

**A LIVING WAGE
BY LEGISLATION**

THE OREGON EXPERIENCE

BY

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Chairman of the
Industrial Welfare Commission of the
State of Oregon

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Together with the Code of Rulings of the Oregon Industrial Welfare Commission, effective September 1, 1916; Text of the Minimum Wage Law and Extracts from the Decisions of the Oregon Supreme Court upholding the Constitutionality of the Act.

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A Living Wage by Legislation
The Oregon Experience

I. RESPONSIBILITIES OF THE STATE

The minimum wage movement is not an isolated program; it is an integral part of a general campaign for the establishment of minimum standards of public health and well-being. It is intimately associated with the demand for the limitation of hours of labor; for accident prevention; for regulation of light, air, congestion and sanitation in the housing of the multitude; for social insurance against accidents, sickness, old-age and unemployment; for popular education and industrial training.

The general thesis is that the State has the duty to prevent any large section of its people from falling below decent standards of living. In support of this general proposition we urge that the submerging of any considerable portion of the population below decent standards of living inevitably results in:

a. Economic evils, namely, a diminished power of production and a diminished power of consumption. An under-fed, over-wrought, unhealthy and under-paid working population must be inefficient workers and will be unable to purchase the products of industry for their own use.

b. Social evils, namely, the spread of infectious and contagious diseases, the lowering of educational standards and the deterioration of public morals. It cannot be questioned that the power of a human being to resist physical disease and moral temptation is greatly weakened by over-strain and malnutrition.

c. Domestic evils, namely, a disintegration of family ties, a diminution of parental control and a growth of parental irresponsibility. Normal home and family life is imperilled in a submerged population.

d. Individual demoralization, namely, an undermining of individual ambition, inferior education, greater moral strain and a deterioration of physique.

e. National weakness, namely, the sapping and decay of patriotism and the physical unfitting of citizens for national defense. A nation will receive the loyalty of its people in proportion as it concerns itself with their welfare.

For these reasons the State, which exists only to promote the well-being of its members, has no more important duty than that of preventing by wisely-drawn and adequately enforced legislation, the submerging of its people below decent standards of living. One of the most important features of such a legislative scheme is the provision for a living wage, which we are to discuss in this paper. It will be important to bear in mind, however, that it is only one feature of the plan and is not expected by its advocates to eliminate all the evils which the whole program is framed to meet; and which indeed the entire program, if enacted into law, would fail (because of the limitations inherent in all human measures) to completely eradicate. Being an integral part of a wider plan, the project for a legal minimum living wage will be greatly strengthened by the adoption of other features of that plan; nevertheless, it need not wait for the adoption of the other elements, but will confer great benefits on the toiling multitudes, on industry and on society at large by its own operation.

II. DEFINITION

The classic definition of a living wage is that given by Pope Leo XIII in his celebrated Encyclical Letter on "The Condition of Labor," published just twenty-five years ago (May 15, 1891). The whole of this remarkable document will repay careful study. I shall confine my quotation to a single passage:

"We now approach," says the great Pontiff, "a subject of very great importance and one on which, if extremes are to be avoided, right ideas are absolutely necessary. Wages, we are told, are fixed by free consent; and, therefore, the employer, when he pays what was agreed upon, has done his part and is not called upon for anything further. The only way, it is said, in which injustice could happen, would be if the master refused to pay the whole of the wages, or the workman would not complete the work undertaken; when this happens the State should intervene to see that each obtains his own, but not under any other circumstances.

"This mode of reasoning is by no means convincing to a fair-minded man, for there are important considerations which it leaves out of view altogether. To labor is to exert one's self for the sake of procuring what is necessary for the purpose of life, and most of all for self-preservation. Therefore, a man's labor has two notes or characters: First of all it is *personal*; secondly, man's labor is *necessary*; for without the results of labor a man cannot live. Now, if we were to consider labor merely so far as it is *personal*, doubtless it would be within the workman's right to accept any rate of wages whatever; for in the same way as he is free to work or not, so he is free to accept a small remuneration or even none at all. But this is a mere abstract supposition; the labor of the working man is not only his personal attribute, but it is *necessary*; and this makes all the difference. The preservation of life is the bounden duty of each and all and to fail therein is a crime. It follows that each one has a right to procure what is required in order to live; and the poor can procure it in no other way than by work and wages.

"Let it be granted then," continues Pope Leo, "let it be granted then that as a rule, workman and employer should make free agreements and in particular should freely agree as to wages; nevertheless," (and this is the conclusion), "nevertheless, there is a

dictate of nature more imperious and more ancient than any bargain between man and man, *that the remuneration must be enough to support the wage earner in reasonable and frugal comfort.* If through necessity or the fear of a worse evil the workman accepts harder conditions because an employer or contractor will give him no better, he is the victim of force and injustice. If a workman's wages be sufficient to enable him to maintain himself, his wife and his children in reasonable comfort, he will not find it difficult, if he is a sensible man, to study economy, and he will not fail, by cutting down expenses, to put by a little property; nature and reason would urge him to do this."

Here are set forth the fundamental principles of minimum wage legislation, the best study of which has been given us by Dr. John A. Ryan in his work entitled, "The Living Wage." We are concerned here merely with the statement of these basic principles and now pass on to the problems which arise in their practical application.

III. FOREIGN EXPERIENCE

The first modern minimum wage legislation was enacted in New Zealand in 1894 (three years after Pope Leo's Encyclical Letter), under the title of The Industrial Conciliation and Arbitration Act. The Australian States soon followed in the same policy. In 1894, Victoria provided for special wages boards to fix minimum wages in various trades. In 1904, the Australian Commonwealth adopted a policy of compulsory arbitration of industrial disputes extending beyond state boundaries. The court of conciliation consists of a president who must be one of the justices of the high court of Australia. In 1909 and 1910, Great Britain adopted and subsequently extended the principle of minimum wage legislation in a number of sweated trades. France also has made a beginning. In all these countries the legal minimum wage applies to men as well as to women. The principles governing the action of

the Australian Court of Conciliation and Arbitration have been outlined by Justice Higgins in an article under date of November, 1915, in the Harvard Law Review. (Reprinted in the Monthly Review of the U. S. Bureau of Labor Statistics, February, 1916.) Justice Higgins has been president of the Australian Court since 1907 and has consequently a wider acquaintance with the application of these principles than any other person. It was his duty to interpret the provision of the law that wages should be "fair and reasonable." He decided to adopt a standard based on "the normal needs of the average employe regarded as a human being living in a civilized community." This interpretation is universally accepted as a basis of minimum wage determinations in Australia, when dealing with unskilled labor. A distinction has also been made between "the basic or primary or living wage and the secondary wage attributable to exceptional qualifications necessary for the performance of special functions."

The following are among the propositions laid down by Justice Higgins:

1. One cannot conceive of industrial peace unless the employe has secured to him wages sufficient for the essentials of human existence.
2. This, the basic wage, must secure to the employe enough wherewith to renew his strength and to maintain his home from day to day.
3. The basic wage is the same for the employe with no family as for the employe with a large family. It rests on Walt Whitman's "divine average," and the employer need not concern himself with his employe's domestic affairs.
7. The wages cannot be allowed to depend on the profits made by the individual employer, but the profits of which the industry is capable may be taken into account.