INDEX OF POINTS AND CITATIONS.

POINTS.

CITATIONS.

In the Supreme Court
of the United States.
OCTOBER TERM, 1922.

JESSE C. ADKINS *et al.*, constituting THE MINIMUM WAGE BOARD OF THE DISTRICT OF COLUMBIA, *Appellants*,

vs.

THE CHILDREN'S HOSPITAL OF THE DISTRICT OF COLUMBIA, a Corporation.

No. 795.

JESSE C. ADKINS *et al.*, constituting THE MINIMUM WAGE BOARD OF THE DISTRICT OF COLUMBIA, *Appellants*,

vs.

WILLIE A. LYONS.

No. 796.

BRIEF FOR THE STATE OF KANSAS.

This brief is filed by leave of court because of the interest of the state of Kansas in the questions presented in these cases.

There is a statute of Kansas regulating the subject of wages, hours and conditions of labor of women in industrial occupations. It was enacted in 1915—chapter 275, Laws of Kansas, 1915—and is also set forth in sections 10495 to 10515, inclusive, General Statutes of Kansas, 1915. This was amended by chapter 263, Laws of Kansas, 1921. In the original act powers of administration were vested in an Industrial Welfare Commission. By the act of 1921 these powers were transferred to the Court of Industrial Relations. The latter body was created by chapter 29, Laws of Kansas, 1920, which act taken alone covered labor controversies in occupations affected with a public interest.

By the act of 1915 as amended in 1921, the Court of Industrial Relations is given authority to fix a minimum scale of wages for

women engaged in industries. This power was formerly vested in the Industrial Welfare Commission.

Under this legislation orders have been made fixing minimum rates of wages for women from time to time since the statute of 1915 took effect, and such orders have been enforced.

By Industrial Welfare Order No. 12, of May 19, 1922, relating to women employees in laundries, dyeing, dry cleaning and pressing shops, nine hours was fixed as a maximum for a day's work and forty-nine and a half hours as a maximum for a week's work, with some exceptions both as to a day's work and a week's work, allowing overtime in cases of emergency. Minimum wages of women employees in such places were fixed at $11 per week, where they had served six months' apprenticeship. The apprenticeship period was divided into two spaces of three months each, and the minimum wages for the first three months were $7.50 per week and for the second three months $9 per week.

By Industrial Welfare Order No. 13, May 19, 1922, concerning women employees in manufacturing occupations, nine hours was fixed as a maximum for a day's work and forty-nine and a half hours for a week's work, with some exceptions, allowing overtime in cases of emergency.

Minimum wages were fixed at $11 per week for those who had served an apprenticeship. Lower wages were fixed for the period of apprenticeship, varying from $6.50 per week to $9 per week, according to the variety of the occupation and period of service.

The validity of these two orders fixing minimum wages was contested on constitutional grounds in two cases in the district court of Shawnee county, Kansas, of The Topeka Laundry Company, a corporation, plaintiff, v. The Court of Industrial Relations of the State of Kansas *et al.*, defendants, No. 45,154; and The Topeka Packing Company, a corporation, plaintiff, v. The Court of Industrial Relations, State of Kansas, *et al.*, defendants, No. 45,155. On September 20, 1922, the district court rendered a decision in those cases, upholding the validity of the two orders.

In the case of the Court of Industrial Relations, plaintiff, v. The Charles Wolff Packing Company, defendant, No. 23,702, 109 Kan. 629, opinion filed October 8, 1921, other questions were presented to the court than those here involved, including the validity of some provisions of chapter 29, Laws of Kansas, 1920, above referred to, and the validity of an order of the Court of Industrial Relations fixing minimum wages of both men and women in a meat-packing

plant, which by the statute was declared to be affected with a public interest. The court in its reasoning in the opinion stated, "Laws fixing minimum wages and hours of labor for women are justified on moral and physical grounds," and cited cases where the establishment of minimum wages for women had been held valid. (109 Kan. 643.)

The decision in the last case, which was on other questions than those here presented and sustained the validity of the order made by the Court of Industrial Relations, is before this court in that case, pending on writ of error, set for argument April 23, 1923, entitled The Charles Wolff Packing Company v. The Court of Industrial Relations of the State of Kansas, No. 739, October term, 1922.

Before the enactment of the statute of 1915, the wages paid a large proportion of the women laboring in Kansas industries were below the amount absolutely necessary for their support. Soon after the statute took effect, orders were made thereunder which fixed minimum wages above the minimums they had been receiving, and subsequent orders were made from time to time as prices advanced. At present the wages received by women in Kansas industries are substantially higher, compared to living cost, than they were before the statute of 1915 took effect. Part of this increase has been caused by the general advance in prices and the increased demand for women's labor, as a result of the World War and the participation of the United States therein. Part of the increase has been caused by orders made under the statute. The effect of the operation of the statute and the orders made thereunder, has been to establish minimum wages which at least afford women workers sufficient to pay their economical and absolutely necessary living expenses. The legislation has given general satisfaction in the state and is strongly and steadfastly supported by public opinion. Before the statute, many women workers in industries were not fully self-supporting after the apprenticeship stage, although their work was adequate in amount and well done. The insufficiency of their wages was not due to any deficiency in their labor, but was caused by economic pressure against those workers who were not in a position to contend against it. By the unpaid portion of their labor they helped to support the industries or to give lower rates to the customers of their employers, or both. It was a tribute they were forced to pay to others for the privilege of earning a partial maintenance. No doubt there is something yet to be accomplished in the administration of the law, but it has diminished a glaring injustice, and has

helped competent women workers, doing a full day's work, toward earning their own bare support.

If the protection thus afforded by the state should be abandoned, there would be a relapse in great part to the former unfair and oppressive situation. The ballot which is now possessed by women can only help their condition as workers by means of laws and their enforcement. It is of no avail in the direct industrial struggle, although it is of potency in procuring state regulation.

The number of lines of work in industries which can be done by women is limited. Those classes of work which they are adapted to they in the main perform as well or better than men, but they do not have the range of occupations afforded to men. They are more tied to their homes and families and are not usually free to seek for employment at any other place than their home towns. They do not have the strength or assertion to contest effectively with their employers for better pay or conditions. Their industrial salvation must come, if at all, from the state. The law has always in various forms recognized their disadvantages, and has to some extent in the past protected them against overreaching and imposition. In recent times, in this country, there has been great improvement in their conditions, but the law still recognizes the weakness of their sex. The legislation in many of the states to regulate the hours and conditions of labor and the minimum wages of women has been enacted to protect them against injustice, deprivation and oppression, and has been helpful.

There can be no fundamental right of an employer to obtain any part of the labor of women for which he does not pay. The convenience and profits of employers and cut prices to consumers must yield to the just requirement that women workers should receive sufficient pay for competent and adequate labor to afford them bare self-support. The interests of society call for the enforcement of this principle.

Respectfully submitted,

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