly in contact with the purchasing consumer, claims that he must have a result in production equal in every way to the wages paid, while the wage earner contends that he must have a wage equivalent to his contribution in time, energy, and skill, to the article produced.

Every visible article of use, for food, clothing, or shelter, of necessity, luxury, or culture, represents three component parts, and the production of each such article depends upon the proper combining of these parts, which are: 1. Raw material. 2. Capital. 3. Labor.

Raw material, supplied by nature, is controlled only by the law of supply and demand, except when by legislation the natural law is for a time superseded, and it then becomes a matter of political action, in which the entire community, except the few who are directly interested in profit, join to abolish the corrupt legislation and restore the natural condition. Raw material, is, therefore, the basis of cost in determining the price of every product to the public.