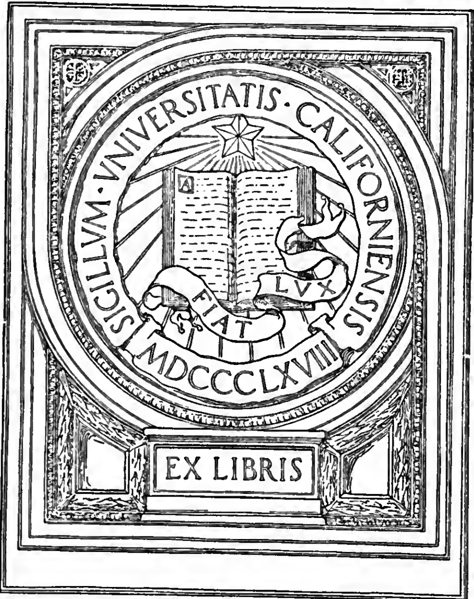
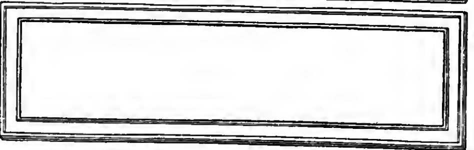
fornia
nal
ity

HC
101
A3
v.5

UNIVERSITY OF CALIFORNIA
AT LOS ANGELES





Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/reportsofindustr05unitiala

REPORT

OF THE

INDUSTRIAL COMMISSION

ON

LABOR LEGISLATION,

INCLUDING RECOMMENDATIONS AS TO GENERAL LEGISLATION, AND DIGESTS OF THE LAWS OF THE STATES AND TERRITORIES RELATING TO LABOR GENERALLY, TO CONVICT LABOR, AND TO MINE LABOR.

VOLUME V

OF THE COMMISSION'S REPORTS.

UNIV. OF CALIFORNIA
AT LOS ANGELES LIBRARY

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1900.

MEMBERS OF THE INDUSTRIAL COMMISSION.

Senator James H. Kyle, *Chairman.*

Senator Boies Penrose.
Senator Stephen R. Mallory.
Senator John W. Daniel.
Representative John J. Gardner.
Representative William Lorimer.
Representative L. F. Livingston.
Representative John C. Bell.
Representative Theobald Otjen.
Mr. Lee Mantle.

Mr. Andrew L. Harris.
Mr. Ellison A. Smyth.
Mr. John M. Farquhar.
Mr. Eugene D. Conger.
Mr. Thomas W. Phillips.
Mr. Charles J. Harris.
Mr. M. D. Ratchford.
Mr. John L. Kennedy.
Mr. Albert Clarke.

William E. Sackett, *Secretary.*

[Extract from act of Congress of June 18, 1898, defining the duties of the Industrial Commission and showing the scope of its inquiries.]

Sec. 2. That it shall be the duty of this commission to investigate questions pertaining to immigration, to labor, to agriculture, to manufacturing, and to business, and to report to Congress and to suggest such legislation as it may deem best upon these subjects.

Sec. 3. That it shall furnish such information and suggest such laws as may be made a basis for uniform legislation by the various States of the Union, in order to harmonize conflicting interests and to be equitable to the laborer, the employer, the producer, and the consumer.

HC
101
A3
v.5

Exchange - U. C. B. - 6/16/38

OFFICES OF UNITED STATES INDUSTRIAL COMMISSION,
Washington, D. C., May 25, 1900.

DEAR SIR: I have the honor to transmit herewith the Report of the Industrial Commission on Labor Legislation, prepared in conformity with an act of Congress of June 18, 1898.

Respectfully, JAMES H. KYLE,
Chairman.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

296319

INDUSTRIAL COMMISSION.

REPORT ON GENERAL LABOR LEGISLATION.

To the Senate and House of Representatives, Fifty-sixth Congress:

The subject covered by this report is peculiarly a matter of domestic law, and with one or two notable exceptions (such as railway labor, which may be regulated under the interstate commerce clause of the Constitution) the commission have to recommend improved legislation to the State legislatures, under section 3 of the act creating this commission, rather than to Congress directly. Section 3 provides that the commission "shall furnish such information and suggest such laws as may be made a basis for uniform legislation by the various States of the Union, in order to harmonize conflicting interests and to be equitable to the laborer, the employer, the producer, and the consumer."

It seems best to take up the subjects upon which the commission finds itself now ready to make recommendations in the order in which they are treated in the accompanying digest of existing laws relating to general labor. That order has been carefully considered, and is, it is hoped, both logical and practical, while the convenience to the reader in having the references consecutive is obvious. The subject of convict labor is specially treated in a separate report of the Industrial Commission, but for the sake of completeness a digest of the statutes on this subject is included in this report. The commission has not yet completed its investigation of the conditions of mine labor, and while some suggestions on this subject are contained in the present report, the subject will be more fully discussed later. Meantime a digest of the existing laws as to labor in mines is submitted in the present volume.

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. (See Chap. I, Art. B, of the Digest of General Labor Laws in this volume.) Most of the Northern and Eastern States prohibit the employment of persons under the full age in factories or other mechanical establishments, for more than a prescribed time per diem, usually ten hours, and not exceeding sixty hours

per week. Obviously, Congress has no power, without a constitutional amendment, to legislate directly on 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 can not, under the Federal and State constitutions, be recommended as to persons, male or female, above the age of 21, 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 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 14); 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 the employment of children in factories in any capacity, or for any time, under the age of 14 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, (Chap. I, Art. B, sec. 8), providing in substance that no child may be employed in either factories, shops, or in stores in large cities, who can not read and write, and, except during vacation, unless he has attended school for at least twelve weeks in each year.

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

The commission would further recommend that the length of the working day in all public employment should be fixed at eight hours, in line with the present act of Congress, which should further be strengthened in some particulars. The objection that this discriminates between public and private employment is recognized, but in our judgment is outweighed by the demonstration of the benefits of a shorter day, which, it is hoped, will bring private employment to the same standard.

The Supreme Court of the United States has affirmed the constitutionality of the Utah law limiting the length of the day's labor in mines or underground workings, even in the case of male citizens of full age. The commission would therefore recommend that the provisions of the Utah constitution and statutes (see Chapter I, Art. B, sec. 4) be followed in all the States, by which the period of employment of workmen in all underground mines or workings shall be eight hours

a day, except in cases of emergency, when life or property is in imminent danger, and, also, that the employment of children under the age of 14 and of all women and girls in mines or underground quarries and workings should be forbidden.

Under the interstate commerce power, Congress might well enact that no person under 18 should be employed as a telegraph operator upon railroads, following the Colorado and Georgia statutes, and that all engineers and switchmen should submit to an examination for color-blindness; also that it be made a misdemeanor for an engineer or switchman to be intoxicated while on duty.

A simple and liberal law regulating the payment of labor (Chap. I, Art. C) 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 duebills, and that no compulsion, direct or indirect, should be used to make them purchase supplies at any particular store. More stringent legislation, as by providing that mining employers, etc., may not run supply stores at all, must necessarily be determined by the several States according to their local conditions. The company-store acts now in existence are frequently evaded by the device of giving a percentage on all purchases to the employer or paying commissions on all collections from his employees. It may be difficult to devise a uniform law touching such matters, but the attention of the State legislatures is called to such evasions and the abuses arising therefrom. Provisions for the fair weighing of coal at mines before passing over a screen or other device, in order that the miner may be compensated for all coal having a market value, should be adopted, and the miners should have the privilege of employing a check weighman at their own expense.

The question of the enforcement of the labor contract by injunction or contempt in equity process (Chap. I, Art. E) is a very difficult one, mainly so made by the abuses which have arisen from injunctions carelessly issued by learned judges or by the unlearned judges of inferior courts in States which confuse chancery and common-law jurisdiction. The injunction is a high prerogative writ, and should be awarded only after the most careful examination by a tribunal thoroughly competent. Wherever possible, and wherever the transaction complained of is a simple criminal offense, it should be left to the jurisdiction of the local criminal courts, aided, if necessary, by the police or military authorities; but when the case is one which is properly a subject of equity jurisdiction, and where issuance of an injunction is really necessary to prevent irreparable loss or wrong, it seems to be going too far to say that no contempt of the injunction shall be punished without all the delays and safeguards of an ordinary jury trial. It might be well to limit punishment for contempt to imprisonment for a brief period, but equity courts must not be deprived

of the power to protect themselves and make their decrees respected. At the same time, the practice of awarding blanket injunctions against all the world, or against numerous unnamed defendants, as well as the practice of indirectly enforcing the contract for personal service by enjoining employees from quitting work, should be discouraged not only by popular sentiment, but by intelligent judicial opinion. There should be no unnecessary departure from the time-honored principle that the contract of personal service can not be specifically enforced, because to do so entails a condition of practical slavery.

The statutes concerning intimidation (Chap. I, Art. F) are extremely interesting, but seem to require no particular comment. They are principally little more than expressions of the common law. As, however, they have so generally been adopted in the states, it might be wise for Congress to adopt such a statute relative to railway labor, and for that purpose the New York statute, generally followed in the Western States, is probably the best. The Maine law applying to railroads is very full and explicit and might well be adopted by Congress for all railroads or other interstate carriers, supplemented by the provisions of the New York Penal Code (Sec. 653).

There is at present no Federal legislation protecting the political rights of laborers, and it would seem that the ordinary State statutes, which prohibit employers from coercing employees in the exercise of the right of suffrage or from seeking to influence them by pay envelopes, threats of discharge, or otherwise, could properly be made a national law applying to elections to Federal offices. The New York statute (Penal Code, Sec. 41t; Laws 1894, Chap. 714) is perhaps the most complete, and might well be copied.

The legal rights of laborers in suits, etc., must necessarily be left to the regulation of the States creating the courts where they are conducted, but the United States bankruptcy act should be amended by copying the usual State law (see New York General Laws, chap. 32, art. 1, sec. 8), by which a preferred lien is given to all employees, clerks and servants for debts due for wages and salaries, above all other claims except taxes or debts due the Federal Government, if such debts were incurred within six months before the assignment or receivership, whether of a person, or a corporation, or the death of a deceased insolvent.

Convict labor (Chap. III) is the subject of a special report, but it seems clear that Congress should legislate to prevent the importation and sale of convict-made goods from one State into another without the consent of the State into which the goods are imported, or where they are sold. The importation of foreign convict-made goods has been prohibited by act of Congress. (See Tariffs 1890, 1894, and 1897.)

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 uniform adoption. (See Chap. IV.)

The sweat-shop law, also, which is now practically identical in the important States of New York, Massachusetts, Pennsylvania, and Ohio, is recommended for general adoption.

On the subject of railway labor (Chap. VII), which is undoubtedly covered by the interstate powers of Congress, the commission are of opinion that Congress should adopt a consistent code of law regulating all matters concerning employment in that industry, such as the hours of labor, the limitation of continuous runs by engineers, or continuous service by telegraph operators or switchmen, without period of sufficient rest, the enactment of a consistent employers' liability code, including a definition of the fellow-servant doctrine, the liability of the employer or corporation for defective appliances, etc., with definitions of what appliances, bridges, car couplers, overhead guards, bridge guards, blocking of switches and frogs, and all such matters shall be required from railways, and defect of which shall shift the burden of proof of notice upon the defendant; that such a complete code adopted should be made binding in accident cases whenever they are tried in the Federal courts, without regard to the laws of the State or Territory where the accident occurred, so far as such a provision is constitutional; and the commission are of opinion that such a provision would be constitutional in so far as it applied to matters of procedure—that is, evidence, or burden of proof, rather than substantive right of action; and all such regulations would be constitutional as applied to railway cases or steamboat carriers under the interstate commerce doctrine; but beyond this the terms of the law might well apply, as has been said, to all cases arising in any employment which are brought in, or are ultimately tried in, the Federal courts, leaving the court in each case to determine whether in fact the statute can constitutionally be applied to the circumstances of the case.

Such a code would not only have the great advantage of simplifying conditions throughout the country in the large class of railway and steamboat employments, but the force of example would be so great that even in matters where Congress could not properly interfere, such as the substantive cause of injury in an occupation not of interstate commerce, the States would be led by force of example and uniformity, it is hoped, to voluntarily adopt this code, and thus make the law identical in all occupations throughout the country. This the commission believe to be one of the most important efforts in the labor interest to which the attention of Congress can possibly be invited.

The commission note that trade unions (Chap. IX) have rarely, if at all, taken advantage of the statutes permitting them to incorporate. Under the national act (U. S. Stats., 1886, Chap. 567) not one prominent trade union has, in the thirteen years since its enactment, been incorporated.

The statutes already adopted (Chap. IX, Art. A, sec. 3) in the several States, discriminating as between union and nonunion labor by making it a penal offense for an employer to exclude union labor only, seem to us unconstitutional, being class legislation. The statute should apply to union and nonunion labor alike, if it is to be enacted at all. The right to be employed and protected without belonging to a union should be preserved; but every facility should be given labor to organize if it desires, and the last vestige of the notion that trade unions are a criminal conspiracy should be swept away.

Almost universally the States have adopted statutes protecting trade-union labels. Against such statutes there can be no possible objection in principle, and Congress might well enact a similar law.

On the important subject of strikes and boycotts, reference is had to the accompanying digest (Chap. IX, Art. B). The experiments of the States in regulating them by statute are extremely interesting. Substantially they come to this, that a strike shall be always legal except when conducted on a public employment in such a manner as to injure the public safety or health; and, on the other hand, that a boycott or combination to injure or control the liberty of an individual is always illegal, sometimes criminal. This is substantially the modern American common law. Nothing should be a conspiracy in a trade dispute except where the acts actually committed or the object of the combination would be an act criminal under the common law.

Laws against blacklisting have very generally been adopted, and are probably sound in principle when they do not go to the length of prohibiting privileged communication or fair information upon subjects of mutual interest, for the blacklist in itself is a kind of boycott and is covered by the common law on that subject. Congress has already legislated upon blacklists in railway employments and upon compulsory benefit societies by the act of June 1, 1898, but these subjects require further consideration.

The use of private police detectives, or other armed bodies of hired men, generally imported from one State to another, to repel a strike or defend property, or newly engaged employees, in times of labor trouble, has aroused the anxious attention of many State legislatures, some of which have gone to the length of passing laws of doubtful constitutionality forbidding the passage of persons from one State to another for the purpose of such protection. This matter lies probably within the powers of Congress, and a reasonable statute to prevent abuses should be enacted.

The arbitration and conciliation laws have recently been considered by Congress in connection with the arbitration act applying to railway disputes (U. S. Stats., 1898, 370). In a general way, the commission would report that such laws in the States have been found effective for purpose of conciliation, but that the strict arbitration machinery rarely functions well. The arbitration laws now existing, particularly the national act of 1898, should be made clear, so that the parties to the arbitration, whether employer or employee, should appear as lawfully constituted associations or corporations, or otherwise as individuals with proper machinery for representation by their leaders; and the commission believe that whoever inaugurates a lockout or strike without first petitioning for arbitration, or assenting to it when offered, should be subjected to an appropriate penalty. The object of the first recommendation is to get responsible parties to the record, and to make sure that the individuals concerned in the difficulty are lawfully represented in the proceedings; and the object of the second recommendation is to encourage peaceable adjustments of differences and to discourage the resort to strikes or lockouts until legal methods have been tried. The statute should not confine arbitration to a public board, but should permit the parties to choose arbitrators if they prefer. There should be no provision to compel either side to abide by the decision. It is believed that a full and fair investigation of the facts will, in most cases, bring the parties into substantial agreement, while in other cases the result may be safely left to public opinion.

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 a year in national conference for general consultation, which national conference should 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 of the States, through the commissioner of each separate State, their recommendations for such uniform State statutes upon labor subjects as may seem wise and desirable.

In its final report the commission propose to cover matters not herein discussed, and, possibly, to accompany its report with drafts of bills embodying both the national and State legislation recommended.

James H. Kyle, *Chairman*.
Boies Penrose.
William Lorimer.
Theobald Otjen.
A. L. Harris.
John M. Farquhar.
Eugene D. Conger.
Thomas W. Phillips.
M. D. Ratchford.
John L. Kennedy.
Albert Clarke.

We can not concur in the above report. Conditions, arising partly from climatic, partly from other causes, vary decidedly in the different and widely separated sections of our country. These conditions, coupled with the fact that manufacturing industries of different kinds have been recently and only yet partially established in certain States, render it both unjust and impracticable to attempt any uniform laws regulating labor in all the States, if labor and capital are to have their full and free development.

The inalienable right of private contract should be allowed to both laborer and employer, and the unwise limiting of the hours of work by law we believe to be fraught with danger. The future prosperity of this country as the leading manufacturing nation of the world demands the greatest freedom of contract between labor and capital.

ELLISON A. SMYTH.
CHARLES J. HARRIS.

I am of opinion that it would be unwise and unjust to endeavor to force uniformity of labor laws throughout the United States. The length and the heat of the day are prime factors respecting the hours that may be appropriated to labor, and respecting the rules applicable to it, as well as to its cost. These things under such regulations as suit the climate, the community, and the conditions to be dealt with will work themselves out better under local self government than under any iron-clad rule adopted by or suggested from a central power.

I therefore concur in the spirit of the views expressed on this subject by Messrs. Ellison A. Smyth and C. J. Harris.

JNO. W. DANIEL.

DIGEST OF EXISTING STATUTES OF THE STATES AND TERRITORIES AFFECTING

GENERAL LABOR.

PREPARED UNDER THE DIRECTION OF THE INDUSTRIAL COMMISSION

BY

FREDERIC JESUP STIMSON,
ADVISORY COUNSEL TO THE COMMISSION.

PREFATORY NOTE.

The statutes herein referred to will be found printed at length in the second special report of the United States Commissioner of Labor of 1896, and in the bimonthly bulletins published by the Department of Labor since that date, upon which mainly, owing to considerations of time and the materials at hand, I have had to rely. The object of this report being to give a clear, comparative view of the present condition of legislation upon this subject, the substance of the statutes is set forth as briefly as possible in the text. Specimen statutes, selected either as being most complete or most characteristic of different tendencies of legislation, will be found in full in the footnotes; and on some important subjects all existing statutes will be found thus copied in full.

It has not been thought necessary to complicate this report with references to the decisions of courts upon the statutes embodied therein except that in certain cases, where they have been held unconstitutional, citations of laws are marked with an asterisk(*).

For the sake of brevity, references are made to chapter and section or running section, of the last State revision code or general statutes in common use. When chapter and section are preceded by a year number, it means that the reference is to the annual laws of that year. Where there is no citation, reference should be had to the reference to the same State next preceding in the text.

To save duplication, matters assigned to special experts are not fully covered by this report; but for the sake of a complete scheme chapters are duly assigned to them where they would otherwise have fallen into the body of this report. Of these special reports on legislation, those relating to convict-labor laws and to mining-labor laws are presented in this volume; that relating to trust legislation has already been presented to Congress by the Industrial Commission.

It seems desirable that Congress adopt an exhaustive code applying to all railway matters, thereby doing away with the necessity of further legislation by the States. Whether Congress can also legislate as to cases involving the fellow-servant doctrine in other employments, which may be tried in the United States courts, is an interesting constitutional question, depending, it seems, on whether such matters be regarded as going to the cause of action or to matters of procedure merely. The decisions even of the Federal courts are upon this point conflicting. The same remarks apply also to cases arising from accidents caused by defective machinery, appliances, etc.

FREDERIC JESUP STIMSON.

TABLE OF CONTENTS.

CHAPTER I.—REGULATION OF THE LABOR CONTRACT:

	Page.
ART. A. As to General Form, Time, Termination, etc.—	
§ 1. General Provisions of State Constitutions Concerning Labor	19
§ 2. Statutes Generally Defining the Labor Contract	19
§ 3. Statutes Making General Definitions in Labor Matters	19
§ 4. General Form of the Contract to Labor	20
§ 5. Termination of Contract	21
§ 6. Amount of Wages	23
ART. B. As to Hours of Labor of Men, Women, and Children, in Factories, etc.—	
§ 1. Hours of Labor	23
§ 2. Public Labor	25
§ 3. Hours of Labor of Women, Minors, etc	26
§ 4. Hours of Labor in Factories, Mines, Railroads, and Other Special Occupations	26
§ 5. Hours of Women and Minors in Factories, Shops, Mines, and Other Special Occupations	30
Hours of Minors	34
Labor of Children Absolutely Forbidden	39
§ 6. Dangerous Machinery in Factories, etc	43
§ 7. Mines	44
Begging, Circuses, etc	44
Shops	44
§ 8. Educational Restrictions upon Child Labor	45
Table of Hours of Labor in all the States	50
§ 9. Other Laws Regulating or Prohibiting the Employment of Women and Children	53
§10. Sundays and Holidays	54
ART. C. Payment of Wages, Fines, Deductions, Company Stores, etc.—	
§ 1. Deductions from Wages for Imperfect Work or Other Causes	55
§ 2. Weekly Payment, Laws, etc	55
§ 3. Money of Wage Payments	57
§ 4. Company Stores, etc	59
§ 5. Screen Laws in Coal Mines	62
§ 6. Other Methods of Payment, Labor on Shares, etc	63
§ 7. Bonds and Other Guaranties	64
§ 8. Relief Societies, Charitable Funds, etc	64
§ 9. Company Physicians	67
ART. D. Regulation of the General Labor Contract as to Health, Moral Conditions, etc	67
ART. E. As to Enforcement of the Labor Contract by Injunction or Otherwise—	
§ 1. Direct Enforcement	67
§ 2. Penalty for Breach	68
ART. F. As to Interference with the Labor Contract of Others, Intimidation, etc.—	
§ 1. General Statutes Prohibiting Intimidation of Ordinary Employees	69
§ 2. Intimidation in Railways, Mines, and Other Special Cases	70
§ 3. Interference by Enticing	74

CHAPTER I.—REGULATION OF THE LABOR CONTRACT—Continued. Page.

ART. G. As to the Duties and Liabilities, Employer to Employee—
§ 1. General Liability 76
§ 2. Fellow-Servant Doctrine 77
§ 3. Defective Machinery and Appliances 84
§ 4. Injuries Resulting in Death 86

ART. H. Duties and Liabilities, Employee to Employer 87

ART. I. Duties and Liabilities of Employer and Employee to Third Persons 88

CHAPTER II.—POLITICAL AND LEGAL RIGHTS OF LABORERS:

ART. A. Political Rights, Voting, etc.—
§ 1. General 90
§ 2. Voting 90
§ 3. Special Privileges of the G. A. R., etc 91
§ 4. Competition of Alien Labor 91

ART. B. Legal Rights and Privileges—
§ 1. Attachment of Wages 93
§ 2. Assignment 93
§ 3. Ordinary Exemptions not Valid Against Wage Debts 94
§ 4. Preference or Priority of Wage Debts 94
§ 5. Liability of Corporation Stockholders for Wage Debts 95
§ 6. Procedure in Suits for Wage Debts 96
§ 7. Exemption from Trust Laws 96
§ 8. Mechanics' Liens, etc 96

CHAPTER III.—PRISON LABOR:
§ 1. Convict-made Goods 98

CHAPTER IV.—SPECIAL PROVISIONS RELATIVE TO FACTORY AND SHOP LABOR:
§ 1. The Factory Acts 100
§ 2. Shops and Stores 115
§ 3. Sweatshops 116
§ 4. Other Shops Regulated as to Sanitary Condition 118

CHAPTER V.—MINING LABOR 119

CHAPTER VI.—AGRICULTURAL LABOR, DOMESTIC SERVICE:
§ 1. General 120
§ 2. Liens on Crops 121

CHAPTER VII.—RAILWAY LABOR:
§ 1. United States Law 124
§ 2. State Laws 124
§ 3. Protection of Railway Employees 124
§ 4. Protection of Street Railway Employees 124

CHAPTER VIII.—INDUSTRIAL EDUCATION:
ART. A. Apprentice System 125
ART. B. Industrial Schools 125
ART. C. Public Libraries, Lectures, Reading Rooms, etc—
§ 1. Libraries 125
§ 2. Free Lectures for Workingmen 125
ART. D. Licensing of Trades 126

CHAPTER IX.—TRADES UNIONS, COMBINATIONS OF EMPLOYEES, ETC.:

ART. A. Trades Unions—
§ 1. Laws Authorizing Trades Unions 127
§ 2. Trades Unions Excepted from General Statutes Regulating Corporations, etc 127
§ 3. Laws Regulating Union Labor 128
§ 4. Union Labels 129
§ 5. Non-Union Labor 129

ART. B. Strikes, Boycotts, Pickets, etc.—
§ 1. Legislation as to Strikes 129
§ 2. Strikes on Railways 132
§ 3. Boycotts 134
§ 4. Picketing 136

CHAPTER IX.—TRADES UNIONS, COMBINATIONS OF EMPLOYEES, ETC.—Cont'd. Page.

ART. B. Strikes, Boycotts, Picketts, etc.—Continued.

§ 5. Injunctions Against Strikes, Boycotts, and Other Labor Combinations 136

§ 6. Riots 136

§ 7. Responsibility of Towns, etc., for Riots 138

CHAPTER X.—UNIONS OR COMBINATIONS OF EMPLOYERS, TRUSTS, ETC.:

§ 1. Blacklisting 141

§ 2. Pinkerton Men, etc 142

§ 3. Trusts 147

CHAPTER XI.—ARBITRATION AND CONCILIATION:

ART. A. Boards of Arbitration, etc.—

§ 1. Created by the State 148

§ 2. Statutes for Arbitration by Private Boards 150

CHAPTER XII.—PROFIT SHARING, STATE AID, PUBLIC EMPLOYMENT BUREAUS, ETC.:

ART. A. Cooperation and Profit Sharing—

§ 1. Cooperative Associations 161

§ 2. Profit Sharing 162

ART. B—

§ 1. State Labor Bureaus 162

§ 2. Employment Offices (State) 163

§ 3. Intelligence Offices 164

Chapter I.

REGULATION OF THE LABOR CONTRACT ITSELF.

ART. A. AS TO GENERAL FORM, TIME, TERMINATION, ETC.

Sec. 1. General Provisions of State Constitutions Concerning Labor.—Wyoming and Utah: "The rights of labor shall have just protection through laws calculated to secure to the laborer proper rewards for his service and to promote the industrial welfare of the State" (Wyo. Con., Art. 1, sec. 22). The Utah constitutional provision is the same, but leaves out the clause "to secure to the laborer proper rewards for his service" (Utah Con., Art. 16, § 1). In North Dakota and Utah: "Every citizen of this State shall be free to obtain employment wherever possible" (N. Dak. Con., Art. 1, § 23; Utah Con., 12, 19).

Several States have a provision that the legislature shall not enact local or special laws regulating labor: Thus, "Any local or special law * * * regulating labor, trade, mining or manufacturing;" (Pa. Con., Art. 3, § 7); "Local or special acts * * * to regulate labor, trade, mining or manufacturing" (Ky. Con., § 59). Missouri and Texas copy the Pennsylvania provision (Mo. Con., Art. 4, § 53; Tex. Con., Art. 3, § 56). The Louisiana constitution substitutes "agriculture" for "mining," but otherwise the provision is similar (La. Con., 46).

Besides this special provision, many State constitutions provide that there shall be no special local or private law in any case for which provision has been or can be made by general law (Pa., Ind., Ill., Kans., Nebr., Md., W. Va., Ky., Mo., Ark., Tex., Cal., Nev., Colo., Ga., Ala.); and whether a general law can be made applicable or not is declared by the Missouri constitution to be a judicial question, despite any legislative assertion to the contrary.

Sec. 2. Statutes Generally Defining the Labor Contract.—The California code has this provision, copied in the other States which have adopted the California code: "The contract of employment is a contract by which one who is called the employer engages another who is called the employee to do something for the benefit of employer or of a third person" (Cal. Civ. C. 1965; Mont. Civ. C. 2650; N. Dak. 4094; S. Dak. Civ. C. 3751.)

Sec. 3. Statutes Making General Definitions in Labor Matters.—Certain States have adopted a general chapter or code of labor matters, such as N. Y., Chap. 32 of the General Laws, contained in the Acts of 1897; Mass., 1894, Chaps. 481, 498, and 508. The Massachusetts chapters, however, do not purport to be exhaustive of the subject. In other States laws affecting the interests of labor are found

scattered under various headings of the statutes. It might well be recommended by the commission that the example of New York be followed, and all laws affecting labor be collected into one chapter or code.

Where there is such a general code or chapter, as in New York, it commonly establishes certain definitions defining the use of words or phrases throughout that chapter. Where, on the other hand, there are acts concerning part of the subject, these often contain definitions applying to such part only. These latter will be found under their respective subjects. But the New York Code contains the following definitions which are valid throughout:

Employee.—"A mechanic, workman, or laborer, who works for another for hire" (N. Y. G. L. 32, 1, 2).

Employer.—"The person employing such mechanic, etc., whether the owner, proprietor, agent, superintendent, foreman, or other subordinate" (N. Y. *ibid.*).

Factory.—"A mill, workshop, or other manufacturing or business establishment where one or more persons are employed at labor" (N. Y. *ibid.*).

So in Iowa the amended law establishing the bureau of labor statistics provides that the expressions "factory," "mill," "workshop," "mine," "store," "business house," "any public or private work," as used in this act, shall be construed to mean any factory, mill, etc., where five or more wage-earners are employed for a certain stipulated compensation (Iowa, 1896, 86, 8). For the other statutes defining factories, etc., see sections relating to those subjects below.

SEC. 4. GENERAL FORM OF THE CONTRACT TO LABOR.—None of the States, except Louisiana, have legislated specifically as to the general form of this contract.[1] It remains therefore subject to the common

---

[1] But see Louisiana (Civ. C., §§ 162–164):

There is only one class of servants in this State, to wit, free servants.

Free servants are in general all free persons who let, hire, or engage their services to another in this State, to be employed therein at any work, commerce, or occupation whatever for the benefit of him who has contracted with them, for a certain price or retribution, or upon certain conditions.

There are three kinds of free servants in this State, to wit:

1. Those who only hire out their services by the day, week, month, or year, in consideration of certain wages; the rules which fix the extent and limits of those contracts are established in the title: Of Letting and Hiring.

2. Those who engage to serve for a fixed time for a certain consideration, and who are therefore considered not as having hired out but as having sold their services.

3. Apprentices; that is, those who engage to serve anyone, in order to learn some art, trade, or profession.

And also (Louisiana C. C., 2673, 2675, 2745–2750):

THE LETTING OUT OF LABOR OR INDUSTRY.

ART. 2673. There are two species of contracts of lease, to wit:

1. The letting out of things.

2. The letting out of labor or industry.

ART. 2675. To let out labor or industry is a contract by which one of the parties binds himself to do something for the other, in consideration of a certain price agreed on by them both.

ART. 2745. Labor may be let out in three ways:

1. Laborers may hire their services to another person.

2. Carriers and watermen hire out their services for the conveyance either of persons or of goods and merchandise.

3. Workmen hire out their labor or industry to make buildings or other works.

ART. 2746. A man can only hire out his services for a certain limited time, or for the performance of a certain enterprise.

ART. 2747. A man is at liberty to dismiss a hired servant attached to his person or

law regulating all contracts; that is, it may be written or oral, and is subject to the usual statute of frauds provision, that if not to be performed within one year it must be in writing. It may be doubted, however, whether a contract for life, or even for a long term of years, would be valid. It is a cardinal principle of equity that the contract for labor or personal service will not be enforced specifically, either directly or indirectly, by injunction against the employee from leaving service; and probably the courts would not sustain a verdict for damages for breach of an unreasonable contract of employment; but there are no statutes upon this subject.

The courts of Indiana, at an early date, refused to enforce a contract for twenty years' service made by a mulatto woman; and the California and Montana codes have the following provision: "A contract to render personal service, other than a contract of apprenticeship, * * * can not be enforced against the employee beyond the term of two years from the commencement of service under it; but if the employee voluntarily continues his service under it beyond that time, the contract may be referred to as affording presumptive measure of the compensation" (Cal. Civ. C. 1980; Mont. Civ. C. 2675; N. Dak. Civ. C. 4103; S. Dak. Civ. C. 3760). It would appear from this statute that a contract of personal service for less than two years can be enforced, thus altering the common law in those States. This statute, therefore, works injury to the employee. In Arkansas "contracts for services or labor for a longer period than one year shall not entitle the parties to the benefits of this act, unless in writing, signed, witnessed by two disinterested persons, or acknowledged" (Ark. 4783).

SEC. 5. TERMINATION OF CONTRACT.—A contract to labor for a definite time can not be prematurely determined by either party without liability for damages, except for cause. A contract to labor for an indefinite time can usually be determined by either party without notice, except where the customs of the trade, as in domestic service, require a notice equal in length to the term of payment. There are usually no statutes on this point, except that a few States have adopted statutes requiring the employer to give the same notice that he exacts by deposit of money or by withholding wages from the employee.

Thus, "any person or corporation engaged in manufacturing which requires from persons in his or its employ, under penalty of a forfeiture of a part of the wages earned by him, a notice of intention to leave such employ, shall be liable to the payment of a like forfeiture if he or it discharges without similar notice any person in such employ *except for incapacity or misconduct*, *unless in case of a general or partial*

---

family, without assigning any reason for so doing. The servant is also free to depart without assigning any cause.

ART. 2748. Laborers, who hire themselves out to serve on plantations or to work in manufactures, have not the right of leaving the person who has hired them, nor can they be sent away by the proprietor, until the time has expired during which they had agreed to serve, unless good and just cause can be assigned.

ART. 2749. If, without any serious ground of complaint, a man should send away a laborer whose services he has hired for a certain time, before that time has expired he shall be bound to pay to such laborer the whole of the salaries which he would have been entitled to receive had the full term of his service arrived.

ART. 2750. But if, on the other hand, a laborer, after having hired out his services, should leave his employer before the time of his engagement has expired, without having any just cause of complaint against his employer, the laborer shall then forfeit all the wages that may be due to him, and shall moreover be compelled to repay all the money he has received, either as due for his wages, or in advance thereof on the running year or on the time of his engagement.

suspension of labor in his business" (R. I. 1896, 198, 25; N. J. Sup., p. 772, 14; 1895, 142; Pa. Dig. 1895, p. 2073, § 1; Mass. 1894, 508, 1). The amended statute of Massachusetts (1895, 129) leaves out the italicized clause.

In Connecticut it is made a penal offense to withhold wages because of a contract, express or implied, requiring such notice (Ct. 1748).

In Louisiana there is a statute prohibiting steamboat employees from leaving without notice, under penalty of damages besides forfeiture of wages (La. Civ. C. 945).

In Texas (1887, 30) all persons in the employment of any railway company were entitled to receive 30 days' notice from the company before their wages could be reduced, and were to receive their full contract price for that time; but a similar statute was declared unconstitutional by the Texas supreme court.[1] Arkansas has a statute requiring railway employees' wages to be immediately paid upon dismissal.[2]

In Maine there is a statute allowing one week's notice to be contracted for in manufacturing or mechanical business, but such notice must be mutual; and one week's wages paid upon discharge without reasonable cause.[3] A Missouri statute (2539, 2540) requires 30 days'

---

[1] Texas (1887, 91):

Whenever any railroad company shall discharge any employee, or whenever the time of service of any employee of a railroad company shall expire, or whenever any railroad company shall be due and owing any employee, such railroad company, upon such discharge, or upon the termination of the term of such service, or upon the maturity of such indebtedness, shall, within fifteen days after demand therefor upon the nearest station agent of said railroad company, pay to such employee the full amount due and owing him; and in case said railroad company fails or refuses to pay such employee, then it shall be liable and pay to such employee twenty per cent on the amount due him, as damages, in addition to the amount so due, in no case the damages to be less than five nor more than one hundred dollars.

[2] Arkansas (6243–6245):

Sec. 6243. Whenever any railroad company or corporation engaged in the business of operating or constructing any railroad or railroad bridge shall discharge, with or without cause, or refuse to further employ any servant or employee thereof, the unpaid wages of any such servant or employee then earned at the contract rate, without abatement or deduction, shall be and become due and payable on the day of such discharge or refusal to longer employ; and if the same be not paid on such day, then as a penalty for such non-payment, the wages of such servant or employee shall continue at the same rate until paid. *Provided*, Such wages shall not continue more than sixty days, unless an action therefor shall be commenced within that time.

Sec. 6244. No such servant or employee who secretes or absents himself to avoid payment to him, or refuses to receive the same when fully tendered, shall be entitled to any benefit under this act for such time as he so avoids payment.

Sec. 6245. Any such servant or employee whose employment is for a definite period of time, and who is discharged without cause before the expiration of such time, may, in addition to the penalties prescribed by this act, have an action against any such employer for any damages he may have sustained by reason of such wrongful discharge, and such action may be joined with an action for unpaid wages and penalty.

[3] Maine (1887, 139):

Sec. 4. It shall be lawful for any person, firm or corporation engaged in any manufacturing or mechanical business, to contract with adult or minor employees to give one week's notice of intention on such employee's part to quit such employment under a penalty of forfeiture of one week's wages. In such case, the employer shall be required to give a like notice of intention to discharge the employee; and on failure, shall pay to such employee a sum equal to one week's wages. No such forfeiture shall be enforced when the leaving or discharge of the employee is for a reasonable cause. *Provided, however*, The enforcement of the penalty aforesaid, shall not prevent either party from recovering damages for a breach of the contract of hire.

notice of a reduction in rate of wages from all corporations to their employees; and a similar statute was passed as to railways in Texas, and has been declared unconstitutional.

Some of the Southern States have laws forbidding, under penalty, the termination by laborers of contracts for agricultural labor, especially when rendered under the share system. (See Chap. VI, below.)

In Arkansas an employer dismissing a laborer prior to the expiration of his contract without good cause is liable for the full amount of the wages due him at the expiration, and the laborer has his lien therefor; and on the other hand, if the laborer, without good cause, abandons his employer before expiration of his contract, he is liable for the full amount of any account he may owe him, and shall forfeit the wages or his share of the crop due him, or to become due (Ark. 4789, 4790).

SEC. 6. AMOUNT OF WAGES.—No State or Territory has yet passed a statute fixing the price of wages in any industry, though Indiana requires 24 hours' written notice of a change in rate (1899, 124, 3), and it is not unusual for cities, towns, or counties to prescribe a minimum rate for unskilled labor and sometimes to provide that the usual local rate for the union rate for that locality shall be paid; and a new statute of Indiana (1899, 226) fixes 15 cents per hour for public or municipal work. The constitution of Louisiana specially provides that "No law shall be passed fixing a price for manual labor" (La. Con., Art. 49). The new New York[1] labor code provides that wages for public work shall not be less than the prevailing rate for a legal day's work in the same trade or calling in the locality where the work is to be used, erected, etc., when completed. Every contract for the construction of a public work shall contain a provision that the same shall be void and of no effect unless such rate is paid by the contractor to his employees, and violation of this section is made a penal offense. (See the law in full, Art. B, § 1, note.) (N. Y. 1897, 415, 3 and 4; 1899, 567; Kans. 1891, 114, 1 and 2).

ART. B. AS TO HOURS OF LABOR OF MEN, WOMEN, AND CHILDREN IN FACTORIES, ETC.

The numerous statutes regulating hours of labor may be divided into four classes, the first class including those which merely fix what shall be regarded as a full day's labor in the absence of any contract between the parties, and these may either be general or extended only to special occupations; second, those laws which fix the labor of persons not fully *sui juris*, as minors, or, in some States, women of all ages; third, those which fix the hours of labor under the police power in occupations specially dangerous or unsanitary, or in which the safety of the public is specially concerned; and, finally, those which fix the hours of adult laborers, male as well as female, in general occupations, and prohibit contracts for longer hours without special rates or pay for overtime. Of these last there are none now existing in the United States, since the Nebraska statute was declared unconstitutional.

Taking these four classes in their order,

SEC. 1. LENGTH OF THE DAY'S WORK IN THE ABSENCE OF CONTRACT.—Seven States have passed laws declaring that 8 hours shall be

regarded as a lawful day's work in general occupations unless otherwise expressly agreed (Conn. G. S., 1746; N. Y. 1897, 415, 3; 1899, 567; Pa. Dig. p. 1158, 1; Ind. 7052; Mo. 6353; Cal. Pol. C. 3244; Ill., chap. 48, 1. See also § 4 below for similar statutes not of universal application). In six States the time is fixed by statute at 10 hours (N. H., chap. 180, 20; Me., chap. 82, 43; Mich. 1885, 137, 2; Minn. 1895, 49; Fla. 2117; Nebr. 5329). In Florida the agreement for more or less than 10 hours must be in writing. In New Hampshire, Connecticut, California, and Florida this law applies to all classes of labor; in Indiana, New York, and Minnesota, to "all classes of mechanics, workingmen and laborers, except those engaged in agricultural or domestic labor," or, in Minnesota, the care of live stock; in Illinois, to "all mechanical trades, arts, and employments and other cases of labor and service by the day, except in farm employments, between the rising and the setting of the sun;" in Pennsylvania, to "all cases of labor and service by the day * * * between the rising and setting of the sun, but not to farm or agricultural labor, or service by the year, month, or week;" in Michigan, to "any mechanical, manufacturing, or other labor calling;" in Missouri, the section does not apply to persons hired or employed by the month, nor to laborers or farm hands in the service of farmers or others engaged in agriculture; while the courts in Indiana have held that the statute does not apply to persons engaged by the week or month.

Generally, these statutes express that work overtime will be permitted with or without extra compensation, but this would, anyhow, be implied from the wording of the statute.[1] In Indiana violation or

---

[1] The best form of this statute is found in Indiana (§ 7052):

On and after the passage of this act eight hours shall constitute a legal day's work for all classes of mechanics, workingmen and laborers, excepting those engaged in agricultural or domestic labor, but overwork for an extra compensation by agreement between employer and employee is hereby permitted.

See also the New York law 1897, 415, 3, amended by 1899, 567, to read as follows:

§ 3. *Hours to constitute a day's work.*—Eight hours shall constitute a legal day's work for all classes of employees in this State, except those engaged in farm and domestic service, unless otherwise provided by law. This section does not prevent an agreement for overwork, at an increased compensation, except upon work by or for the State or a municipal corporation, or by contractors or subcontractors therewith. Each contract to which the State or a municipal corporation is a party which may involve the employment of laborers, workmen, or mechanics shall contain a stipulation that no laborer, workman, or mechanic in the employ of the contractor, subcontractor, or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property. The wages to be paid for a legal day's work as hereinbefore defined to all classes of such laborers, workmen, or mechanics upon all such public work or upon any material to be used upon or in connection therewith shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the State where such public work on, about, or in connection with which such labor is performed in its final or completed form is to be situated, erected, or used. Each such contract hereafter made shall contain a stipulation that each such laborer, workman, or mechanic employed by such contractor, subcontractor, or other person on, about, or upon such public work shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum, nor shall any officer, agent, or employee of the State or of a municipal corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation, for work done upon any contract which in its form or

evasion of this act is a misdemeanor, and so in Michigan, to take any unlawful advantage of any person seeking employment because of their poverty or misfortune to invalidate any of these provisions. It is not unusual to provide that persons contracting or doing work for the State or public corporations shall conform to these hours. (See § 2.)

SEC. 2. PUBLIC LABOR.—The hours of labor in work done directly for the State or any municipal corporation have been limited in many States, as well as by act of Congress, which has power to prescribe hours of labor on Government works, although territorially they are not within its jurisdiction. Some of these statutes merely prescribe the kind of contract the State or public contractors shall make. Others go further and make it a misdemeanor for any person engaged upon public work to exact labor or even to perform or allow labor for more than the prescribed time *per diem*. In most States where a statute exists 8 hours is made the prescribed legal day's work for all labor, whether employed by the State or any municipal corporation, or by any contractor for the same, or in work upon public institutions, etc. (N. Y. 1897, 415, 3; 1899, 567; Mass., when voted to accept the act in the city or town, etc., 1899, 344; Pa. 1897, 379, 1; Ind. 7053; Kans. 1891, 114, 1; Colo. 1894, 9; Cal. Con. 20, 17, Pol. C. 3245; 1899, 114; Wash. 1899, 101; Idaho Con. 13, 2; Wyo. Con. 19, 1; Utah Con. 16, 6, Laws 1894, 11; Md. 1898, 458, Baltimore only; D. C., U. S., 1892, 352). [1] In other States the time in such public work is 9 hours (Mass. [see above], 1894, 508, 8; Tex. 1879, 137; but the Texas law only applies to employees in the several departments of the State government). These laws apply equally to work done by contractors, etc., for the State, or on public works; and in New York noncompliance or evasion of the statute forfeits the contract at the option of the State or municipal corporation employing. (See the law in full, Art. B, §1, note above.) The States making it a misdemeanor for the employer to exact or require a longer time are New York, Colorado, Indiana, Kansas, Pennsylvania, and Maryland, and an officer of the State or any municipal corporation violating the same is usually subject to removal. In Colorado work in excess of 8 hours a day may be allowed in

---

manner of performance violates the provisions of this section; but nothing in this section shall be construed to apply to persons regularly employed in State institutions.

§4. *Violations of the labor law.*—Any officer, agent, or employee of this State, or of a municipal corporation therein having a duty to act in the premises, who violates, evades, or knowingly permits the violation or evasion of any of the provisions of this act shall be guilty of malfeasance in office, and shall be suspended or removed by the authority having power to appoint or remove such officer, agent, or employee, otherwise by the governor. Any citizen of this State may maintain proceedings for the suspension or removal of such officer, agent, or employee, or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this act, or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done thereupon. All acts or parts of acts inconsistent with this act, in so far as they are inconsistent, are repealed. But nothing in this act shall apply to any existing contract for public work.

[1] Thus, in California (Pol. C., §3245):

Eight hours' labor constitute a legal day's work in all cases where the same is performed under the authority of any law of this State, or under the direction, control, or by the authority of any officer of this State acting in his official capacity, or under the direction, control, or by the authority of any municipal corporation within this State, or of any officer thereof acting as such; and a stipulation to that effect must be made a part of all contracts to which the State or any municipal corporation therein is a party.

emergency cases, but such excess shall be treated as a part of a subsequent day's work, and in no one week shall there be permitted more than 48 hours, while in Kansas, in cases of overtime, done upon such emergency, extra pay shall be given at the current rate.

In Massachusetts "cities shall at intervals not exceeding 7 days pay all laborers who are employed by them at a rate of wages not exceeding $2 a day, if such payment is demanded" (Mass. 28, 12). The California code provides that all work done upon public buildings, skilled or unskilled, must be employed by the day, and no work may be done by contract (Cal. Pol. C. 3233), and every person who employs laborers upon the public works, and who takes, keeps, or receives any part or portion of their wages due them from the State or municipal corporation is guilty of felony (Cal. Pen. C., act of April 1, 1872).

SEC. 3. HOURS OF LABOR OF WOMEN, MINORS, ETC.—There is no general law in any State limiting the hours of labor of women of full age, but there are a few such as to child labor in any occupation. Thus, in California: "Every person having a minor child under his control, either as a ward or an apprentice, who, except in vinicultural or horticultural pursuits, or in domestic or household occupations, requires such child to labor more than 8 hours in any one day, is guilty of a misdemeanor" (Pen. C. 651). And night labor of children outside the family, or for wages, is in a few States prohibited. Thus, no child under 16 in Minnesota and Ohio, or 14 in Massachusetts, and girl under 18 in Ohio, may be employed to labor for wages (outside the family in Minnesota) in any manner between 7 p. m. and 6 a. m. (Mass.[1] 1898, 494, 1; Minn. 1897, 360; Ohio 1898, p. 123, 2). In Florida "whoever hires or employs, or causes to be hired or employed, any minor, knowing such minor to be under the age of 15 years, and under the legal control of another, without the consent of those having ing such control, for more than 60 days is guilty of a misdemeanor" (Fla. 2733); and in North Carolina "it is made a misdemeanor to employ and carry beyond the limits of the State any minor without his parent's consent" (N. C. 1891, 45). And the new Illinois statute provides that "no person under the age of 16 years shall be employed or suffered to work for wages at any gainful occupation hereinafter mentioned more than 60 hours in any one week, nor more than 10 hours in any one day" (Ill. 1897, p. 90, 4). And so in Minnesota, as to any labor outside the family.

SEC. 4. HOURS OF LABOR IN FACTORIES, MINES, RAILROADS, AND OTHER SPECIAL OCCUPATIONS: *Factories.*—A few States have laws resembling those in section 1 above, declaring what shall be a day's work in special occupations in the absence of contract, but not prohibiting contracts or agreements for overtime; usually, however, factory hour laws are prohibitive. Thus, in Ohio and Wisconsin 8 hours is made a day's work, in the absence of special contract, in any manufacturing or mechanical business, and 10 hours in Minnesota. In Ohio the

---

[1] Massachusetts (1898, 494, 1):

No child under fourteen years of age shall be employed in any factory, workshop, or mercantile establishment. No such child shall be employed in any work performed for wages or other compensation, to whomsoever payable, during the hours when the public schools of the town or city in which he resides are in session, nor be employed at any work before the hour of six o'clock in the morning or after the hour of seven o'clock in the evening.

law extends to mining business also.[1] In Wisconsin it does not apply to contracts for labor by the week, month, or year (O. 4365; Wis. 1729; Minn. 2441). In Rhode Island 10 hours is considered a day's work, unless otherwise agreed, for labor performed in any manufacturing establishment and all mechanical labor (R. I. 198, 24). In Michigan 10 hours constitute a legal day's work, in the absence of special agreement or pay for overtime, in all "factories, workshops, salt blocks, sawmills, logging or lumber camps, looms or drives, or other places used for mechanical, manufacturing, or other purposes, where men or women are employed" (Mich. 1885, 137, 1). In New Jersey 10 hours shall be considered a legal day's labor for men or women "in all cotton, woolen, silk, paper, glass, and flax factories, and in manufactories of iron and brass" (N. J. Rev. 1877, p. 485, 17). In Maryland there is a complicated law which in substance requires a special contract in case of male employees working more than 10 hours per day, with extra pay by the hour (Md. G. L. 100, 2). A local law of Maryland makes 10 hours per day a day's work in mines, in the absence of special contract, with extra pay (Md. L. L. 194). A similar law existed in Ohio as to railways, but was declared unconstitutional by the Ohio courts (O. 1890, p. 112, 1).

Railroads.—Ten hours is declared a day's work for all classes of steam-railroad employees[2] in New York (G. L. 32, 1, 7), Ohio (1890, p.112, § 1), Michigan (1893, 177), and Minnesota (§ 6965); and so as to street railways in New York (ib., § 5), Massachusetts (1894, 508, 9), and Washington (1895, 100); or, as to street railways, 12 hours in Pennsylvania (Dig., p. 1829), Maryland (1898, 123, 793), California (Pol. C., 3246), South Carolina (1897, 294), Louisiana (1886, 95), and New Jersey (1887, 112); and such work must usually be performed within twelve consecutive hours, but extra pay is allowed for overtime.[3]

---

[1] The Ohio law is as follows (sec. 4365):

In all engagements to labor in any mechanical, manufacturing, or mining business, a day's work, when the contract is silent upon the subject, or where there is no express contract, shall consist of eight hours; and all agreements, contracts, or engagements in reference to such labor shall be so construed.

[2] For example, in Minnesota (G. S., sec. 6965):

No company operating a railroad over thirty (30) miles in length in whole or in part within this State shall permit or require any conductor or brakeman, engineer or fireman, or any trainman who has worked in his respective capacity for twenty consecutive hours, or twenty hours within any period of twenty-four consecutive hours, except in case of casualty, to again go on duty or perform any work until he has had at least eight hours' rest. On all lines of railroad operated in this State ten hours shall constitute a day's work, or any less number of hours which shall be agreed upon by such companies and persons, and every hour in excess of said ten hours' work that any conductor, engineer, fireman, brakeman or any trainman in employ of the company who works under the direction of a superior, or at the request of the company, shall be required or permitted to work, he shall be paid pro rata for such service in addition to his per diem wages.

Provided, Nothing in this act shall be construed to hinder or limit a right of contract for services to be rendered on a compensation to be fixed by agreement, based upon the number of miles run by such employees as constituting a day's work.

Sec. 6966. Any company which violates or permits to be violated any of the provisions of the preceding section, or any officer, director, president or foreman, agent or employee who violates or permits to be violated any of the provisions of the preceding section, shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars nor more than one hundred dollars.

[3] Thus, in Massachusetts:

A day's work for all conductors, drivers and motormen now employed or who may hereafter be employed by or on behalf of any street railway company in any city or

Brickyards, stationary engines.—Ten hours is prescribed in New York for brickyards and in Montana 8 hours for stationary engines in such steam plants as are in continuous operation (N. Y. G. L. 32, 1, 6; Mont. 3370).

Some of the above statutes are ambiguous, and are possibly intended to forbid contracts for overtime; but as it is not clearly expressed on their face, they should be interpreted to permit such contracts on the general principle that statutes in derogation of the common law are to be construed strictly.

We now pass to the statutes which clearly prohibit contracts for overtime.

Factories.—In South Carolina and Georgia 11 hours per day or 66 hours per week is the legal limit on all cotton and woolen manufacturing establishments for all operatives except engineers, firemen, watchmen, mechanics, teamsters, yard employees, clerical force, provided that additional work not over 70 hours per annum, or in Georgia, 10 working days, is permitted to make up for lost time, etc., and contracts for a longer time are absolutely void, and their enforcement prohibited under penalty of misdemeanor (S. C. 268; Ga. 1889, p. 163).[4] And it seems that in other manufacturing establishments, machine shops, etc., the legal time remains (for minors) from sunrise to sunset, taking out the usual mealtimes (Ga. Code, 1885).

Railways.—The Massachusetts, Pennsylvania, Maryland, South Carolina, and California statutes quoted above declare contracts for a longer time than is respectively permitted (see above) to be invalid, and the company so contracting is liable to a penalty. The constitutionality of such statutes, even when not applying only to corporations, can now probably be sustained under the recent decision of the United States Supreme Court on the Utah mining law.

---

town shall not exceed ten hours' work to be performed within twelve consecutive hours. No officer or agent of any street railway company shall exact from any of its said employees more than the said ten hours' work for a day's labor: *Provided, however*, That on all legal holidays, on days when the corporation is required to provide for more than the ordinary travel, and in case of accident or unavoidable delay, extra labor may be performed for extra compensation, and that nothing herein contained shall affect existing written contracts.

[4] The Georgia law is as follows:

The hours of labor required of all persons employed in all cotton or woolen manufacturing establishments in this State, except engineers, firemen, watchmen, mechanics, teamsters, yard employees, clerical force, and all help that may be needed to clean up and make necessary repairs or changes in or of machinery, shall not exceed eleven hours per day, or the same may be regulated by employers, so that the number of hours shall not in the aggregate exceed sixty-six hours per week; *Provided*, That nothing herein contained shall be construed to prevent any of the aforesaid employees from working such time as may be necessary to make up lost time, not to exceed ten days, caused by accidents or other unavoidable circumstances.

All contracts made, or entered into, whereby a longer time for labor than is provided in the foregoing section of this act, shall be required of said employees, hereinbefore described, shall be absolutely null and void, so far as the same relates to the enforcement of said contracts with said employees, any law, usage, or custom to the contrary notwithstanding.

Any cotton or woolen manufacturing establishments that shall make or enforce any contract in violation of the foregoing section with any person as an employee therein, shall be subject to a forfeiture of an amount not less than twenty and not more than five hundred dollars for each and every such violation.

Any person with whom said contract is made, or any person having knowledge thereof, shall be competent to institute suit against said cotton or woolen manufacturing establishments, under the rules prescribed for bringing suits in this State. * * *

Several States have statutes providing that railroad employees may not be compelled to work more than a certain number of continuous hours without an 8-hour, 10-hour, or indeterminate period of rest. Thus, 13 hours without 10 hours' rest, except by reason of the trains being detained by casualty or other cause, in Georgia (Ga. 1891, p. 186); 13 hours without 8 hours' rest, except when the train is detained by reason of casualty or other cause, in Florida (Fla. 1893, 4199); 15 hours without 8 hours' rest, except in cases of detention caused by accident, in Ohio (O., 1892, p. 311); 18 hours, except in case of casualty, without 8 hours' rest (Colo., 1891, p. 284); 18 hours, at any time, during one day (Minn. 2242); 20 hours, except in case of casualty, without 8 hours' rest (Minn. 6965); 24 hours without 8 hours' rest (N. Y. G. L 32, 1, 7; Mich. 1893, 177, 1).[5] (For example, see notes 2 and 5.)

Mines.—The Wyoming constitution and law limit labor in mines to 8 hours per day (Con., 19, 1; 1891, 83), and the Utah statute[6] (1896, 72) to the same effect as to both mines and smelters was recently upheld by the United States Supreme Court, while the similar Colorado statute (1899, 103) was declared unconstitutional by the State court. This time does not, in Wyoming, include the time consumed in going to and returning from work, but only 8 hours of actual labor; and overtime may be given when necessary for the protection of property or human life, provided proportionate increased pay is given. A new statute in Missouri limits labor to 8 hours in certain mines (Mo. 1899, p. 312).

Bakeries and confectionery establishments.—The hours of labor are limited to 10 hours per day, 60 a week (N. Y. G. L. 32, 110; N. J. 1896,

---

[5] Thus, in Michigan (1893, 177):

SEC. 1. No person, corporation, joint stock company or association of individuals owning or operating a line of railroad, in whole or in part, within this State, shall permit or require any conductor, engineer, fireman, brakeman or any train man who has worked in any capacity for twenty-four hours to again go on duty or perform any kind of work until he has had at least eight hours rest.

SEC. 2. Ten hours labor performed within twelve consecutive hours shall constitute a day's labor in the operation of all steam, surface and elevated railroads now owned and operated or hereafter owned and operated within this State: *Provided*, That this act shall not apply to regular scheduled trains when completed within a less number of hours: *Provided further*, That the provisions of this act shall not apply to extra hours of labor performed by any conductor, engineer, fireman, brakeman, or train man in cases of unavoidable accident or delay caused by such accident.

SEC. 3. Every hour in excess of ten hours labor performed in any one day by any conductor, engineer, fireman, brakeman or any train man of any railroad company, corporation, joint stock company or association of individuals or person owning or operating a railroad within this State, who works under the direction of a superior or at the request of such person, company, corporation, joint stock company or association of individuals and who shall be required or permitted to work shall be deemed one-tenth of a day's labor and such conductor, engineer, fireman, brakeman or train man shall receive *pro rata* compensation for said extra service in addition to his daily compensation.

SEC. 4. Any person, agent or employee of such person, railroad company, corporation, joint stock company or association of individuals violating the provisions of this act, shall be guilty of a misdemeanor.

[6] The Utah law reads:

The period of employment of workingmen in all underground mines or workings shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

The period of employment of workingmen in smelters and all other institutions for the reduction or refining of ores or metals shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Any person, body corporate, agent, manager or employer who shall violate any of the provisions of sections 1 and 2 of this act shall be deemed guilty of a misdemeanor.

181[7]), or to 6 days in the week (Pa. 1897, 95; Mo. 1899, p. 274), and minors under 18 can not, in Pennsylvania and Missouri, be employed between 9 p. m. and 5 a. m.

SEC. 5. HOURS OF WOMEN AND MINORS IN FACTORIES AND OTHER SPECIAL OCCUPATIONS.—This is the general way in which hours of labor are limited in the great majority of the States; the limitation of women's hours in factories practically resulting in similar laws for men. Nearly every Eastern State has now adopted factory-labor acts, applying usually to women under 21, or males under 16 or 18. The exceptions are Vermont, Iowa, Kansas, the extreme Western States (where as yet there are few factories), the District of Columbia, and the Southern States generally. Recommendation might well be made by the commission that all the States adopt factory-hour laws applying at least to minors under 16 or 18, though the exact age and time limit may properly be left to the discretion of the State legislatures, as conditions vary so markedly throughout the country.

Women of full age.—Fifteen States now limit the length of their labor, at least in factories or mechanical or industrial occupations,

---

[7] Thus, in New Jersey:

SECTION 1. No employee shall be required, permitted or suffered to work in a biscuit, bread or cake bakery, or confectionery establishment more than sixty hours in any one week, or more than ten hours in any one day, unless for the purpose of making a shorter workday on the last day of the week, nor more hours in any one week than will make an average of ten hours per day for the whole number of days in which such person shall so work during such week; but it shall be lawful in cases of emergency for employers to permit any employee and for the latter to work an additional time not exceeding two hours per day, such extra work to be remunerated at the current rate of the weekly wages paid to such employee for his weekly work of sixty hours; no employee in any biscuit, bread or cake bakery shall be discharged by his employer for having made any truthful statement as a witness in a court or to the factory inspector or a deputy factory inspector, in pursuance of this act.

By the Maryland law (P. L. 100, 1–3):

SEC. 1. No corporation or manufacturing company engaged in manufacturing either cotton or woolen yarns, fabrics or domestics of any kind, incorporated under the laws of this State, and no officer, agent or servant of such named corporation or manufacturing company, and no person or firm, owning or operating such corporation or manufacturing company within the limits of this State, and no agent or servant of such firm or person, shall require, permit or suffer its, his or their employees in its, his or their service, or under his, its or their control, to work for more than ten hours during each or any day of twenty-four hours, for one full day's work, and shall make no contract or agreement with such employees, or any of them, providing that they or he shall work for more than ten hours for one day's work during each or any day of twenty-four hours, and said ten hours shall constitute one full day's work.

SEC. 2. Any such named corporation or manufacturing company within the limits of this State shall be allowed, under the provisions of this section, the privilege of working male employees, over the age of twenty-one years, over the limit of ten hours, for the express purpose only of making repairs and improvements, and getting fires made, steam up and the machinery ready for use in their works, which can not be done during the limits of the ten hours, the extra compensation for all such work to be settled between such corporation and manufacturing companies and the employees; *Provided*, That nothing in this article shall be so construed as to prohibit any employer from making a contract with his male employees, over the age of twenty-one years, to work by the hour for such time as may be agreed upon.

SEC. 3. If any such corporation or manufacturing company within the limits of this State, or any officer, agent or servant of such corporation or manufacturing company in this State, shall do any act in violation of any of the provisions of this article he or they shall be deemed to have been guilty of a misdemeanor, and shall, on conviction thereof in a court of competent jurisdiction, be fined not less than one hundred dollars for each and every offense so committed, together with the cost of such prosecution, * * *.

usually to 10 hours a day and 60 hours a week, but in Massachusetts 58 hours a week, and in New Jersey 55 hours a week, while in Pennsylvania it is 12 hours a day and 60 hours per week and in Wisconsin 8 hours per day. These States are New England (with the exception of Vermont), New York, New Jersey, Pennsylvania, Wisconsin, Nebraska, the Dakotas, Virginia, and Louisiana[1](Mass. 1894, 508, 10, 11, and 57; Me. 1887, 139, 1; N. H. 180, 14; R. I. 198, 22; Conn. 1745; N. Y. 1899, 192; N. J. 1892, 92; Pa. 1897, 26, 1; Wis. 1728; Nebr. 1899, 107; S. Dak. Pen. C. 6931; N. Dak. 7666; Okla. 2550; Va. 1890, 193, 1; La. 1886, 43, 4. For South Carolina and Georgia see § 4, note 4. The Illinois law was declared unconstitutional).

---

[1] The laws in full are as follows:

Massachusetts (1894, 508):

SEC. 10. No minor under eighteen years of age shall be employed in laboring in any mercantile establishment more than sixty hours in any one week.

SEC. 11. No minor under eighteen years of age, and no woman shall be employed in laboring in any manufacturing or mechanical establishment more than ten hours in any one day, except as hereinafter provided in this section, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed fifty-eight in a week. Every employer shall post in a conspicuous place in every room where such persons are employed, a printed notice stating the number of hours' work required of them on each day of the week, the hours of commencing and stopping such work, and the hours when the time or times allowed for dinner or for other meals begins and ends, or in the case of establishments exempted from the provisions of this act, the time, if any, allowed for dinner and for other meals; the printed form of such notice shall be furnished by the chief of the district police, and shall be approved by the attorney-general; and the employment of any such person for a longer time in any day than that so stated shall be deemed a violation of this section, unless it appears that such employment is to make up for time lost on some previous day of the same week, in consequence of the stopping of machinery upon which such person was employed or dependent for employment; but no stopping of machinery for a shorter continuous time than thirty minutes shall authorize such overtime employment, nor shall any such stopping authorize such employment unless, or until, a written report of the day and hour of its occurrence, with its duration, is sent to the chief of the district police, or to the inspector of factories for the district. If any minor under eighteen years of age, or any woman, shall without the orders, consent or knowledge of the employer or of any superintendent, overseer or other agent of the employer, labor in a manufacturing or mechanical establishment during any part of any time allowed for dinner or for other meals in such establishment, according to the notice above mentioned, and if a copy of such notice was posted in a conspicuous place in the room where such labor took place, together with a rule of the establishment forbidding such minor or woman to labor during such time, then neither the employer nor any superintendent, overseer or other agent of the employer shall be held responsible for such employment.

SEC. 57. The following expressions used in this act shall have the following meanings:

The expression "person" means any individual, corporation, partnership, company, or association.

The expression "child" means a person under the age of fourteen years.

The expression "young person" means a person of the age of fourteen years and under the age of eighteen years.

The expression "woman" means a woman of eighteen years of age and upwards.

The expression "factory" means any premises where steam, water, or other mechanical power is used in aid of any manufacturing process there carried on.

Maine (1887, 139):

SEC. 1. No female minor under eighteen years of age, no male minor under sixteen years of age, and no woman shall [be] employed in laboring in any manufacturing or mechanical establishment in this State, more than ten hours in any one day, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of

In Maine any woman over 18 may contract for overtime not exceeding 6 hours in any one week, receiving additional compensation therefor; and in Wisconsin any woman of age and any minor over 18 may labor overtime; that is, the law reads she "may not be *compelled*," etc.; so in North and South Dakota and Oklahoma any woman or child above 14; but in the other States no overtime is allowed, and the employer permitting or compelling overtime is commonly subject to a fine or a misdemeanor. In Louisiana the law applies to any "factory, warehouse, workshop, clothing, dressmaking or millinery establishment, or any place where the manufacture of any kind of goods is

---

the week; and in no case shall the hours of labor exceed sixty in a week; and no male person sixteen years and over shall be so employed as above, more than ten hours a day during minority, unless he voluntarily contracts to do so with the consent of his parents, or one of them, if any, or guardian, and in such case he shall receive extra compensation for his services: *Provided, however*, Any female of eighteen years of age or over, may lawfully contract for such labor for any number of hours in excess of ten hours per day, not exceeding six hours in any one week or sixty hours in any one year, receiving additional compensation therefor; but during her minority, the consent of her parents, or one of them, or guardian, shall be first obtained.

New Hampshire (G. S. 180, 14), Rhode Island (198, 22), and Connecticut (G. S. 1745) have similar laws, except that the age in Connecticut is 16:

SEC. 14. No woman and no minor under eighteen years of age shall be employed in a manufacturing or mechanical establishment for more than ten hours in one day, except in the following cases:

I. To make a shorter day's work for one day in the week.

II. To make up time lost on some day in the same week in consequence of the stopping of machinery upon which such person was dependent for employment.

III. When it is necessary to make repairs to prevent interruption of the ordinary running of the machinery.

In no case shall the hours of labor exceed sixty in one week.

New York (1899, 192; 1897, 415, 77):

Hours of labor of minors and women.—No minor under the age of eighteen years, and no female shall be employed at labor in any factory in this State before six o'clock in the morning or after nine o'clock in the evening of any day, or for more than ten hours in any one day or sixty hours in any one week, except to make a shorter work day on the last day of the week; or more hours in any one week than will make an average of ten hours per day for the whole number of days so worked.

New Jersey (1892, 92):

SECTION 1. On and after the sixth day of July, one thousand eight hundred and ninety-two, fifty-five hours shall constitute a week's work in any factory, workshop, or establishment where the manufacture of any goods whatever is carried on; and that the periods of employment shall be from seven o'clock in the forenoon until twelve o'clock noon, and from one o'clock in the afternoon until six o'clock in the evening of every working day except Saturday, upon which last named day the period of employment shall be from seven o'clock in the forenoon until twelve o'clock noon.

SEC. 2. No person under the age of eighteen years, male or female, and that no woman above that age shall be employed in any factory, workshop, or manufacturing establishment except during the periods of employment hereinbefore mentioned: *Provided*, That the provisions in this act in relation to the hours of employment shall not apply to or affect any person engaged in preserving perishable goods in fruit canning establishments or in any factory engaged in the manufacture of glass.

Pennsylvania (1897, 26):

SECTION 1. No minor, male or female, or adult woman shall be employed at labor or detained in any manufacturing establishment, mercantile industry, laundry, workshop, renovating works or printing office for a longer period than twelve hours in any day, nor for a longer period than sixty hours in any week.

Wisconsin sec. 1728 (but see note 4 below):

In all manufactories, workshops and other places used for mechanical or manufacturing purposes, the time of labor of children under the age of eighteen years, and

carried on, or where any goods are prepared for manufacture, but not to domestic or agricultural labor." In Maine the law applies to any manufacturing or mechanical establishment, but overtime is allowed when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when any day's apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week. In Massachusetts the law applies to "any premises where steam, water, or any mechanical power is used in any manufacturing process there carried on," and is the same as in Maine, except that the total hours shall not exceed 58 per week, and the last-mentioned exception reads "to make up for time lost on some previous day of the same week in consequence of the stopping of machinery upon which such person was employed or dependent for employment (this law is enacted in a different section

---

of women, employed therein, shall not exceed eight hours in one day; and any employer, stockholder, director, officer, overseer, clerk or foreman who shall compel any woman or any such child to labor exceeding eight hours in any one day, or who shall permit any child under fourteen years of age to labor more than ten hours in any one day in any such place, if he shall have control over such child sufficient to prevent it, or who shall employ at manual labor any child under twelve years of age in any factory or workshop, where more than three persons are employed, or who shall employ any child of twelve and under fourteen years of age in any such factory or workshop, for more than seven months in any one year, shall be punished by fine not less than five nor more than fifty dollars for each such offense.

Nebraska (1899, 107):

No female shall be employed in any manufactuing, mechanical or mercantile establishments, hotel or restauraunt in this State more than sixty hours during any one week, and ten hours shall constitute a day's labor. The hours of each day may be so arranged as to permit the employment of such females at any time from six o'clock in the morning to ten o'clock in the evening; but in no case shall such employment exceed ten hours in any one day.

South Dakota (Dak. Pen. C., sec. 6931), North Dakota (7666), Oklahoma (2550):

Every owner, stockholder, overseer, employer, clerk or foreman of any manufactory, workshop or other place used for mechanical or manufacturing purposes, who, having control, shall compel any woman or any child under eighteen years of age, or permit any child under fourteen years of age, to labor in any day exceeding ten hours, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding one hundred and not less than ten dollars.

Virginia (1890, 193):

Sec. 1. No female and no child under fourteen years of age shall work as an operative in any factory or in any factory or manufacturing establishment in this State more than ten hours in any one day of twenty-four hours. All contracts made or to be made for the employment of any female or of any child under fourteen years of age, as an operative in any factory or manufacturing establishment to work more than ten hours in any one day of twenty-four hours, are and shall be void.

Sec. 2. Any person having the authority to contract for the employment of persons as operatives in any factory or manufacturing establishment, who shall engage or contract with any female or any child under fourteen years of age to work as an operative in such factory or manufacturing establishment during more than ten hours in any one day of twenty-four hours, shall be guilty of a misdemeanor, and be fined not less than five nor more than twenty dollars.

Louisiana (1886, 43):

Sec. 4. No child, or young person under the age of eighteen years, and no woman, shall be employed in any factory, warehouse, workshop, clothing, dressmaking or millinery establishment, or any place where the manufacture of any kind of goods is carried on, or where any goods are prepared for manufacturing, for a longer period than an average of ten hours in a day, or sixty hours in any week, and at least one hour shall be allowed in the labor period of each day for dinner.

(§ 2) in Maine also), but no stopping of machinery for a shorter continuous time than 30 minutes shall authorize such overtime employment, and a written report of the day and hour of its occurrence and its duration must be sent to the chief of police or inspector of factories." The New Hampshire, Connecticut, and Rhode Island laws are substantially the same as the Massachusetts law, the exception reading (1) to make a shorter day's work for one day in the week; (2) to make up time lost on some day in the same week in consequence of the stopping of machinery upon which such person was dependent for employment; (3) when it is necessary to make repairs to prevent interruption of the ordinary running of the machinery. (For Indiana see note below.)

In New Jersey the law applies to any factory, workshop, or establishment where the manufacture of any goods whatever is carried on; and the period of employment must be from 7 o'clock in the forenoon until noon, and from 1 o'clock in the afternoon until 6, but on Saturdays from 7 until noon. In Pennsylvania and Indiana the law applies to "any manufacturing establishment, mercantile industry, laundry, workshop, renovating works, or printing office;" in Nebraska "to any manufacturing, mechanical, or mercantile establishment, hotel, or restaurant." In Virginia the law applies to any factory or manufacturing establishment. In Maine the act does not apply to any manufacturing establishment or business the materials or products of which are perishable and require immediate labor thereon to prevent damage; and an older statute (apparently still in force) forbids the employment of any person under 16 *by any corporation* for more than 10 hours a day (R. S. 48, 15). And by a new statute in Massachusetts "no deductions shall be made in the wages of women and minors who are paid by the day or hour employed in manufacturing or mechanical establishments for time during which the machinery is stopped, if said women and minors were refused the privilege of leaving the mill while the damage to said machinery was being repaired; and none of the employees referred to in this section shall be compelled to make up time lost through the breaking down of machinery unless said employees are compensated at their regular rates of wages: *Provided*, That said employees have been detained within their workrooms during the time of such breakdown" (Mass. 1898, 505).

Hours of minors.—It will be noticed that the above-mentioned States are the only ones which limit the hours of adult women, even in factories, the Illinois statute having been declared unconstitutional. Doubtless, constitutional objection against such legislation has been felt in many States, the Massachusetts supreme court being the only one which has actually held such laws constitutional as to women over 21. But the majority of States have legislated upon the hours of labor of minors employed in factories, and it is probable that the general factory hours are to a certain extent determined by such laws. ("Factories, workshops, mercantile or other establishments" in Ohio; "mercantile institutions, stores, offices, laundries, manufacturing establishments, factories, or workshops" in Illinois; "manufactories, workshops, mills, and other places,"—this phrase includes "any place where goods or products are manufactured or repaired, dyed, cleansed or sorted, stored or packed, in whole or in part, for sale or for wages and not personal use of the maker or his or her family or employer"—in Minnesota; "manufacturing, mechanical, or mercantile establish-

ment, or other place of labor" in California; "factory, warehouse, or workshop" in Louisiana. In New Jersey the law does not apply to canning establishments or glass factories, or in Michigan to canning or evaporating works; but otherwise to all places where goods or products are manufactured, repaired, cleansed, or sorted, employing, except in cities, at least five persons.)

In the first place, the most of the fifteen States mentioned above make the law limiting the labor of women extend also to the labor of male minors under 18 (in Massachusetts, New Hampshire, New York, New Jersey, § 2, Wisconsin, and Louisiana), under 16 (in Maine, Rhode Island, Connecticut, and Indiana), or under 14 (in Virginia), or under 21 (in Pennsylvania). But there are many other States which, while not legislating as to women of full age, do legislate as to minors.[2] These are Vermont (R. L. 4320), Ohio (1898, p. 123, 2), Illinois (1897, p. 90), Michigan (1895, 184, 1, 2, and 14), Minnesota (G. S. 6541, 2240; 1895, 171; 1897, 360), California (1889, 7, 1), Maryland (27, 139), and Georgia (Code 1885); but the laws of Minnesota and Wisconsin, the Dakotas,

---

[2] The laws in full are as follows:

Vermont (G. L. § 4320):

An owner, agent, superintendent or overseer of a manufacturing or mechanical establishment who knowingly employs or permits to be employed in such establishment a child under ten years of age, or employs a child under fifteen years of age more than ten hours in one day, and a parent or guardian who allows or consents to such employment, shall be fined fifty dollars.

Ohio (1898, p. 123):

SECTION 1. No child under the age of thirteen years shall be employed in any factory, workshop, mercantile or other establishment, directly or indirectly; and no boy under fifteen years of age, and no girl under sixteen years of age, shall be employed at any work performed for wages or other compensation, or in assisting any person employed as a wage-earner, when the public schools in which district such child resides are in session, providing this act shall not apply to females working at household work.

SEC. 2. No minor under sixteen years of age, and no girl under eighteen years of age, shall be employed at any work at nighttime later than seven o'clock in the evening nor earlier than six o'clock in the morning, and no minor under eighteen years of age shall be employed in any of the places named in section one of this act for a longer period than ten hours in one day, nor more than fifty-five hours in one week.

Indiana (1899, 142):

SECTION 1. No person under sixteen years of age and no female under eighteen years of age, employed in any manufacturing or mercantile establishment, laundry, renovating works, bakery or printing office shall be required, permitted or suffered to work therein more than sixty hours in any one week, or more than ten hours in any one day, unless for the purpose of making a shorter day on the last day of the week; nor more hours in any one week than will make an average of ten hours per day for the whole number of days which such person or such woman shall so work during such week.

SEC. 18. The words "manufacturing establishment," wherever used in this act, shall be construed to mean any mill, factory or workshop where ten or more persons are employed at labor.

Illinois (1897, p. 90):

SECTION 1. No child under the age of fourteen years shall be employed, permitted or suffered to work for wages at any gainful occupation hereinafter mentioned.

SEC. 2. It shall be the duty of every person, firm or corporation, agent or manager of any firm or corporation employing minors in any mercantile institution, store, office, laundry, manufacturing establishment, factory or workshop within this State to keep a register in said mercantile establishment, store, office, laundry, manufacturing establishment, factory or workshop in which said minors shall be employed

and Oklahoma (see above) allow voluntary contracts for overtime by all persons over 14. Such a provision practically makes the law a dead letter. The time allowed is usually 10 hours a day, 60 per week; but only 55 hours a week in Ohio, and from sunrise to sunset in Georgia; and the age is 18 for males and 21 for females in Michigan; 21 for both in Minnesota and Georgia; 18 for both males and females in Ohio, Michigan, California, the Dakotas, and Oklahoma; 16 for males, 18 for females, in Indiana; 16 for both in Illinois and Maryland; 15 in Vermont; 14 (below this age the law is prohibitive as to time allowed) in Wisconsin, Minnesota, the Dakotas, and Oklahoma. It will be seen by a careful study of the above that the only States not yet in any way limiting the labor hours in factories of either women or minors are Iowa, Kansas, Oregon, Nevada, Colorado, Washington, Montana, Wyoming, Utah, West Virginia, Kentucky, Tennessee, Missouri, Arkansas, North Carolina, Alabama, Florida, Mississippi, Texas, New Mexico, Arizona, and the District of Columbia, but it should be noted that in at least several of these States there are no large factories.

---

or permitted or suffered to work, in which register shall be recorded the name, age and place of residence of every child employed, or permitted or suffered to work therein under the age of sixteen years, and it shall be unlawful for any person, firm or corporation, agent or manager of any firm or corporation to hire or employ, or to permit or to suffer to work in any mercantile institution, store, office, laundry, manufacturing establishment, factory or workshop, any child under the age of sixteen years and over the age of fourteen years, unless there is first provided and placed on file in such mercantile institution, office, laundry, manufacturing establishment, factory, or workshop an affidavit made by the parent or guardian stating the name, date and place of birth of such child. If such child shall have no parent or guardian, then such affidavit shall be made by the child. And the register and affidavits herein provided for shall, on demand, be produced and shown for inspection to the State factory inspector, assistant State factory inspector, or deputy State factory inspector.

SEC. 3. Every person, firm or corporation, agent or manager of a corporation employing, or permitting or suffering to work children under the age of sixteen years, and over the age of fourteen years, in any mercantile institution, store, office, laundry, manufacturing establishment, factory or workshop shall post, and keep posted in a conspicuous place in every room in which such help is employed, or permitted or suffered to work, a list containing the name, age and place of residence of every person under the age of sixteen years employed, permitted or suffered to work in such room.

SEC. 4. No person, &c., under the age of sixteen years shall be employed or suffered to work for wages at any gainful occupation more than sixty hours in one week nor more than ten hours in any one day. * * *

SEC. 8. The words "manufacturing establishment," "factory" or "workshop," as used in this act, shall be construed to mean any place where goods or products are manufactured or repaired, dyed, cleaned or sorted, stored or packed, in whole or in part, for sale or for wages, and not for personal use of the maker, or his or her family or employer.

Michigan (1895, 184; 1897, 92; 1899, 77):

SEC. 1. No male under the age of eighteen years and no female under the age of twenty-one years, shall be employed in any manufacturing establishment in this State for any longer period than sixty hours in one week unless for the purpose of making necessary repairs to machinery in order to avoid the stoppage of the ordinary running of the establishment: *Provided*, That no more than ten hours shall be exacted from such male minors or females under twenty-one years on any day unless for the purpose of making a shorter work day on the last day of the week.

SEC. 2. No child under fourteen years of age shall be employed in any manufacturing establishment within this State. It shall be the duty of every person employing children to keep a register, in which shall be recorded the name, birthplace, age and place of residence of every person employed by him under the age of sixteen years;

The same exceptions are made as in the factory acts applying to adult women (see above) in many States. Thus, there is an exception "to make a shorter work day on the last day of the week (N. Y., Ind., Mich., Cal.), or in New York and Indiana enough hours may be taken in any one week to make an average of 10 hours per day for the whole number; and there is an exception "for the purpose of making necessary repairs of machinery, in order to avoid the stoppage of the ordinary running of the establishment" (Mich., Cal.).

A few of these laws go further and prescribe the time of day as to both women and minors. Thus, not before 6 a. m. or after 9 p. m. in New York; 6 a. m. and 10 p. m. in Massachusetts (1890, 183), Nebraska, and Indiana; 7 a. m. and 10 p. m. in New York as to mercantile establishments; 7 a. m. and 6 p. m. in Michigan (1899, 77).

And the hours of beginning and ending must be posted (see below) and earlier or later work than the intervening period is not permitted. (N. Y., Ind., Me., Mass., R. I., Nebr.).[2]

When the notice of factory hours is posted (see below) it may not

---

and no child shall be employed between 6 p. m. and 7 a. m; and it shall be unlawful for any manufacturing establishment to hire or employ any child under the age of sixteen years without there is first provided and placed on file a (sworn) statement in writing made by the parent or guardian, stating the age, date and place of birth of said child, and that the child can read and write. If said child have no parent or guardian, then such statement shall be made by the child, which statement shall be kept on file by the employer, and which said register and statement shall be produced for inspection on demand made by any factory inspector appointed under this act.

SEC. 14. Nothing in this act shall apply to canning factories or evaporating works, but shall apply to any other place where goods, wares or products are manufactured, repaired, cleaned, or sorted, in whole or in part; but no other person, persons or corporation employing less than five persons or children, excepting in any of the cities of this State, shall be deemed a manufacturing establishment within the meaning of this act.

Minnesota (G. S.):

SEC. 2240 (as amended by chapter 49, acts of 1895). In all trades, professions, callings and departments of labor and in all manufactories, workshops, mills and other places wherein persons are employed to perform labor for hire or reward, in this State, the time of labor for the persons so employed and performing labor, shall not exceed ten hours for each day, and any owner, stockholder or overseer, employer, clerk or foreman who shall compel any person or shall permit any child under the age of fourteen years, so employed, to labor for any more than ten hours in any one day, where such owner, stockholder, or overseer, clerk or foreman has control, such person so offending shall be liable to a prosecution in the name of the State of Minnesota, before any justice of the peace, of [or] court of competent jurisdiction of the county wherein the same occurs, and upon conviction thereof shall be fined in any sum not less than ten nor more than one hundred dollars; *Provided*, That the provisions of this section shall not apply to agricultural laborers and domestics employed by the month and to persons engaged in the care of live stock; *And provided further*, That extra labor may be performed for extra compensation, except in the case of children under fourteen years.

SEC. 6541. A person who compels a child under sixteen years of age to labor more than ten hours in any day in any factory, workshop or mercantile or manufacturing business, is guilty of a misdemeanor.

(1895, 171, 1, as am. by 1897, 360):

SECTION 1. No child under fourteen (14) years of age shall be employed at any time in any factory or workshop, or about any mine. No such child shall be employed in any mercantile establishment nor in the service of any telegraph, telephone or public messenger company except during the vacation of the public schools in the town

296319

be changed after beginning labor on the first day of the week without the consent of the factory inspector (N. Y.).[3]

Meal hours.—Several of the statutes discussed in this section prescribe that a certain time must be taken out of such labor hours for meals. Thus, in New York, Indiana, Louisiana, 1 hour for dinner; in Pennsylvania and Michigan, 45 minutes; in Ohio, 30 minutes; but this time is not counted as part of the labor period. In New York 20 minutes must be allowed for lunch before overtime work after 6 p. m. In Massachusetts half an hour for a meal must be given after a 6 hours' work time; and all children, women, etc., more than 5 in num-

---

where such child is employed. No child under sixteen (16) years of age shall be employed at any occupation dangerous or injurious to life, limb, health or morals; nor at any labor of any kind outside of the family of such child's residence before six o'clock in the morning, nor after seven o'clock in the evening, nor more than ten (10) hours in any one day, nor more than sixty hours in any one week, except in accordance with the following express permission or condition, to wit: Children not less than fourteen years of age may be employed in mercantile establishments on Saturdays and for ten days each year before Christmas until ten (10) o'clock in the evening: *Provided, however,* That this permission shall not be so construed as to permit such children to toil more than ten hours in any one day, nor over sixty hours in any one week.

California (1889, 7):

SEC. 1. No minor under the age of eighteen shall be employed in laboring in any manufacturing, mechanical, or mercantile establishment, or other place of labor, more than ten hours in one day, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed sixty hours in a week.

SEC. 2. No child under ten years of age shall be employed in any factory, workshop, or mercantile establishment; and every minor under sixteen years of age when so employed shall be recorded by name in a book kept for the purpose, and a certificate (duly verified by his or her parent or guardian, or if the minor shall have no parent or guardian, then by such minor, stating age and place of birth of such minor) shall be kept on file by the employer, which book and which certificate shall be produced by him or his agent at the requirement of the commissioner of the bureau of labor statistics.

Maryland (P. L. 27):

SEC. 139 (as amended by chapter 443, acts of 1892). No child under sixteen years of age shall be employed in laboring more than ten hours a day in any manufacturing business or factory established in any part of the State, or in any mercantile business in the city of Baltimore.

SEC. 140 (as amended by chapter 443, acts of 1892). Any person who shall so employ a child or suffer or permit such employment is guilty of a misdemeanor.

SEC. 141 (as amended by chapter 443, acts of 1892). The word "suffer or permit," includes every act or omission, whereby it becomes possible for the child to engage in such labor.

Georgia (Code):

SEC. 1885. The hours of labor by all persons under twenty-one years of age, in all cotton, woolen, or other manufacturing establishments, or machine shops in this State, shall be from sunrise untill [sic] sunset, the usual and customary times for meals being allowed from the same; and any contract made with such persons or their parents, guardians, or others, whereby a longer time for labor is agreed upon or provided for, shall be null and void, so far as relates to the enforcement of said contracts against such laborers.

[3] The New York law in full is as follows (1899, 192):

§ 77. A printed notice stating the number of hours per day for each day of the week required of such persons, and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed But such persons may begin their work after the time for beginning and stop before

ber employed in the same factory must be allowed their meal time at the same hour, with various still more specific provisions (Mass. 1894, 508, 26–27).

Labor of children absolutely forbidden.—But besides this, there is another line of statutes absolutely forbidding the labor of children in factories under a certain age (the constitution of Kentucky (§ 243) requires such laws), and also limiting their employment below a somewhat higher age, with a view to their education in the public schools by restricting it unless they have certain educational qualifications, or by requiring licenses from the truant officers, factory inspectors, board of health, or other persons before they can be employed in factories at all. Thus, Massachusetts (1898, 494, § 1), Connecticut (1753), New York (G. L. 32, § 70), Indiana (1899, 142), Illinois (1897, p. 90, § 1), Michigan (1897, 92), Missouri (1897, p. 143), Minnesota (1897, 360), and Colorado (Ann. Stats. 413) absolutely prohibit the employment of children in factories below the age of 14; New Jersey (Sup., p. 407, § 9) and Louisiana (1886, 43) below the age of 14 for girls or 12 for boys; Pennsylvania (1897, 26, 2) and Ohio (1898, p. 123) below the age of 13; Maine (1887, 139, 5), Rhode Island (68, 1; in factories, etc., employing five or more women and children), Wisconsin (1728) (in factories, etc., employing three or more), Maryland (local law, 100, 4), West Virginia (p. 998), North Dakota (Const., 209), and Tennessee (1893, 159) below the age of 12, while New Hampshire (93, 10), Vermont (4320), Nebraska (1899, 108), and California (1889, 7, 2), put the age as low as 10. In Nebraska (§ 6953) children under 12 can not be employed in factories more than four months in the year, and in Wisconsin (1728) children under 14 not more than seven months; but a later statute allows the employment of children over 12 in mines, factories, and places of

---

the time for ending such work, mentioned in such notice, but they shall not be required to perform any labor in such factory, except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the factory inspector.

§ 78. Change of hours of labor of minors and women.—When, in order to make a shorter work day on the last day of the week, a minor under eighteen years of age, or a female is to be required or permitted to work in a factory more than ten hours in a day, the employer of such persons shall notify the factory inspector, in writing, of such intention, stating the number of hours of labor per day, which it is proposed to require or permit, and the time when it is proposed to cease such requirement or permission; a similar notification shall be made when such requirement or permission has actually ceased. A record of the names of the employees thus required or permitted to work overtime, with the amount of such overtime and the days upon which such work was performed, shall be kept in the office of such factory, and produced upon the demand of the factory inspector.

In Indiana (1899, 142, 1):

And every person, firm, corporation or company employing any person under sixteen years of age or any female under eighteen years of age in any establishment as aforesaid shall post and keep posted in a conspicuous place in every room where such help is employed a printed notice stating the number of hours of labor per day required of such person for each day of the week, and the number of hours of labor exacted or permitted to be performed by such person shall not exceed the number of hours of labor so posted as being required. The time of beginning and ending the day's labor shall be the time stated in such notice: *Provided,* That such female under eighteen and persons under sixteen years of age may begin after the time set for beginning and stop before the time set in such notice for the stopping of the day's labor, but they shall not be permitted or required to perform any labor before the time stated on the notices as the time for beginning the day's labor, nor after the time stated upon the notices as the hour for ending the day's labor.

amusement upon license of the county judge (Wis., 1891, 109).[4] This accounts for a few more States, so that we can now say that there is absolutely *no* limitation for persons of *any* age or sex only in Iowa,

---

[4] For the laws in full for Massachusetts, Wisconsin, Pennsylvania, the Dakotas, Oklahoma, California, see note 1 above; for Illinois, Michigan, Minnesota, Ohio, Vermont, see note 2 above.

The Connecticut law (§ 1753, as amended by chapter 118, acts of 1895—

No child under fourteen years of age shall be employed in any mechanical, mercantile, or manufacturing establishment—

is followed in New York, as to "factories" (see definition) only.

In Indiana (1899, 142, § 2) the law reads:

No child under fourteen years of age shall be employed in any manufacturing or mercantile [etc.] establishment within this State. It shall be the duty of every person employing children to keep a register, in which shall be recorded the name, birthplace, age, and place of residence of every person employed by him under the age of sixteen years; and it shall be unlawful for any proprietor, agent, foreman, or other person in or connected with [such] establishment to hire or employ any child under the age of sixteen years to work therein without there is first provided and placed on file in the office an affidavit made by the parent or guardian, stating the age, date and place of birth of said child; if said child have no parent or guardian, then such affidavit shall be made by the child, which affidavit shall be kept on file by the employer, and said register and affidavit shall be produced for inspection on demand made by the inspector, appointed under this act. There shall be posted conspicuously in every room where children under sixteen years of age are employed, a list of their names, with their ages, respectively. (No child under the age of sixteen years shall be employed in any manufacturing establishment who can not read and write simple sentences in the English language, except during the vacation of the public schools in the city or town where such minor lives. The factory inspector shall have the power to demand a certificate of physical fitness from some regular physician in the case of children who may seem physically unable to perform the labor at which they may be employed, and shall have the power to prohibit the employment of any minor that can not obtain such a certificate.)

In Missouri (1897, p. 143):

SECTION 1. No child under the age of fourteen years shall be employed in any manufacturing or mechanical establishment in this State wherein steam, water, or any other mechanical power is used in the manufacturing process carried on therein, or where the work to be done by such child would, in the opinion of two reputable physicians in the locality where such work is to be done, be dangerous to the health of such child.

SEC. 2. Any person, firm or corporation, or its agents, who employs, and any parent or person in charge of such child who permits the employment of such child in violation of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than ten nor more than one hundred dollars, or imprisonment in the county jail for a period of not less than two days nor more than ten days, or both fined and imprisoned, for each offense: *Provided*, That extreme poverty of the parent, or person in charge of such child, shall be a good defense to such proceeding.

In Wisconsin (see also in note 1, above):

SEC. 1728a. No child under thirteen years of age shall be employed or allowed to work by any person, company, firm, or corporation at labor or service in any shop, factory, mine, store, place of manufacture, business or amusement except as hereinafter provided.

The judge of the county court in the county where the child resides and is to be employed or to work, may, by order of record, grant a permit to any child over ten years to be exempt and in such county from the operation of this act as to such employment, and to such extent, and for such time and on such terms as may be named in such permit, on its being shown to his satisfaction that such child can read and write the English language and that it is fit and proper considering the lack of means of support of the family of which such child is a member, that such permit should be granted, and such permit may be rescinded by any such judge on written notice to such child, or to any person having control of or employing such child. Such permit must state the age, place of residence and the amount of school attendance prior to the granting of such permit. A record of such permits must be kept in

Kansas, Oregon, Nevada, Washington, Idaho, Montana, Wyoming, Utah, Kentucky, Arkansas, Texas, North Carolina, Alabama, Florida,

---

such court. * * * No charge or fee shall be required in any matter under this section.

No child shall be so employed or work who does not present such permit, and every person before employing or permitting such child to so labor, or be at service, shall require and retain such permit, and shall keep the same together with a correct list of all children so employed, posted in a conspicuous manner in the place of employment, and shall show such list on demand, to any school officer or teacher or police officer.

Any person, company or corporation who employs or permits to be employed or to work any child in violation of this act, and any person having the control of any such child who permits such employment or work, shall for every offense forfeit a sum of not less than ten dollars nor more than fifty dollars * * * and every day of such illegal employment shall constitute a distinct offense.

Any person having control of or in his employ a child who, with intent to evade the provisions of this act, shall make a false statement concerning the age of such child or the time such child has attended school or shall instruct such child to make any false statement shall, for such offense forfeit the sum of not less than ten dollars, nor more than fifty dollars, for the use of the public schools of such city, town, or district.

But by a later law (1891, 109):

SECTION 1. No child under fourteen years of age shall be employed at labor or service in any mine, factory, workshop or place of public entertainment or amusement, in this State, except upon permit as hereinafter provided; but nothing herein shall interfere with or prohibit the employment of such child in the service of its parent outside of school hours.

SEC. 2. The county judge of the county wherein any child resides may, by order of record, grant a permit and deliver a copy thereof under seal, to any child over twelve years of age exempting such child from the operation of this act as to employment. Every such permit shall specify the conditions and the time during which such child may be employed, fixing such limitations as to said judge shall seem proper; and in determining whether such permit shall be granted, the said county judge shall consider the moral and physical condition of the child, his state of education, the necessities of the family to which such child belongs, and such other circumstances as in the discretion of the judge ought to affect the question of exemption. No charge or fee shall be required in any matter under this section: *Provided*, That where such child resides at a distance of more than ten miles from the county seat, the power to grant permits herein conferred upon the county judge may, under the same limitations and with the same conditions be exercised by the mayor of the city or the president of the incorporated village in which or nearest to which said child or its parent resides.

SEC. 3. Any person, company, firm or corporation that employs or permits to be employed at work any child in violation of the foregoing provisions of this act, and any parent or other person having the control of any such child who permits such employment, shall, on conviction, be punished by a fine of not less than ten nor more than fifty dollars. Nothing herein shall be construed to interfere with the district attorney of any county presenting violations of this act.

SEC. 4. It shall be the duty of the commissioner of the bureau of labor, census, and industrial statistics, the factory inspector and the deputy or deputies of said bureau to enforce the provisions of this act and to prosecute all violations thereof before any magistrate or any court of competent jurisdiction.

In Colorado (Ann. Stats.):

SEC. 413. Any person who shall take, receive, hire or employ, any children under fourteen years of age in any underground works, or mine, or in any smelter, mill or factory, shall be guilty of a misdemeanor, and upon conviction thereof before any justice of the peace or court of record, shall be fined not less than ten dollars nor more than fifty dollars for each offense. *Provided*, That a jury on the trial of any such case before a justice of the peace, shall be called and empaneled as in the case of assault and battery, and that the jury in such cases shall designate the amount of the fine in their verdict.

SEC. 414. Whenever any person shall before a justice of the peace make oath, or affirm that the affiant believes that this act has been, or is being violated, naming the person charged with such violation, such justice shall forthwith issue a warrant

Mississippi, New Mexico, Arizona, Oklahoma, South Dakota, and the District of Columbia.

---

to a constable, or other authorized officer, and such officer shall arrest the person or persons so charged, and bring him or them before the justice issuing such warrant, for a hearing. And it shall be the duty of all constables and policemen to aid in the enforcement of this act.

SEC. 415. In the default of the payment of the fine or penalty imposed under any of the provisions of this act, it shall be lawful for any justice of the peace, or court of record before whom any person may be convicted of a violation of any of the provisions of this act, to commit such person to the county jail, there to remain for not ess than twenty days nor more than ninety days.

In New Jersey (Sup., p. 407, § 9):

* * * No boy under the age of twelve years, nor any girl under fourteen years of age, shall be employed in any factory, workshop, mine or establishment where the manufacture of any goods whatever is carried on.

In Louisiana (1886, 43, § 1):

No boy under the age of twelve years, and no girl under the age of fourteen years, shall be employed in any factory, warehouse or workshop where the manufacture of any goods whatever is carried on, or where any goods are prepared for manufacturing.

In Pennsylvania (1897, 26, § 2, as amended by act No. 123, acts of 1897):

No child under thirteen years of age shall be employed in any factory, manufacturing, or mercantile industry, laundry, workshop, renovating works or printing office within this State. It shall be the duty of every person so employing children to keep a register in which shall be recorded the name, birthplace, age and place of residence, name of parent or guardian, and date when employment ceases, of every person so employed by him under the age of sixteen years. And it shall be unlawful for any factory, manufacturing or mercantile industry, laundry, workshop, renovating works or printing office, to hire or employ any child under the age of sixteen years, without there is first provided and placed on file an affidavit made by the parent or guardian, stating the age, date, and place of birth of said child. If said child have no parent or guardian, then such affidavit shall be made by the child, which affidavit shall be kept on file by the employer and shall be returned to the child when employment ceases, and in no case shall there be a charge to exceed twenty-five cents for administering the oath for the issuing of the above certificate. And after the first day of January, one thousand eight hundred and ninety-eight, it shall be unlawful for any manufacturing establishment, mercantile industry, laundry, renovating works, printing office, mechanical or other industrial establishment to employ any minor under the age of sixteen years who can not read and write in the English language, unless he presents a certificate of having attended during the preceding year, an evening or day school for a period of sixteen weeks. Said certificate shall be signed by the teacher or teachers of the school or schools which said minor attended, and said register, affidavit and certificates shall be produced for inspection on demand by the inspector or any of the deputies appolnted under this act.

In Maine (1887, 139, § 5):

No child under twelve years of age, shall be employed in any manufacturing or mechanical establishment in this State. Whoever, either for himself, or as superintendent, overseer or agent of another, employs or has in his employment any child in violation of the provisions of this section, and every parent or guardian who permits any child to be so employed, shall be punished by a fine of not less than twenty-five nor more than fifty dollars for each offense.

In Rhode Island (68, § 1):

No child under twelve years of age shall be employed in any factory, manufacturing or mercantile establishment, within this State. It shall be the duty of every person, firm or corporation employing children, to keep a register in which shall be recorded the name, birthplace, age and place of residence of every person employed under the age of sixteen years; and said register shall be produced for inspection on demand by either of the inspectors appointed under this chapter.

In Maryland (Local, 100, § 4, added by chapter 317, acts of 1894):

No proprietor or owner of any mill or factory in this State, other than establishments for manufacturing canned goods, or manager, agent, foreman or other person in charge thereof, shall, after the first day of October, in the year eighteen hundred and ninety-four, employ or retain in employment in any such mill or factory, any person or per-

§ 6. DANGEROUS MACHINERY IN FACTORIES, etc., (see below).—In several States the employment of children under a prescribed age is spe-

---

sons under twelve years of age; and if any such proprietor or owners of any such mill or factory, or manager, agent, foreman or other person in charge thereof, shall willfully violate the provisions of this section, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than one hundred dollars for each and every offence so committed, and pay the costs of prosecution, one-half of the fine to go to the informer and the other half to the school fund of the county or city in which the offense shall have been committed; *Provided*, That nothing in this act shall apply to Frederick, Washington, Queen Anne's. Carroll, Wicomico, Caroline, Kent, Somerset, Cecil, Calvert, St. Mary's, Prince George's, Howard, Baltimore, Worcester and Harford counties.

By the constitution of North Dakota (§ 209):

The labor of children under twelve years of age shall be prohibited in mines, factories and workshops in this State.

West Virginia (p. 998):

SEC. 1. That no minor under twelve years of age shall be employed in any mine or in any factory, workshop, manufactory or establishment where goods or wares are manufactured; and in all cases of minors applying for work, it shall be the duty of the manager, superintendent, foreman or operator to see that the provisions of this section are complied with.

SEC. 2. Any manager, superintendent, foreman, or operator of such mine, factory, workshop, manufactory, or establishment, and parents or guardians, allowing a child under twelve years of age to work in violation of section first of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than twenty dollars for each and every such offense.

Tennessee (1893, 159):

SEC. 1. It shall be unlawful for any proprietor, foreman, owner, or other person to employ any child less than twelve (12) years of age in any workshop, mill, factory, or mine in this State.

SEC. 2. If any proprietor, foreman, or owner should not be informed as to the age of the child, he or they can request the parent or guardian to furnish a sworn statement, which shall be sufficient proof of the age of the child.

SEC. 3. Any proprietor, foreman, or owner employing a child less than twelve (12) years of age, or any guardian or parent giving such sworn statement for a child less than twelve (12) years of age, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty (50) dollars nor more than five hundred (500) dollars.

New Hampshire (93, Sec. 10):

No child under the age of ten years shall be employed in any manufacturing establishment.

Nebraska (6953–6955):

SEC. 6953. No male or female child under the age of twelve years shall be employed in any railroad shops, factories, shops, or mines to exceed four months in any one year.

SEC. 6954. If any person or persons, or body corporate, shall hereafter employ, or if any parent or guardian shall consent to the employment of any male or female child under the age of twelve, as aforesaid, contrary to the provisions of the preceding section, and proof be made thereof before any police judge or justice of the peace of the city, town, or district where such offense is committed, he, she, or they so employing such child, or consenting thereto, as aforesaid, shall, upon conviction, for every such offense, pay a fine of not less than ten nor more than fifty ($50) dollars, said fine to be applied to the use of the public schools of the proper city, town, or district: *Provided*, That no conviction shall be had under this act unless proceedings thereunder shall be commenced within one month after the offense shall have been committed.

SEC. 6955. All city, town, and district police and constables are hereby authorized and required, and it is hereby made their duty to attend to the strict observance of the two preceding sections of this act when complaint shall have been properly made to them of a violation of the same.

And (1899, 108) any male or female child under the age of ten years shall not be employed in any manufacturing, mechanical, industrial, or mercantile establishment.

cially forbidden as to running elevators[1] or stationary engines, cleaning machinery while in motion,[2] etc. In some States there is a more general statute forbidding the employment of children under a prescribed age about dangerous machinery generally,[3] or in any employment where the child is put in danger to life or limb, or injurious to his health or morals (see below)[4]; but in some States a child may be employed with a physician's certificate.[5] In other States the matter is left to the inspector of factories or the chief of police to designate such employments as are injurious to children.[6] Factory inspectors may in some States demand physician's certificates of the physicial ability of children in all cases of factory or workshop employment.[7]

SEC. 7. MINES, SHOPS, STORES, ETC. *Mines.*—In a few States the State constitution provides that no woman can be employed in mines at all. These are Wyoming and Utah; and so, by statute, as to any mines, in Alabama, Arkansas, and Pennsylvania, and as to coal mines in Indiana, Colorado, West Virginia, and Washington.[1] And in several States, by statute or constitution, children under a certain age, usually 14, can not be employed in mines.[2] This does not apply to clerical work, etc., outside the mine.

Begging, circuses, etc. (see above, dangerous machinery, etc.).—There is another very general statute forbidding the employment of children under a certain age in theatrical exhibitions or circuses, in begging, street mendicancy, etc., in liquor or concert saloons, "in handling intoxicating liquors" (Mass. 1899, 413), or even generally in all occupations injurious to their morals.[3] The prescribed age varies between 18 and 12 in the several States having such laws.

Telegraph operators.—No person under 18 can be employed upon railroads: Col. 1891, p. 280; Ga. 1890, 148 (p. 182).

Shops, mercantile establishments.—In several of the States the above statutes themselves (see § 5) apply also to shops or mercantile establishments. These are Connecticut, Ohio, Indiana, Illinois, Minnesota, Nebraska, California, Maryland (if in Baltimore), Pennsylvania. In Rhode Island the law prohibiting labor by children under 12 applies to them, and in Minnesota as to children under 14, except in vacations.

In other States there are special laws applying to stores or mercan-

[1] Mass. 1894, 508, 32; N. Y. G. L. 32,79; Pa. p. 1016, § 12; Ind. 1899, 142, 4; Minn. 1895, 171, 6; Conn. 1893, 59.

[2] Mass. ib. 31; Mich. 1895, 184, 3; R. I. 68, 6; N. J. Sup., p. 773, § 17; N. Y. 1899, 192; Mo. 1891, p. 159; La. 1892, 60.

[3] N. Y. 1899, 192.

[4] N. Y. P. C. 292; Conn. 1417; R. I. 115, 4; Mich., ib Minn., 1897, 360; Mo. 1895, p. 205; Ohio 6984, 1890, p. 161; N. J. 1887, 177, 7; Ill. 1897, p. 90, 6; Ind. 2241-2; Cal. Pen. C., p. 87; Wyo. 1895, 46; Del. 131, 2; Colo. 1891, p. 59.

[5] N. J. ib.

[6] Mass. 1894, 508, 15.

[7] Mich. ib. 4; Ill. 1893, p. 101, 4; Ind. 1897, 65, 2.

[1] Wyo. Con. 9, 3; Utah Con. 16, 3; Pa. Dig., pp. 1015, 1351, §§ 112, 306; Ind. 7480; W. Va., p. 997, § 13; Wash. 2227; Colo. 3185; Ala. 266, 14; Ark. 5051.

[2] Pa. ib., Wyo., ib. Minn 1897, 360; Utah, 1896, 28; Wash. ibid; Idaho Con. 13, 4; S. Dak. 1890, 112, 11; Mont. P. C. 474; Ark. 5051. But the age is put at 12: Ind. 2244; N J. Sup., p. 380, § 18; Kans. 3861; W. Va. ib; Colo. Con. 16, 2; Tenn. 1881, 170, 10. At 15: Ohio 1898, p. 164. At 10; Ala. ibid. At 12, and the law only applies to boys: Iowa 1884, 21, 13; Pa. ib.; 306 (bituminous mines.) And no person under 16 who can not read and write: Colo., Kans., Ark., ibid.

[3] N. H. 265, 3; Mass. 1894, 508, 49; R. I. 115, 4; Conn. 1417; N. Y. P. C. 292; N. J. Sup., p. 195; Pa., p. 1015, §§ 9-11; Ohio 6984; Ind. 2241-2; Ill. 38, 42a; Mich. 1998; Wis. 4587a; Minn. G. S. 6539; 1897, 360; Kans. 2170; Md. 27, 273; Del. 131, 2; Ky. 326; Mo. 1895, p. 205; Cal. P. C., p. 87; Colo. 1891, p. 59; Mont. P. C. 472; Wyo. 1891, 20; 1895, 46; Ga. 4612; La. 1886, 43, 2; 1892, 59; D. C. U. S. Stats. 1885, 58.

tile establishments. Thus, in Massachusetts no minor under 18 can be employed in them more than sixty hours per week (Mass. 1894, 508, 10).

In New York there is a special article applying to labor in mercantile establishments in villages or cities having a population of 3,000 or more to the effect that no male under 16 or female under 21 may be required to work more than 10 hours per day or 60 hours per week, unless for the purpose of making a shorter workday of some one day of the week, nor before 7 o'clock in the morning or after 10 o'clock in the evening of any day; but this section does not apply to the employment of such persons on Saturday, provided the total hours per week do not exceed 60, nor to the period between the 15th of December and the 1st of January. Forty-five minutes must be allowed for the noonday meal. Children under 14 may not be employed in such establishments, except that a child above 12 may be so employed during the vacation of the public schools. No child under 16 can be employed without a certificate, issued by the board of health upon affidavit of the parent or guardian, of the age of the child, when the officer issuing the same is satisfied that such child is 14 years of age and physically able to peform the work; and no such certificate may be issued unless it appears that the child has attended a school at which the ordinary branches are taught for a period equal in length to one school year during the year previous to his arriving at the age of 14 or to his applying for such certificate, and is able to read and write in English. Children of the age of 12 or more who can read and write English may be employed in mercantile establishments during vacation of the schools, upon complying with all other provisions of this section. The manager of the establishment must keep a register of children so employed (N. Y. G. L. 32, 160–167).

In New York a mercantile establishment is defined to be a place where goods, wares, or merchandise are offered for sale (N. Y. G. L. 32, 2).

In Minnesota children over 14 may be employed in mercantile establishments on Saturdays and for ten days before Christmas, not more than 10 hours a day; and children under 14 may be employed in mercantile establishments during the vacation of the public schools (Minn. 1897, 360, 1).

Sec. 8. Educational Restrictions upon Child Labor.—It is extremely difficult to make a satisfactory report upon those statutes which are aimed primarily at securing sufficient schooling for children employed in factories, etc., for the reason that not only are the provisions varied and complicated and continually changing, but they are often special to certain States or certain localities, and they are not primarily statutes relating to labor, but statutes relating to the public schools. It seems, therefore, illogical to enter upon this matter in the present report, as the Industrial Commission are concerned, primarily, with statutes in the interest of labor alone, not with the educational policy of the country. It may merely be stated, in a general way, that such States as have these statutes usually put the restrictive age two or more years higher than the age at which labor is absolutely prohibited,[1] and provide that children under such higher age may not

[1] Such age is 16: N. H. 93, 11; Mass. 1898, 494; N. Y. G. L. 32, 70; R. I. 642, ; Me. 1887, 139, 6; N. J. Sup. 407, 10; 15 for boys, 16 for girls: Ohio 1898, p. 123; 14: Vt. 1892, 22, 4; S. Dak. 1891, 56; Conn. 1899, 41; Nebr. 1899, 108.

be employed in mills or factories during the public school hours,[2] or except in vacation,[3] or unless they have attended evening schools,[4] or unless they can read and write,[5] or have attended school for a prescribed time during the year preceding;[6] and, commonly, an employment ticket is required from such children[7] and a list of all who are employed under these provisions of the statutes is required to be posted in the factory employing them.[8] (The more important statutes are summarized in note 9.)[9]

---

[2] Vt., Ohio, S. Dak.
[3] Vt., R. I., Me., Nebr.
[4] Mass., Conn., S. Dak.
[5] N. H., Mass., Vt., R. I., Conn.
[6] N. H. 93, 12; Vt., R. I., Me., Conn. 2105; N. J. Sup., S. Dak., Nebr.
[7] N. H., Mass., ib., Vt., R. I., Me., Conn. 2106.
[8] R. I., Mass., Me., Nebr.
[9] Massachusetts (1898, 494):

In substance the law provides that no child under 16 shall be employed in any factory, workshop, or mercantile establishment, unless the employer keeps on file an age and schooling certificate, as hereinafter prescribed, and two complete lists of such children, one on file and one posted, and also a complete list (which he must send to the superintendent of schools or school committee) of the names of all minors who can not read or write English. The age and schooling certificate is approved by the superintendent of schools or any person authorized by the school committee. Satisfactory evidence must be furnished by the school census or birth certificate of the child's age; and if the child be under 16 it shall not be approved unless the child present an employment ticket setting forth the description of the child. The age and schooling certificate certifies as to the child's age and that he can read and write English. If the child can not read and write, the certificate may contain that the child is regularly attending public evening school, and continues in force only during such attendance. No person may employ a minor over 14, and no parent or guardian permit such employment, if the minor can not read and write English, where a public evening school is maintained in the town, unless he is a regular attendant thereupon: *Provided*, That a doctor's certificate may be put in showing that the physical condition of such minor would render such attendance, in addition to daily labor, prejudicial to health, whereupon the superintendent of schools may issue a permit authorizing the minor's employment for such period as he may determine. Truant officers may visit factories, shops, etc., and report illegal employment.

Maine (1887, 139):

Sec. 6. No child under fifteen years of age shall be employed in any manufacturing or mechanical establishment in this State, except during vacations of the public schools in the city or town in which he resides, unless during the year next preceding the time of such employment, he has for at least sixteen weeks, attended some public or private school, eight weeks of which shall be continuous; nor shall such employment continue unless such child in each and every year, attends some public or private school for at least sixteen weeks, and no child shall be so employed who does not present a certificate made under or by the directon of the school committee, superintendent of the public schools, or the teacher of a private school, that such child has so attended school. And it shall be the duty of such committee, superintendent or teacher, to furnish such a certificate in accordance with the fact upon request and without charge. * * *

Sec. 7. Any parent or guardian who procures a child to be employed contrary to section six, and any corporation, owner, superintendent or agent of the owner, of such establishment violating the provisions of said section shall forfeit the sum of one hundred dollars, one-half to the use of the county, and one-half to the use of the city or town where the offense is committed. Money so recovered to the use of the city or town, shall be added to its school money. It shall be the duties of the school committees and superintendent of public schools to inquire into violations of said section and report the same to the county attorney, who shall prosecute therefor.

Vermont (1892, 22):

Sec. 4. No child under fourteen years of age shall be employed in a mill or factory unless such child shall have attended a public school twenty weeks during the pre-

ceding year, and shall deposit with the owner or person in charge of such mill or factory a certificate showing such attendance, signed by the teacher of such school.

Sec. 5. The town superintendent of schools may inquire of the owner or person in charge of a mill or factory as to the employment of children therein; and may call for the production of the certificates required to be deposited with such person and ascertain if there is any violation of the law in the employment of such children.

Sec. 6. No person shall hereafter give employment to any child under fourteen years of age who can not read and write, but is capable of receiving such instruction during the time when the school which such person should attend is in session.

Sec. 7. A person who shall violate the provisions of sections three, four, or six of this act, or who shall refuse to give the information or exhibit the certificates required to be given and exhibited by section five of this act, shall forfeit not less than five nor more than twenty-five dollars, to be recovered by prosecution before a justice of the peace, and to be paid to the town in which the child resides. And each truant officer is hereby required to make complaint of any violation of said sections to a justice of the peace or judge of a municipal court, who shall issue his warrant, according to law, for the arrest and trial of such offender.

New York (G. L. 32, 70–76):

The New York law provides that children between the ages of 14 and 16 may not be employed in factories unless a certificate, executed by a health officer, be filed with the employer, which shall not be issued unless the officer is satisfied that such child is 14 years of age and physically able to perform the work. The certificate describes the child, and may not be granted unless it appear that the child has attended school, in which the regular branches are taught, for one year previous to arriving at the age of 14, or during the year previous to applying for such certificate, and is able to read and write English. Children of 14 who can read and write may be employed during vacation upon vacation certificates, which require no school attendance. The employer must keep a register open to the inspection of the factory inspector.

New Jersey (Sup., p. 937, 77):

In New Jersey no child under 15 can be employed in any business whatever unless it have attended, within 12 months preceding, some public day or night school for twelve consecutive weeks, or some well-recognized private school.

Pennsylvania (1897, 26, 2):

No child under 16, without an affidavit by the parent or guardian stating its age; and none such may be employed who can not read and write English, except he present a certificate of having attended during the preceding year an evening or day school for a period of 16 weeks, signed by a teacher of such school.

Ohio. See § 5, note 2, p. 25 above for the Ohio law (1898, p. 123).

Indiana (1897, 65):

In Indiana it is unlawful for manufacturers to employ children under 16 without an affidavit by the parent or guardian stating the age of child, which is open to the factory inspector, and no child under 16 shall be employed who can not read or write English, excepting in vacation of the public schools.

In Michigan (1895, 184, 2) and Illinois (1897, p. 90, 2) a register of children under 14 (16 in Michigan by statute of 1899, 77) must be kept, and certificate of age received from the parent, etc.

Minnesota (1895, 171):

No children under the required school age shall in the year next succeeding any birthday be employed at any occupation during the hours in which the schools are in session, unless and until he has attended some school for the prescribed period, and no child under 16 who can not read or write English shall, except in vacation, be employed in any indoor occupation unless such child is a regular attendant at a day or evening school; but (1897, 360) whenever it appears that the labor of any minor so debarred from employment is necessary for the support of the family to which it belongs, or its own support, the school board may, at its discretion, issue a permit authorizing his employment.

Wisconsin:

In Wisconsin there are two statutes. Section 1728a of the Code provides that no child under 13 shall be employed or allowed to work by any person in any shop, factory,

as to the age of such child as a preliminary to employment.[10] Such certificate of age given by the parent, etc., is made conclusive evidence in prosecutions under the statute.[11] The Massachusetts statute is perhaps the most elaborate, while the older system is still exemplified by the older Vermont statute, which merely requires the selectmen of towns to inquire into the treatment of minors employed in manufacturing establishments; and if their education, morals, etc., are unreasonably neglected, or he is treated with improper severity or compelled to labor unreasonable hours, they may, if he has no parent or guardian, discharge him from such employment and bind him out as apprentice, with the minor's consent (Vt. 2518).

Posting of law and employees subject to it.—Most of the statutes limiting the labor of women or minors in factories require that a copy of the act be posted in the factory (Pa.), or a notice stating the hours, time, etc., required of such persons (N. Y., Ohio, Ind., Cal., Me., Mass., N. H., R. I., Pa., Conn., Nebr.), or a list of the minors laboring in the factory who are below the prescribed age open to the factory inspectors, etc. (Me., Ohio, N. Y., Ind., Ill., Mich., Cal., Pa., R. I., Mass.); and it is still more usual, in case of the educational laws referred to in the last paragraph, to require such posting.

Enforcement.—In all States where we have stated the law as compulsory, the employer (Ohio 1898, p. 123, 3; Ill. 1897, p. 90, 9; Mich. 1895, 184, 17; Minn., Cal., Md., La., Me., N. H., N. J., R. I., Va.,

---

mine, store, place of manufacture, business, or amusement except by order of the judge of the county court, who may grant such permit to any child over 10 on such time and such terms as may be named on its being shown that the child can read and write English, and that it is fit and proper that such permit shall be granted owing to lack of means of the family. The permit must state the age, residence, and amount of school attendance prior to granting it, and the child may not be employed without such permit.

The statute of 1891 (109, 2) provides that no child under 14 shall be employed in any mine, factory, workshop, or place of public entertainment or amusement except upon permit of the county judge, which may be granted to any child over 12, specifying the conditions, fixing limitations, etc.; and in granting such permit the county judge shall consider the moral and physical condition of the child, his state of education, the necessities of the family, and other circumstances. (For the laws in full see § 5, notes 1 and 4.)

Colorado (§ 417):

In Colorado it is unlawful for any person to employ a child under 14 to labor in any business during the school hours, unless it have attended some public or private day school at least 12 weeks in each year with certificate from the teacher, etc., or twice the time of such school attendance at half time, or at a night school.

North and South Dakota (N. Dak., § 762; S. Dak., 1897, 57, 7, 3):

In North and South Dakota no child between 8 and 14 shall be employed in any mine, factory, workshop, or mercantile establishment, or in any other manner, except by its parents or guardian, during the hours when the public schools are in session, unless with certificate from the superintendent of schools that such child has attended school for a period of 12 weeks during the year, or has been excused from such attendance.

Louisiana (1886, 43, 2):

In Louisiana there is a general prohibition against the employment of children under 14 in any employment who have not attended school for four months of the year preceding.

[10] N. Y. G. L. 32, 71; N. J. Sup., p. 407, 10; Pa. 1897, 26, 2; Ind. 1897, 65, 2; Ill. 1897, p. 90, 2; Mich. 1895, 184, 2; Cal. 1889, 7, 2; Minn. 1895, 171, 8.

[11] Me. ib. 3; N. H. ib. 17; R. I. ib. 23; Mass. 1894, 508, 61; Conn. 1745; Tenn. 1893, 159, 2.

Pa., Mass., Conn., Wis., Vt. 4320; Mo. 1897, p. 143; Wyo., Nebr.) or employee (Mich.) or parent or guardian of the child (R. I., Conn.) violating it or permitting its violation (Ill., Mich., Minn., Cal., Md., Pa., Wyo.), or the officers, agents, etc., of an employer corporation (Ill., Me., N. H., Mass., Wis., Nebr.), are subject to a fine for each offense ($20 to $50 in Ohio and Nebraska; $10 to $100 in New York, Illinois, Minnesota, Louisiana, and Missouri; $5 to $100 in Michigan; $50 to $200 in California; $25 to $50, Maine and Massachusetts ib. 68; $50, New Hampshire, Vermont; $100, New Jersey; $20, Rhode Island, Connecticut, 1745; $5 to $20, Virginia; $500, Pennsylvania; $20 to $100 for first offense, $50 to $200 or imprisonment 30 days for second offense, $250 fine as a minimum and sixty days' imprisonment for third offense, N. Y. 1897, 416, § 384-l; $5 to $50, Wisconsin; $50 to $200, Wyoming; or imprisonment 10 to 30 days in Ohio and Louisiana; 10 to 90 days, Michigan; 3 months, Wyoming; 2 to 10 months in Missouri or is declared guilty of a misdemeanor (Md. 27, 140; S. Dak. Pen. C. 6931). But "extreme poverty" is declared "a defense to this proceeding" (Mo.).

The factory inspectors, school committee, or commissioners of labor are generally charged with the enforcement of the act (Me. ib., § 7; Mich. ib., § 16; Cal. ib., § 5; N. J. ib., § 3; Pa. ib., § 14); and have in some States the powers of truant officers (Ohio) and fines inure to the school fund of the district (Ohio, Me.) or one-half to complainant and one-half to the county (N. H.); in other States it is left to the police.

The presence of such child in the factory is made prima facie evidence of his employment therein (Ill. 1897, p. 90, § 5).

Table of labor-hour laws in all occupations for men, women, or minors in all States and Territories, November 1, 1899.

[Oreg., Nev., Mont., Ky., N. C., Ala., Miss., N. M., and Ariz. have no legislation whatever on the subject.]

State.	General labor day in the absence of contract (except agricultural and domestic).	Labor day in State or public labor, municipal contractors, etc.	Compulsory labor day for all women in factories (but special contracts for overtime permitted in States so [1] noted).	Compulsory labor day for women under 21 in factories (for women over 21 see previous column).	Compulsory labor day for male minors in factories.	Age at which labor of children in factories is prohibited.	Compulsory labor of women and minors in stores or mercantile establishments.	Labor hours in mines.	Labor prohibited in mines.
N. H	10 hrs.		10 hrs. a day, 60 per week.	10 hrs. a day, 60 per week.	Under 18, 10 hrs. a day, 60 per week.	10.			
Mass.		8 or 9 hrs.	10 hrs. a day, 58 per week.	10 hrs. a day, 58 per week.	Under 18, 10 hrs., 58 per week.	14.	Minors under 18, 60 hrs. per week.		
Me	10 hrs.		10 hrs. a day, 60 per week.[1]	Under 18, 10 hrs., 60 per week.	Under 16, 10 hrs., 60 per week.	12.			
Vt					Under 15, 10 hrs., 60 per week.	10.			
R. I			10 hrs. a day, 60 per week.	10 hrs. a day, 60 per week.	Under 16, 10 hrs., 60 per week.	12.	No children under 12.		
Conn	8 hrs.		do	do	do	14.	Same laws as in factories.		
N. Y	do	8 hrs.	do	do	Under 18, 10 hrs., 60 per week.	14.	Males under 16, females under 21, 60 hrs. per week, etc.		
N. J			10 hrs. a day, 55 per week.	10 hrs. a day, 55 per week.	Under 18, 10 hrs., 55 per week.	14 for girls, 12 for boys.			Children under 12.
Pa	8 hrs.	8 hrs.	12 hrs. a day, 60 per week.	12 hrs. a day, 60 per week.	Under 21, 12 hrs., 60 per week.	13.	Same laws as in factories.		All women and children under 14.
Ohio				Under 18, 10 hrs., 55 per week.	Under 18, 10 hrs., 55 per week.	13.	do		Children under 15.
Ind	8 hrs.	8 hrs.		Under 18, 10 hrs., 60 per week.	Under 16, 10 hrs., 60 per week.	14.	do		All women in coal mines and children under 14; children under 12 in other mines.
Ill	do			Under 16, 10 hrs., 60 per week.	do	14.	do		
Mich	10 hrs.			10 hrs. a day, 60 per week.	Under 18, 10 hrs., 60 per week.	14.			
Wis	8 hours (mfg).		8 hrs. a day[1]	8 hrs. a day[1]	Under 18, 8 hrs. a day.[1]	14[2] or 12 where more than 3 are employed.			
Iowa									Boys under 12.

Minn	10 hrs.			10 hrs. a day, 60 per week;[1] under 16, 10 hrs. a day.[1]	Under 21, 10 hrs., 60 per week;[1] under 16, 10 hrs. a day.[1]	14	Same laws as in factories, but children under 14 may be employed in vacations.		Children under 14.
Kans		8 hrs.							Children under 12 or 16 who can not read, etc.
Nebr	10 hrs.		10 hrs. a day, 60 per week.	10 hrs. a day, 60 per week.		12, not more than 4 mos.; 10, absolutely.	Same laws as in factories.		Under 12, not more than 4 mos.; 10 absolutely.
Cal	8 hrs.	8 hrs.[3]		Under 18, 10 hrs., 60 per week.	Under 18, 10 hrs., 60 per week.	10	do		
Colo		8 hrs.				14		8 hrs.[4]	Children under 12 in any; all women in coal mines or children under 14 or 16, etc.
Wash		do							All women in coal mines and children under 14.
N. Dak			10 hrs. a day[1]	Under 18, 10 hrs.[1]	Under 18, 10 hrs.[1]	12[3]			
S. Dak			do	do	do.[1]				Children under 14.
Idaho		8 hrs.[3]							Children under 14.[3]
Mont									Children under 14.
Wyo		8 hrs.[3]						8 hrs.[3]	All women and children under 14.[3]
Utah		do						8 hrs.	Do.
Okla			10 hrs. a day	Under 18, 10 hrs.[1]	Under 18, 10 hrs.[1]				
Md		8 hrs. in Baltimore	10 hrs. a day[5]	Under 16, 10 hrs., 60 per week.	Under 16, 10 hrs., 60 per week.	12	In Baltimore, same law as in factories.		
Va			10 hrs. a day, 60 per week.	10 hrs. a day, 60 per week.	Under 14, 10 hrs., 60 per week.				
W. Va						12			All women in coal mines and children under 12.

[1] If such labor is compulsory only.
[2] Except upon permit of the judge, etc.
[3] Provided by the constitution of such State.
[4] Law annulled as unconstitutional.
[5] In certain kinds of factories.

Table of labor-hour laws in all occupations for men, women, or minors in all States and Territories, November 1, 1899—Continued.

State.	General labor day in the absence of contract (except agricultural and domestic).	Labor day in State or public labor, municipal contractors, etc.	Compulsory labor day for all women in factories (but special contracts for overtime permitted in States so[1] noted).	Compulsory labor day for women under 21 in factories (for women over 21 see previous column).	Compulsory labor day for male minors in factories.	Age at which labor of children in factories is prohibited.	Compulsory labor of women and minors in stores or mercantile establishments.	Labor hours in mines.	Labor prohibited in mines.
Mo	8 hrs.					14		8 hrs. in certain mines.	
Tenn						12			Children under 12.
Ark									All women and children under 14.
S. C			11 hrs. a day, 66 per week.						
Ga	Sunrise to sunset.		do	Sunrise to sunset	Sunrise to sunset.				
Ala									Children under 10 and all women.
Fla	10 hrs.								
La			10 hrs. a day, 60 per week.	10 hrs. a day, 60 per week.	Under 18, 10 hrs., 60 per week.	14 for girls, 12 for boys.			
Tex		9 hrs.							
D. C		8 hrs.							

[1] If such labor is compulsory only.

SEC. 9.—OTHER LAWS REGULATING OR PROHIBITING THE EMPLOYMENT OF WOMEN AND CHILDREN.

Women.—As a general rule, women of full age may be employed in all avocations that are open to men and are not protected or restricted by any special legislation. A woman is generally a citizen for all purposes except voting, serving in the militia or upon roads, and serving upon juries, though in some States she has special privileges, as that she may not be arrested or imprisoned for debt, etc.; but some States have statutes expressly stating this. Thus, in Illinois, California (by the constitution), and Washington "No person shall be precluded or debarred from any occupation, profession, or employment (except military) on account of sex.[1] "Provided (in Illinois and Washington) that this act shall not be construed to affect the eligibility of any person to an elective office." And in Illinois, "Nothing in this act shall be construed as requiring any female to work on streets or roads, or serve on juries."[2]

But the employment of women in mines is in some States forbidden (see sec. 5), and States are beginning to pass statutes forbidding their employment in houses, theaters, or places of amusement where liquor is sold at retail (Md. 1898, 123, 900; Wash. 1895, 90; La. 1894, 43). Such laws have sometimes been held unconstitutional; but the better opinion is that they are allowable under the police power.

There is an almost universal statute that female employees shall be furnished with seats in (1) manufacturing, mechanical, or mercantile establishments, or stores (N. H. 1895, 16; Mass. 1894, 508, 30; R. I. 68, 8; Conn. 3604; N. Y. G. L. 32, 17, and 170; N. J. Sup., p. 360, 1898, 192; Pa. 1897, 26, 4; Ohio 8767, 1898, p. 35; Ind. 2246; Mich. 1893, 91; Iowa 1892, 47; Minn. R. S. 2244; Nebr. 1899, 107; Del. 127, 1; Mo. 3500, 1891, p. 179; Cal. 1889, 5; Colo. 3604–3605; Wash. Pen. C. 219; Md. 1898, 123, 505; 1896, 147; Del. 127, 1; 1897, 452; Va. 1898, 53; S. C. 1899, 71; Ga. 1889, p. 167; Ala. 1889, 92, in stores only; D. C. U. S. 1895, 192; La. 1886, 43, 5; Utah 1897, 11;) (2) offices (Ind., Minn., Nebr. 6941, Wash., Md. ib.); (3) schools (Nebr., Wash., Md. ib.); (4) hotels or restaurants (Minn., Mich., Nebr., Utah); "in any business" (Ind., Minn., Va., Utah); also separate toilet rooms (Mass. ib. 33; R. I., Conn. 2267; N. Y. ib. 88 and 168; N. J. Sup., p. 773, 22; Pa. ib. 8; Ohio, ib.; Ind. 1897, 65, 9; Del. 1897, 452; [3]Mich. 1897, 92, 10; Tenn. 1897, 98); screened stairways, and see Chap. IV, § 1 (N. J. ib., 21; Mich. 1895, 184, 7). In New York women and children are not allowed to work in basements of mercantile establishments, except under permit from the board of health (N. Y. ib. 171). The law prohibiting labor of children, etc., in mines, in some States forbids their employment in all "underground work," whatever that may mean (see above).

In New York no woman or minor under 18 can be employed in a

---

[1] Ill. 48, 3; Cal. Con. 20, 18; Wash. 2961.

[2] Ill. 48, 2.

[3] In Delaware (1897, 452, 4):

It shall be unlawful for any employer of female labor, or any overseer, superintendent, foreman or boss of any such employer of female labor to use toward female employees any abusive, indecent or profane language, or to in any manner abuse, misuse, unnecessarily expose to hardship, or maltreat any such female employee.

Any person violating any provision of section 4 of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten and not exceeding one hundred dollars for each offense.

factory in operating or using any emery, corundum, stone, or emery polishing or buffing wheel (1899, 375).

Children.—Except as above, there are few statutes specially regulating the treatment of children.[4] The Georgia code provides that no boss or other superior in a factory shall inflict corporal punishment upon minor laborers, and the owners are liable for such conduct, and the minor may sue in his own name for damages and hold the sum recovered as his own property (Ga., sec. 1886).

Minors are in most States entitled to their wages free from any claim on the part of parent or guardian unless the employers are specially notified of such claim. (See U. S. Labor Bulletin No. 12, pp. 572, 573, 577.)

In Ohio wages may not be retained from minors for alleged negligence or incompetence, nor any guaranty made with such minors (Ohio, 1893, p. 55).

SEC. 10. SUNDAYS AND HOLIDAYS.—The rights of laborers to rest one day in the week are commonly guaranteed by the ordinary statutes relating to the observance of Sunday, which are practically universal throughout the country, but a few States have special provisions—thus, in California (1893, 41), that "all employers must grant employees one day in seven for complete rest from labor." Besides Sunday, or the Jewish Saturday, four States have thus far passed laws making Saturday for banking purposes a half holiday throughout the year.[1] In Massachusetts (1898, 367) the city council of a city or selectmen of a town are empowered, at discretion, to provide that the employees of such city or town shall be allowed a half holiday in each week without loss of pay during such portions of the year as said council, etc., may determine; and heads of State departments and county commissioners have the same power as to their employees, including laborers, mechanics, and all other classes of workmen. Nearly all the States have adopted a special holiday called Labor Day, usually the first Monday in September.[2] But in Pennsylvania it is the first Saturday in September, while in Wisconsin it is fixed by proclamation each year. Statutes forbidding Sunday labor in specified trades have sometimes been declared unconstitutional under the State constitutions.

---

[4] In Nebraska (1897, 36) and Ohio (1890, p. 161, 2):

SEC. 2. It shall be unlawful, and it is hereby declared to be cruelty within the meaning of this act, for any person employing or having the care, custody, or control of any child willfully or negligently to cause or permit the life of such child to be endangered, or the health of such child to be injured, or willfully to cause or permit such child to be placed in such a situation that its life or health may be endangered, or to cause or permit such child to be overworked, cruelly beaten, tortured, tormented, or mutilated.

SEC. 3. Any person or persons convicted under any of the foregoing provisions of this act shall be fined in any sum not more than one hundred dollars, or imprisoned in the jail of the county not exceeding three months, at the discretion of the court

[1] Mass. 1895, 415; N. Y. 1887, 263; N. J. 1891, 43; Colo. 1893, 102.

[2] N. H. 180, 24; Mass. 1887, 263; Me. 1891, 19; R. I. 166, 1; Conn. 1889, 20; N. Y. 1892, 677; Vt. 1898, 51; N. J. Sup., p. 361; Pa. Dig., p. 986; Ohio 1890, p. 355; Ill. 98, 17; Wis. 1891, 271; Iowa 2094; Minn. 7987; Kans. 1891, 145; Nebr. 3388; Del. 63, 1; Va. 2844; Tenn. 1891, 48; Mo. 737; Tex. 2835; Oreg. M. L. 3544; Colo. 2128; Wash. C. P. 43; Mont. Pol. C. 10; Utah 1892, 13; S. C. 2544; Ga. 1890, p. 232; Ala. 1893, 59; Fla. 1893, 4198; N. C. 1899, 410; D. C. U. S. 1894, 118.

ART. C. PAYMENT OF WAGES, FINES, DEDUCTIONS, COMPANY STORES, ETC.

SEC. 1. DEDUCTIONS FROM WAGES FOR IMPERFECT WORK, INJURY TO TOOLS, ETC.—(For forfeiture on account of premature termination of contract, see Art. A, sec. 5.) Massachusetts, Indiana, and Ohio are the only States which have enacted laws attempting to prevent the withholding of wages, or the imposition of a fine, by factory employers for imperfect work. In Ohio, "whoever, without an express contract with his employee, deducts or retains the wages, or any part of the wages, of such employee for wares, tools, or machinery destroyed or damaged, shall be liable to like punishment and penalties above specified, and shall, in addition thereto, be liable in civil action to the party aggrieved in double the amount of any charges" (Ohio 7016, 1891, p. 443).

In Massachusetts "the system of grading their work now or at any time hereafter used by manufacturers shall in no way affect or lessen the wages of a weaver, except for imperfections in his own work; and in no case shall the wages of those engaged in weaving be affected by fines or otherwise, unless the imperfections complained of are first exhibited and pointed out to the person or persons whose wages are to be affected; and no fine or fines shall be imposed upon any person for imperfect weaving, unless the provisions of this section are first complied with and the amount of the fines agreed upon by both parties" (1894, 508, 55). And by another statute, "The occupier or manager of every cotton factory shall supply with each warp, to each person engaged as a weaver in said factory who is paid by the piece, cut, or yard, a printed or written ticket containing the following specifications as to the work to be done and wages paid, to wit: The number of cuts; the number of yards per cut or piece; the price per yard, cut, or piece; the number of picks per inch; the number of reeds to the inch. Said occupier or manager shall also supply to each person engaged as a frame tender a specification of the number of roving and price per hank or hanks; and to each person engaged as a warper or web drawer a specification of the number of threads in the warp and the rate of compensation; and to each operative who is paid by the pound a specification of the price to be paid per pound or pounds; said specification to be furnished in each case on a printed or written ticket within seven days from the time that said operative begins work" (1894, 534, 1). While in Indiana fines are absolutely forbidden if retained from wages (1899, 124, 3).

Deductions from wages for supplies furnished are in some States forbidden (§4 below). For hospital service or relief funds (see §8.)

SEC. 2. WEEKLY PAYMENT LAWS, ETC.—Some of the States have enacted weekly or fortnightly payment laws applying to all employees of labor, while in other States they apply only to corporations or in special industries. The first class of laws have usually been held unconstitutional except in Massachusetts; the latter class more rarely, though they have been held unconstitutional in Pennsylvania, Illinois, Missouri, West Virginia, and other important States. The Indiana (general), Wisconsin, and West Virginia statutes do not apply if there be a written contract between any manufacturer or corporation and any employee or "*bona fide trades union or labor organization*," or, in West Virginia, "a special agreement" to the contrary; which removes

the objection of unconstitutionality; but in other States a waiver of the law is expressly declared illegal. In detail, the only States requiring (1) weekly payments by individual as well as corporation employers of labor are, Mass.[1] 1894, 508, 51; 1895, 438; 1896, 241; 1898, 481; Ind. 1899, 124; Wis. 1729a ("weekly or biweekly"); (2) fortnightly payments, N. J. 1896, 179; 1899, 38; Pa.,* p. 2077, § 27; Ohio, 8769; Me. 1887, 134; Iowa 1894, 98 (as to mines); Mo. 1899, p. 305 (as to mines); W. Va.,* p. 1003, 2; Wyo. 1891, 82; (3) monthly payments, Va. 1887, 391; Ky. 1898, 15; Tenn. 1891, 5.

But several more States have such statutes applying to corporation employers generally, (1) weekly payments, N. H. 180, 21; R. I. 177, 25; Conn. 1749; N. Y. G. L. 32, 1, 10;[2] Ill. 48, 13; Kans. 1893, 187; (2)

---

* [This note sign is used throughout this report to indicate that the law has been held unconstitutional.] Baur *v.* Reynolds, 14 Pa. Co. Ct., 497; State *v.* Peel Coal Co., 36 W. Va., 802; State *v.* Goodwill, 33 W. Va., 179.

[1] The Massachusetts law (1894, 508):

Sec. 51. Every manufacturing, mining or quarrying, mercantile, railroad, street railway, telegraph and telephone corporation, every incorporated express company and water company shall pay weekly each employee engaged in its business the wages earned by such employee to within six days of the date of said payment; and every city shall so pay every employee engaged in its business, unless such employee shall request in writing to be paid in some different manner; and every municipal corporation not a city and every county shall so pay every employee in its business if so required by him; but if at any time of payment any employee shall be absent from his regular place of labor he shall be paid thereafter on demand. The provisions of this section shall not apply to any employee of a cooperative corporation or association who is a stockholder therein, unless such employee shall request such corporation to pay him weekly. The railroad commissioners after a hearing, may exempt any railroad corporation from paying weekly any of its employees who, in the opinion of the commissioners, prefer less frequent payments, and when the interests of the public and such employees will not suffer thereby.

Sec. 52. The chief of the district police or any inspector of factories and public buildings may bring a complaint against any corporation which neglects to comply with the provisions of the preceding section. Complaints for such violations shall be made within thirty days from the date thereof. On the trial of such complaint such corporation shall not be allowed to set up any defense for a failure to pay weekly any employee engaged in its business the wages earned by such employee to within six days of the date when such payment should have been made, other than the attachment of such wages by the trustee process, or a valid assignment thereof, or a valid set-off against the same, or the absence of the employee from his regular place of labor at the time of payment, or an actual tender to such employee at the time of payment of the wages so earned by him. The corporation shall not be allowed to set up as a defense any payment of wages after the bringing of the complaint. No assignment of future wages, payable weekly under the provisions of this act, shall be valid if made to the corporation from whom such wages are to become due, or to any person on behalf of such corporation, or if made or procured to be made to any person for the purpose of relieving such corporation from the obligation to pay weekly under the provisions of this act.

Sec. 53. When a corporation against which a complaint is made under the preceding section fails to appear after being duly served with process, its default shall be recorded, the allegations in the complaint taken to be true, and judgment shall be rendered accordingly.

Sec. 54. When judgment is rendered upon any such complaint against a corporation the court may issue a warrant of distress to compel the payment of the penalty prescribed by law, together with costs and interest.

[2] The New York law (1897, 415):

Sec. 10. When wages are to be paid.—Every corporation or joint stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

But every person or corporation operating a steam surface railroad shall, on or before the twentieth day of each month, pay to the employees thereof the wages earned by them during the preceding calendar month.

Sec. 11. Penalty for violation of preceding sections.—If a corporation or joint

monthly, Ind. 7056; Mo. 2538; Cal. 1897, 170. In Connecticut 80 per cent only need be paid weekly, the balance monthly, and no discount allowed for wages paid in advance (1752). The Massachusetts statute (1898, 481) amended the law which previously applied to all persons having more than 25 employees, so that it now applies to any manufacturer regardless of the number; but in Maine, only to employers having as many as 10 employees; but there seems to be no penalty imposed except upon corporation employers for breach of the law. In New Jersey, Pennsylvania, *Indiana, Ohio, Virginia, West Virginia,* and Tennessee the law applies only to mining and manufacturing employments; in Tennessee to railroads also; in Kentucky to mining employers employing as many as 10 persons; in New York, Illinois, Kansas, Ohio, and Maine to all companies except steam surface railways, as to which the New York requires monthly payments not later than the 20th of the month. The Indiana law makes exception of employees "engaged in interstate commerce."

In New York and Massachusetts the law does not apply to steam railroads, whose employees may, in New York, be paid monthly on or before the 20th. In Iowa, Missouri, Kentucky, and Wyoming the law only applies to mining labor. In Kentucky, if the employer is "unable to make such payment," he may give a duebill.

The times of such periodical payments are further defined in several States; thus, not later than Friday in each week in Kansas, or 8 days after the week's expiration in New Hampshire and Connecticut, or 6 days thereafter in New York, Indiana, Illinois, and Massachusetts. In Missouri, Pennsylvania, Kentucky, and Wyoming the full amount due up to within 15 days must be paid; but 10 days in Ohio, 9 days in Rhode Island, 8 days in Maine, 12 days in New Jersey, and 20 days in West Virginia. In Allegany County, Md., if the wages of miners or manufacturing employees remain unpaid 30 days, the court may appoint a receiver of the delinquent employer.

Assignments of wages to evade the statute made to the employer, or anyone on his behalf, are declared invalid in New York, New Jersey, Indiana, Pennsylvania, Illinois, California. Employers failing to comply with these laws are commonly made liable to a fine, or, in Missouri, Kansas, and Indiana, to increased damages to the employee; or, in Connecticut, half the penalty to the person suing. In West Virginia there appears to be no penalty.

SEC. 3. MONEY OF WAGE PAYMENTS.—The English antitruck act, passed in 1831, has been copied in many of the States, outside of New England, in laws providing generally that laborers may be paid only in money, not in goods or orders, even orders for the payment of

---

stock association, its lessee or other person carrying on the business thereof, shall fail to pay the wages of an employee as provided in this article, it shall forfeit to the people of the State the sum of fifty dollars for each such failure, to be recovered by the factory inspector in his name of office in a civil action; but an action shall not be maintained therefor, unless the factory inspector shall have given to the employer at least ten days' written notice, that such an action will be brought if the wages due are not sooner paid as provided in this article.

On the trial of such action such corporation or association shall not be allowed to set up any defense, other than a valid assignment of such wages, a valid set-off against the same, or the absence of such employee from his regular place of labor at the time of payment, or an actual tender to such employee at the time of the payment of the wages so earned by him, or a breach of contract by such employee or a denial of the employment.

money; but in many States where the law has been questioned the courts have held it unconstitutional. Thus, in many States the law is that all employers of labor may pay only in lawful money and not in goods or orders upon company stores or any other stores, nor may (except in Maryland and New Mexico) he set off money so due for goods against money due for wages, even by a voluntary contract of the laborer.[1] In other States the weekly payment statute (§ 2 above) mentions that such payments must be in "lawful money" (N. J., Ind., W. Va.,* Ky). In others the statute is the same, but it applies only to corporation employers.[2] In some the law applies only to certain industries, such as mining.[3] In Maryland its operation is upon railways and mining companies and is made local to Allegany or Garrett County, and applies only to corporations employing ten or more hands. In Ohio the employer may give orders on stores, etc., "in which he is not interested, directly or indirectly, and any such order is held to be an instrument for the payment of money on demand, and may be sued on as such" (Ohio 7015–1, annulled as unconstitutional). The employer offending is usually made guilty of a misdemeanor,[4] or liable to the employee in damages, or for a penalty,[5] and contracts to the contrary are forbidden.[6]

And in other States the money payment must either be cash or orders in lawful money, payable at a limited period,[7] or at sight.[8] (And compare also § 4, below.) But in several of these States the statute expressly provides that checks, notes, or orders for money may be given, payable at any time, though in Ohio and South Carolina they must be checks on a bank.[9] Bank bills may, however, be used, though not legal tender, with the employee's consent.[10] And the Texas lien law requires all payments to laborers to be made in cash.

In Louisiana there is a new law prohibiting the issue of checks or tickets redeemable in goods alone by any person, firm, or corporation; and such checks, etc., must be redeemed in money.[11] And a new statute in Missouri makes it a misdemeanor for any person or corporation to pay wages in orders, etc., not redeemable in money at their face value, and not to redeem the same at any time during business hours when

---

[1] N. J. Rev., pp. 750, 1375; Sup., p. 771; 1899, 38; Pa.* 1881, June 29 (held unconstitutional); Ohio* R. S. 7015 (annulled as unconstitutional); Ill.* 48, 8 (annulled as unconstitutional); W. Va.,* p. 1002, § 1 (annulled as unconstitutional); Ky. 1898, 15; Wash. 2531; S. C., C. C. P., 317; N. Mex. 1893, 26; Ark. 1899, 172; Colo. 1899, 155.

[2] N. Y. G. L. 32, 1, 9; Ohio* 1890, p. 78 (annulled as unconstitutional); Ky. Const. 244 (as to general labor); Kans. 1897, 145 (applies to all corporations or trusts employing ten or more persons); Cal. 1897, 170, 6.

[3] Thus, to mining employees only: Ill. 1897, p. 270 (probably unconstitutional); Iowa 1888, 55; Ind. 7059; Md. Local Laws 185; 1892, 445; Va. 1887, 391, 3; Ky. Const. 244; Wyo. 1891, 82. Or to manufacturing companies (Ind., Md., Va., Ky.); or to various specified industries (N. J.).

[4] N. J., Pa., Ind. R. S. 7063; Md., Va., Wash. 2532; W. Va.* Ky. 1350; Kans. ib. § 3; La.

[5] N. J.; Ind. R. S. 7062; Wash. 2533; N. Mex. ib. 2.

[6] Kans. ib., § 2; Md. Loc. L. Allegany Co. § 185; Ind. R. S. 7071; Cal.

[7] Ind. 7066; Kans. 1899, 152; Tenn. 1887, 209. It must be at a fixed time and with 8 per cent interest; Ind. 7060.

[8] Mich. 1897, 221; Ill. 1895, p. 263; Iowa; Kans.; Wash.; Cal.; N. Mex.; Va. 1887, 391, 3; Tenn. 1899, p. 17. With interest: Va.; W. Va. (annulled as unconstitutional); Wyo.

[9] Ind. ib.; S. C.; Ohio, 1890, p. 78 (annulled as unconstitutional).

[10] Md. Local Laws 187.

[11] La. 1894, 71.

presented,[12] the class legislation principle being thus avoided, as the old law was declared unconstitutional on that ground (see § 2)[13] (For typical laws see note.)[14]

It is usury to discount wages at over 10 per cent before pay day in Arkansas.

SEC. 4. COMPANY STORES, ETC.—In line with the statutes referred to in the last section, the running by companies or individual employers of general supply stores is, in Maryland, Pennsylvania,* and Illi-

---

[12] Mo. 1895, p. 206. Since repealed. Mo. 1899, p. 305.

[13] So in North Carolina (N. C. 1889, 280; 1891, 78) no person or corporation may issue in payment for labor orders or tickets not transferable, or in any form that would render them void by transfer from the person to whom issued, but all such tickets, etc., shall be paid to the person holding the same their face value (but not in money: State *v.* Moore, 113 N. C., 697). But now, apparently, they must be paid in money, in the absence of special contract (1895, 127).

In Wisconsin lumber and building corporations must give employees written evidence of indebtedness when the payment of their wages is deferred (Wis. 1891, 430).

[14] Thus, in New York (G. L. 32, 1, § 9):

Cash payment of wages.—Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, and every water company, not municipal, shall pay to each employee engaged in its business the wages earned by him in cash. No such company or corporation shall pay its employees in scrip, commonly known as store money orders.

New Jersey (Rev., p. 1375):

SEC. 1 (as amended by section 4, page 771, Supplement of 1886). It shall not be lawful for any person or corporation in this State to issue, for payment of labor, any order or other paper whatsoever, unless the same purport to be redeemable for its face value at sight in lawful money of the United States, by the person giving or issuing the same: *Provided, however,* Nothing in this act contained shall be held to prevent any employer from making any deduction for money due him from any laborer or employee: *And provided, however,* Nothing in this act contained shall prevent any private individual from giving any orders for goods or merchandise on any store in which such private individual has no interest, directly or indirectly, in the profits or business.

SEC. 2 (as amended by section 3, page 771, Supplement of 1886). If any person or corporation shall issue, for payment of labor, any paper, in violation of the first section of this act, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars, at the discretion of the court.

(Sup., p. 771):

SEC. 7. It shall not be lawful for any glass manufacturer, ironmaster, foundryman, collier, factoryman, employer, cranberry grower or his agent or company, their agents or clerks, to pay the wages of workmen or employees by them employed in either store goods, merchandise, printed, written, verbal orders, or due bills of any kind.

SEC. 8. Any glass manufacturer, ironmaster, foundryman, collier, factoryman, employer, cranberry grower or his agent, or company paying to the said workmen or employees, or authorizing their clerks or agents to pay the wages, or any part thereof, in either store goods, merchandise, printed, written, verbal orders, or due bills of any kind, except as aforesaid, shall forfeit the amount of said pay or any part of wages of said workman or employee given in store goods, merchandise, printed, written, verbal orders, or due bills of any kind, and the same not to offset against the wages of said workman or employees, but he or they shall be entitled to recover the full amount of his or their wages, as though no such store goods, merchandise, printed, written, verbal orders, or due bills had been given or paid; and no settlement made with such employer shall bar such action until after a lapse of one year from such settlement.

SEC. 9. The provisions of this act shall extend to all seamstresses, females and minors employed in factories or otherwise.

SEC. 10. (As amended by chapter 129, acts of 1888). Any glass manufacturer, ironmaster, foundryman, collier, factoryman, employer or company offending against the provisions of this act, shall be guilty of a misdemeanor and punishable by a fine

nois,* forbidden.[1] In some States it is made a penal offense to compel or coerce an employee to deal with such stores or with *any* particular person or corporation.[2] In others, "it is unlawful for any manufacturer, firm, or corporation who own or control a store for the sale of general store goods or merchandise in connection with their manufacturing or other business to attempt to control their employees or laborers in the purchase of store goods or supplies at such stores by withholding the payment of wages longer than the usual time."[3] In other States the prohibition is only against selling to employees at a higher profit than to others, or than to cash customers, or at higher

---

of not less than ten dollars or more than one hundred dollars for each and every offense, or imprisonment not to exceed the term of thirty days, at the discretion of the court.

Indiana (R. S.):

SEC. 7060. Any person, copartnership, corporation or association, or any memoer, agent or employee thereof, who shall publish, issue or circulate any check, card or other paper, which is not commercial paper payable at a fixed time in any bank in this State, at its full face value in lawful money of the United States with 8 pe. cent interest or by bank check or currency issued by authority of the United States Government, to any employee of such person, copartnership, corporation, or association, .n payment for any work or labor, done by such employee or in payment for any labor contracted to be done by such employee shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not more than one hundred dollars.

SEC. 7066. Any person, copartnership, corporation or association, or any member, agent or employee thereof, who shall publish, issue or circulate any check, card or other paper, which is not commercial paper payable at a fixed time in any bank in this State at its full face value, in lawful money of the United States, with eight per cent interest, or by bank check or currency issued by authority of the United States Government, to any employee of such person, copartnership, corporation or association, in payment for any work or labor done by such employee, or in payment for any labor contracted to be done by such employee, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than one hundred dollars.

Illinois (1895, p. 263, § 1):

Any time check or store order issued or given as compensation for labor performed, shall be redeemable, at the option of the person to whom the same was issued or given or upon his written order, in bankable currency. Any person who violates this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed one hundred (100) dollars or confined in the county jail not to exceed thirty (30) days or both in the discretion of the court.

Missouri (1895, p. 206):

SEC. 1. It shall not be lawful for any person, firm or corporation in this State to issue, pay out or circulate, for payment of the wages of labor, any order, note, check, memorandum, token, evidence of indebtedness, or other obligation, unless the same is negotiable and redeemable at its face value, in lawful money of the United States, by the person, firm or corporation issuing the same.

SEC. 2. All persons, firms or corporations issuing or circulating any such order, note, check, memorandum, token, evidence of indebtedness, or other obligation, shall be at all times during the business hours of the day prepared to redeem, and shall redeem, all such orders, notes, checks, memorandum, tokens, evidence of indebtedness, or other obligation, when presented at their place of business or office, at their face value, in good and lawful money of the United States, or in goods, at the option of the holder.

[1] In Maryland the statute applies to railways and mines only (Md. 23, 202; 1898, 493). In Pennsylvania and Illinois the prohibition applies only to mining and manufacturing corporations (Pa. Dig., pp. 1293, 1385; Ill. 48, 6—annulled as unconstitutional).

[2] Ohio 7016; Ind. An. S. 7072, 7073, 7074; Iowa 1888, 55, 2; Kans. 1897, 145; Md. 1898, 493, 5 (in Allegany Co.); Tenn. 1887, 208; Mo. 7060 (since repealed, as unconstitutional); Wash. 2532; W. Va., p. 1002, §2; Ky. 1898, 15 (in mining industries only); Colo. 1899, 155.

[3] N. J. Sup., p. 772, §12; Tenn. 1887, 155.

prices than the market value;[4] and such debts are made not collectible, or (as in Ohio and West Virginia) the employee may recover back double such excess in price.[5] The Pennsylvania statute is printed in full in note [6].

---

[4] Ohio 7016; Ind. 7061, 7067; Va. 1887, 391, 4; W. Va. Code, p. 1002, §2.

[5] Ohio, W. Va. ib.

[6] Thus, in Pennsylvania (Dig., p. 1293):

SEC. 13. Every manufacturing, mining or quarrying company incorporated under the provisions of this act, shall be confined exclusively to the purposes of its creation, as specified in its charter, and no such company shall manufacture or sell any commodity or articles of merchandise other than those therein specified. No such company shall engage in, nor shall it permit any of its employees or officials to engage in, the buying or selling, upon the lands possessed by it, of any wares, goods or commodities or merchandise, other than those specified in their charter, or necessary for the manufacture of the same. No such company shall permit to be withheld or authorize or direct the withholding of wages due any of its operatives or employees, by reason of the sale or furnishing of goods, wares or merchandise by any person to such operatives or employees, unless the same be withheld by reason of and in obedience to due process of law. But nothing herein contained shall prohibit any such person from supplying to its employees oil, powder or other articles and implements necessary for or used in mining.

SEC. 45. (p. 1385). On and after the passage of this act it shall not be lawful for any mining or manufacturing corporation of this Commonwealth, or the officers or stockholders of any such corporation, acting in behalf or in the interest of any such corporation, to engage in or carry on, by direct or indirect means, any store known as a company store, general supply store or store where goods and merchandise other than such as have been mined or manufactured by the mining or manufacturing corporation, of which said officers or stockholders are members, are kept or offered for sale.

SEC. 46. No mining or manufacturing corporation engaged in business under the laws of this Commonwealth shall lease, grant, bargain or sell to any officer or stockholder of any such corporation, nor to any other person or persons whatsoever, the right to keep or maintain upon the property of any such corporation any company, general supply or other store in which goods other than those mined or manufactured by the corporation granting such right shall be kept or exposed for sale whenever such lease, grant, bargain or sale as aforesaid is intended to defeat the provisions of the first section of this act. Nor shall any such mining or manufacturing corporation, through its officers, stockholders or by any rule or regulation of its business, make any contract with the keepers or owners of any store, whereby the employees of such corporation shall be obliged to trade with such keeper or owner, and that any such contract made in violation of this act shall be *prima facie* evidence of the fact that such store is under the control of such mining or manufacturing corporation and in violation of this act.

SEC. 47. For any violation of any of the provisions of this act by any mining or manufacturing corporation aforesaid, such mining or manufacturing corporation so offending shall forfeit all charter rights granted to it under the laws of this Commonwealth, and it is hereby declared and made the duty of the attorney-general of this Commonwealth, upon complaint of such violation of any of the provisions of this act by a petition signed and sworn to by two or more citizens, residents of the county where the offense is sworn to have been committed, to immediately commence proceedings against the corporation or corporations complained against by a writ of *quo warranto.*

In Ohio (R. S.):

SEC. 7015. It shall be unlawful for any person, firm, company or corporation to sell, give, deliver, or in any manner issue, directly or indirectly, to any person employed by him or it in payment of wages due for labor, or as advances on the wages of labor not due, any scrip, token, draft, check or other evidence of indebtedness purporting to be payable or redeemable otherwise than in money; any violation of the provisions of this section shall be punishable by a fine not less than twenty-five nor more than one hundred dollars, or imprisonment for not more than thirty days, or both; and any such scrip, token, check, draft, or other evidence of indebtedness issued in violation of the provisions of this section, whatever its provisions as to the time or manner of payment shall be, in legal effect, an instrument for the unconditional payment of money only on demand, and the amount thereof may be collected

SEC. 5. SCREEN LAWS IN COAL MINES.—Most of the coal-mining States have passed statutes providing generally for the fair weighing,

---

in money by any holder thereof in a civil action against the person, firm or corporation selling, delivering, or in any manner, or for any purpose issuing the same; and such holder may be either the person to whom such instrument was originally issued, or who acquired the same by purchase and delivery; and any scrip, token, check, draft or other evidence of indebtedness, issued in violation of the provisions of this section, and presented by the holder thereof, shall be taken as prima facie evidence in any court of the guilt or indebtedness of any person, firm, company or corporation selling, giving, delivering, or in any manner issuing the same, and for the purposes of this act in case of a firm or corporation, the person selling, giving, delivering, or in any manner issuing said scrip, token, check, draft, order, or other evidence ot indebtedness shall be the defendant to the criminal action, and the firm, corporation or company shall be held as defendant to the civil action. Nothing in this section shall apply to or affect the right of any person, firm, or corporation to give orders on any store, business house, or firm in the business or profit of which he has no interest, directly or indirectly.

SEC. 7015. (1) In any civil action on such check, token, draft, or other evidence of indebtedness issued in violation of the foregoing section, the same may be declared on as an instrument for the unconditional payment of money only; but it shall be sufiicient to give the form only of such instrument, together with the denomination and the number of instruments of each denomination, if more than one is declared on; and any number of such instruments, in the same form of words, whether of the same or of different denominations, may be joined in a single count, and such joinder shall not constitute duplicity, and it shall not be necessary to give the form of such instruments more than once.

SEC. 7016. Whoever compels, or in any manner seeks to compel, or attempts to coerce, an employee of any person, firm or corporation to purchase goods or supplies from any particular person, firm or corporation, shall be fined not more than one hundred nor less than twenty dollars, or imprisoned not more than sixty days or both. And whoever sells goods or supplies of any kind, directly or indirectly, to his employee, or pays the wages, or any part of the wages of labor to his employees in goods or supplies of any kind, directly or through the intervention of scrip, order or other evidence of indebtedness, at higher prices than the reasonable or current market value in cash of goods or supplies, or whoever, without an express contract with his employee, deducts or retains the wages or any part of the wages of such employee, for ware, tools or machinery destroyed or damaged, shall be liable to like punishment and penalties above specified, and shall in addition thereto, be liable in civil action to the party aggrieved, in double the amount of any charges made for such ware, tools and machinery in the one case, and in the other case, for such goods and supplies, in excess of the reasonable or current market value in cash, of such goods or supplies.

In Indiana (R. S.):

SEC. 7072. It shall be unlawful for any owner, corporation, association, company, firm or person engaged in this State in mining coal, ore or other minerals or quarrying stone, or in manufacturing iron, steel, lumber, staves, heading, barrels, brick, tile, machinery, agricultural or mechanical implements, or any article of merchandise to directly or indirectly procure any person or persons to execute any contract or agreement by the terms of which such person or persons agree to purchase any article of merchandise, food, groceries or supplies of any particular person, corporation, association, firm or company, or any particular place, shop or store in this State.

SEC. 7073. It shall be unlawful for any owner, manager, superintendent, operator, bank boss, agent or employer employed in any of the occupations described in section 1 of this bill [section 7071], to hold out any tokens or inducements, or make any threats or promises of reward, or in any other way by words or acts, to coerce any of their employees to buy any article of merchandise, food, groceries or supplies of any particular person, corporation, association, firm or company, or at any particular place, shop or store in this State.

SEC. 7074. It shall be unlawful for any owner, manager, superintendent, operator. bank boss, agent or employer to attempt by words or acts to coerce any of their employees to buy any article of merchandise, food, groceries or supplies of any particular person, corporation, association, firm or company, or at any particular place, shop or store in this State.

SEC. 7075. Every owner, corporation, association, company, firm, person, manager, superintendent, bank boss, agent or employer, who shall violate any of the provisions

etc., of coal at mines,[1] or that the coal must be weighed and credited to miners in determining the amount of wages due them before it is screened.[2] The latter statute, however, has been held unconstitutional in Illinois and West Virginia, and by an opinion of the supreme court of Colorado, but has recently been sustained by the supreme court of Kansas, and, as to corporations, in West Virginia.

SEC. 6. OTHER METHODS OF PAYMENT, LABOR ON SHARES, ETC.—

---

of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than two hundred dollars.

In Tennessee (1887, 208):

SECTION. 1. It shall be unlawful for any joint stock company, association, or corporation, organized, chartered, or incorporated by and under the laws of this State, or operated or doing business in this State under its laws, either as owner or lessee, having persons in their service as employees, to discharge any employee or employees, or to threaten to discharge any employee or employees in their service for voting or for not voting in any election, State, county, or municipal, for any person as candidate or measure submitted to a vote of the people, or to threaten to discharge any such employee or employees for trading or dealing, or for not trading or dealing as a customer or patron with any particular merchant or other person or class of persons in any business calling, or to notify any employee or employees either by general or special notice, directly or indirectly, secretly or openly given, not to trade or deal as customer or patron with any particular merchant or person or class of persons, in any business or calling, under penalty of being discharged from the service of such joint stock company, corporation, or association doing business in this State as aforesaid.

SEC. 2. Any joint stock company, association, or corporation organized, chartered, or incorporated under the laws of this State, or operated in this State violating any of the provisions of the foregoing section, shall be guilty of a misdemeanor, and on conviction shall pay a fine of not less than one hundred dollars and not more than one thousand dollars for each offense for which convicted.

SEC. 3. Any person acting as an officer or agent of any joint stock companies, associations, or corporations of the kind and character hereinbefore described, or for any one of them, who makes or executes any notice, order, or threat of the kind and character hereinbefore forbidden, shall be guilty of a misdemeanor, and on conviction shall pay a fine of not less than one hundred dollars and not more than five hundred dollars, and be imprisoned in county jail not less than ten days nor more than three months.

[1] Pa. Dig. 1897, 224; Ohio 1898, p. 163; Ind. 1891, 49; Ill. 93, 20–33; W. Va., p. 998, 1891, 82; Iowa 1888, 53; Kans. 1893, 188; Ky. 1885, 6, 1251; Tenn. 1887, 206; Ala. 1895, 140; 1897, 486; Mo. 7055; 1899, p. 305; Ark. 1899, 102; Utah 1897, 19; Colo. 1897, 37; Wyo. 1890, 79; N. Mex. 1889, 126.

[2] Pa. 1897, 224; Ohio 1898, p. 33; Ind. ib. 5; Ill. 1887, p. 235; 1891, p. 170; Iowa 1888, 54; Kans. 1893, 188; W. Va. ib.; Mo. 7054; 1899, p. 304; Ark. ib.; Wash. 1891, 161; Wyo. 1890, 79.

The Pennsylvania statute reads as follows (1897, 224):

SECTION 1. It shall be unlawful for any mine owner, lessee or operator of any bituminous coal mine in this Commonwealth, employing miners at bushel or ton rates, or other quantity, to pass the output of coal mined by said miners over any screen or other device which shall take any part from the weight, value or quantity thereof, before the same shall have been weighed and duly credited to the employee sending the same to the surface and accounted for at the legal rate of weight fixed by the laws of this Commonwealth.

SEC. 2. Any owner, lessee or operator of any bituminous coal mine, violating the provisions of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction, for each and every such offense be punished by a fine of not less than one hundred ($100) dollars nor more than five hundred ($500) dollars, or by imprisonment in the county jail for a period not to exceed ninety days, or by both such fine and imprisonment, at the discretion of the court; proceedings to be instituted in any court of competent jurisdiction.

The Illinois statute (the part not held unconstitutional, G. S., 93, 20–24):

SEC. 20. The owner, agent or operator of every coal mine in this State at which the miners are paid by weight, shall provide at such mines suitable and accurate scales

For labor on shares, croppers, etc., in agricultural labor, see Chapter VI.

SEC. 7. BONDS AND OTHER GUARANTEES.—New Mexico has a statute prohibiting the requirement of bonds from employees by any foreign guarantee company as an indemnity to the employer, unless such guarantee company has a designated agent within the territory, but this matter belongs more properly to the law of foreign corporations, which are usually prohibited from doing business in other States than the one where they are organized, except upon complying with certain regulations.

The States are rapidly adopting statutes forbiding the requirement by the employer as a condition of employment that the employee shall not join a labor union. (See Chapter IX, below.)

There are frequently statutes requiring contractors of public works, etc., to give bonds for the payment of labor employed by them[1] (Mass. 16, 64; N. Y. R. S. 7th ed., p. 699; Ind. 5592; Mich. 8411 a; Minn. 1895, 354; Kans. 4747–8; Nebr. 3683; Mo. 1895, p. 240; Wash. 1897, 44; N. Dak. Civ. C. 4802).

SEC. 8. RELIEF SOCIETIES, CHARITABLE FUNDS, ETC.—A few States have adopted statutes prohibiting indirectly the establishment by railroads or other employers of labor of relief or benefit funds to which the

---

of standard manufacture for the weighing of all coal which shall be hoisted or delivered from such mines.

SEC. 21. All coal so delivered from such mines shall be carefully weighed upon the scales as above provided, and a correct record shall be kept of the weight of each miner's car, which record shall be kept open at all reasonable hours for the inspection of all miners or others pecuniarily interested in the product of such mine. The person designated and authorized to weigh the coal and keep such record shall * * * make and subscribe to an oath * * * that he will accurately weigh and carefully keep a true record of all coal delivered from such mine. * * *

SEC. 22. It shall be lawful for the miners employed in any coal mine in this State to furnish a check weighman at their own expense, whose duty it shall be to balance the scales and see that the coal is properly weighed, and that a correct account of the same is kept, and for this purpose he shall have access at all times to the beam box of said scales, and be afforded facilities for the discharge of his duties while the weighing is being performed. * * *

SEC. 23. Any person, company or firm having or using any scale or scales for the purpose of weighing the output of coal at mines, so arranged or constructed that fraudulent weighing may be done thereby, or who shall knowingly resort to or employ any means whatsoever, by reason of which such coal is not correctly weighed or reported in accordance with the provisions of this act; or any weighman or check weighman who shall fraudulently weigh or record the weights of such coal, or connive at or consent to such fraudulent weighing and recording, shall be deemed guilty of a misdemeanor, and shall upon conviction, for each such offense, be punished by a fine of not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment; * * *.

SEC. 24. Any person, owner or agent operating a coal mine in this State who shall fail to comply with the provisions of this act, or who shall obstruct or hinder the carrying out of its requirements, shall be fined for the first offense not less than fifty dollars ($50) nor more than two hundred dollars ($200); for the second offense not less than two hundred ($200) nor more than five hundred dollars ($500), and for a third offense not less than five hundred ($500), or be imprisoned in the county jail not less than six months nor more than one year: *Provided*, That the provisions of this act shall apply only to coal mines whose product is shipped by rail or water.

[1] Tex. Const., Article 16.—*Protection of wages of laborers on public works.*—Sec. 35. The legislature shall at its first session, pass laws to protect laborers on public buildings, streets, roads, railroads, canals and other similar public works, against the failure of contractors and subcontractors to pay their current wages when due, and to make the corporation, company or individual for whose benefit the work is done, responsible for their ultimate payment.

employee is compelled to contribute, or his contribution made a condition or preliminary of employment; but the federal courts have held such a statute, in Pennsylvania, unconstitutional.[1]

Compulsory insurance in a particular company is forbidden in Michigan,[2] but the same statute allows voluntary agreements for benefit funds, and the employer may deduct sums due for such from the employee's wages. In Iowa, no contract of insurance, relief, benefit or indemnity in case of injury or death entered into prior thereto, between the person so injured and the corporation or any other person or association acting for it, nor the acceptance of any such insurance, etc., by the person injured or his wife, etc., after the injury, constitutes any bar or defence to an action.[3] (See Art. G, § 1.)

But Massachusetts, on the other hand, has a statute expressly permitting the establishment of relief societies for the employees of railroads, street railway companies and steamboat companies.[4] In Indiana

---

[1] N. J., 1891, 212; Mich., 1893, 192; Ohio, 1890, p. 149, 3; Md., 1890, 443.
[2] Mich., 1895, 209 (see below).
[3] Iowa, 1898, 49.
[4] Mass. 1882, 244; 1886, 125; 1890, 181.

The Ohio law is as follows (1890, p. 149, § 1):

It shall be unlawful for any railroad or railway corporation or company owning and operating, or operating * * * a railroad in whole or in part in this State, to adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which, or by the terms of which, such employee in any manner, directly or indirectly, promises or agrees to hold such corporation or company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars or machinery and attachments thereto belonging, upon any cars so owned and operated, or being run and operated by such corporation, or company being defective, and any such rule, regulation, contract or agreement shall be of no effect. It shall be unlawful for any corporation to compel or require directly or indirectly an employee to join any company association whatsoever, or to withhold any part of an employee's wages or his salary for the payment of dues or assessments in any society or organization whatsoever, or demand or require either as a condition precedent to securing employment or being employed, and said railroad or railway company shall not discharge any employee because he refuses or neglects to become a member of any society or organization. And if any employee is discharged he may, at any time within ten days after receiving a notice of his discharge, demand the reason of said discharge, and said railway or railroad company thereupon shall furnish said reason to said discharged employee in writing. And no railroad company, insurance society or association, or other person shall demand, accept, require, or enter into any contract, agreement, stipulation with any person about to enter, or in the employ of any railroad company whereby such person stipulates or agrees to surrender or waive any right to damages against any railroad company, thereafter arising for personal injury or death, or whereby he agrees to surrender or waive in case he asserts the same, any other right whatsoever, and all such stipulations and agreements shall be void, and every corporation, association or person violating or aiding or abetting in the violation of this section shall for each offense forfeit and pay to the person wronged or deprived of his rights hereunder the sum not less than fifty dollars ($50) nor more than five hundred dollars ($500) to be recovered in a civil action.

The Iowa statute (1898, 49, § 1):

Section number two thousand and seventy-one (2071) of the Code [shall] be amended by adding at the end thereof the following:

"Nor shall any contract of insurance, relief, benefit, or indemnity in case of injury or death, entered into prior to the injury, between the person so injured and such corporation, or any other person or association acting for such corporation, nor shall the acceptance of any such insurance, relief, benefit, or indemnity by the person injured, his widow, heirs, or legal representatives after the injury, from such corporation, person, or association, constitute any bar or defense to any cause of action brought under the provisions of this section, but nothing contained herein shall be

(2300) it is unlawful for any railway company to exact from its

---

construed to prevent or invalidate any settlement for damages between the parties subsequent to injuries received."

Michigan (1895, 209):

SEC. 1. It shall hereafter be unlawful for any company or corporation doing business in this State or for any or the officers and agents of any such company or corporation, to require any of the employees of such company or corporation to take out or obtain a life, accident or life and accident policy in favor of such employee or other person in any particular or designated life, accident or life and accident company or association.

SEC. 2. All contracts hereinafter made between any such company or corporation and any employee of said company or corporation requiring or stipulating that the employee so contracting shall procure, obtain or have a policy of insurance in any particular or designated company or association shall be void: *Provided*, That nothing in the foregoing provisions of this act is intended to prohibit, or shall be construed as prohibiting the employers of labor and the persons employed from voluntarily making agreements with each other for contributions of money by the latter to any fund to be accumulated in their behalf and for their benefit in common with others, and in such case from further agreeing that the employer may deduct from their wages, from time to time, the sums due from them under such agreement.

SEC. 3. The violation of any of the provisions of this act is hereby made a misdemeanor, and any company or corporation violating any of the provisions of this act shall be punished by a fine of not more than two hundred dollars for each and every offense, and any shareholder, officer or agent of any company or corporation violating the provisions of this act shall be punished by imprisonment in the county jail not more than sixty days, or by a fine of not more than one hundred dollars.

The Massachusetts law (1882, 244):

SECTION 1. Seven or more persons within this Commonwealth, employees of any railroad or steamboat corporation existing under the laws of this Commonwealth, who associate themselves together by such an agreement in writing as is described in section three of chapter one hundred and fifteen of the public statutes, with the intention of forming a corporation for the purpose of receiving, managing and applying such property and funds as it may receive by contribution, assessment or otherwise, for the improvement and benefit of its members and for the relief of its members and their families in case of sickness, injury, inability to labor or other cases of need, and upon complying with the provisions of section four of said chapter shall be and remain a corporation with all the rights, powers, privileges and immunities, and subject to all the duties, liabilities and restrictions of corporations organized under said chapter.

SEC. 2. The by-laws of any such corporation shall be approved by the board of railroad commissioners and shall prescribe the manner in which and the officers and agents by whom the purpose of its incorporation may be carried out, and also the manner in which its property may be invested. Such corporation shall make to the board of railroad commissioners annually and as often as required by said board such statements of its membership and financial transactions with other information relating thereto as the said board may deem necessary to a proper exhibit of its business and standing.

SEC. 3. The board of railroad commissioners may verify such statement by an examination of the books and papers of the corporation; and whoever having charge or custody of such books and papers neglects to comply with the provisions of this section and the preceding section shall be punished by a fine not exceeding five hundred dollars.

[The following additional legislation upon the above subject was enacted in chapter 125, acts of 1886.]

SECTION 1. Any railroad corporation operating a railroad or portion of a railroad in this Commonwealth may by vote of its directors associate itself with seven or more of its employees in forming a relief society under the provisions of chapter two hundred and forty-four of the acts of the year eighteen hundred and eighty-two, or may upon the invitation of any society formed under said act become a member thereof, and may from time to time aid such society by contributions to its funds or otherwise. The by-laws of such society shall provide for the manner in which the railroad corporation shall vote and be represented in said society.

SEC. 2. The funds of such relief society shall not be liable to attachment under trustee process, execution or any other process legal or equitable because of any debt or liability of the railroad corporation or of any member of the society.

employees, without their written consent in each instance, any portion of their wages for the maintenance of any hospital, reading room, library, gymnasium, or restaurant.

SEC. 9. COMPANY PHYSICIANS.—In Tennessee there is a law prohibiting employers from dictating to or in any manner interfering with an employee or laborer in his right to select his own physician, or from retaining or withholding any portion of wages due for paying a "company doctor" (Tenn., 1889, 259).

ARTICLE D. REGULATION OF THE GENERAL LABOR CONTRACT AS TO HEALTH, MORAL CONDITIONS, ETC.

There is no legislation of this sort in the United States except as to labor employed in factories and sweatshops, for which see Chapter IV, below.

ARTICLE E. AS TO ENFORCEMENT OF THE LABOR CONTRACT BY INJUNCTION OR OTHERWISE.

SEC. 1. DIRECT ENFORCEMENT.—A contract to render personal service can never be specifically enforced, by the time-honored principles of equity. Statutes forbidding the enforcement of such contracts directly or indirectly, by injunction, are therefore unnecessary. But California and Montana have adopted an express statute, as follows: "A contract to render personal service, other than a contract of apprenticeship, * * * can not be enforced against the employee beyond the term of two years from the commencement of service under it; but if the employee voluntarily continues his service under it beyond that time, the contract may be referred to as affording a presumptive measure of the compensation" (Cal Civ. C., 1980; Mont. Civ. C., 2675). It would appear from the above that the contract *may* be enforced specifically during the two years.

In view of the national abuse of chancery powers by injunctions carelessly rendered by judges who go too far in the direction of enjoining laborers from quitting work, Kansas has adopted the following statute (1897, Ch. 106):

1. That contempts of court are divided into two classes, direct and indirect, and shall be proceeded against only as hereinafter prescribed.

2. That contempts committed during the sitting of the court or of a judge at chambers, in its or his presence are direct contempts. All other are indirect contempts.

3. That a direct contempt may be punished summarily without written accusation against the person arraigned, but if the court shall adjudge him guilty thereof a judgment shall be entered of record in which shall be specified the conduct constituting such contempt, with a statement of whatever defence or extenuation the accused offered thereto and the sentence of the court theroon.

4. That upon the return of an officer on process or an affidavit duly filed, showing any person guilty of indirect contempt, a writ of attachment or other lawful process may issue and such person be arrested and brought before the court; and thereupon a written accusation setting forth succinctly and clearly the facts alleged to constitute such contempt shall be filed and the accused required to answer the same, by an order which shall fix the time therefor, and also the time and place for hearing the matter; and the court shall on proper showing, extend the time so as to give the accused a reasonable opportunity to purge himself of such contempt. After the answer of the accused, or if he refuse or fail to answer, the court may proceed at the time so fixed to hear and determine such accusation upon such testimony as shall be produced.

If the accused answer, the trial shall proceed upon testimony produced as in criminal cases, and the accused shall be entitled to be confronted with the witnesses against him; but such trial shall be by the court, or upon application of the accused, a trial by the jury shall be had as in any criminal case. If the accused be found guilty judgment shall be entered accordingly, prescribing the punishment.

5. That the testimony taken on the trial of any accusation of contempt shall be preserved, and any judgment of conviction therefor may be reviewed upon the direct appeal to or by writ of error from the supreme court, and affirmed, reversed, or modified as justice may require. Upon allowance of an appeal or writ of error execution of the judgment shall be stayed upon the giving of such bond as may be required by the court or the judge thereof, or by any justice of the supreme court.

6. That the provisions of this act shall apply to all proceedings for contempt in all courts of Kansas; but this act shall not affect any proceedings for contempt pending at the time of the passage thereof. All acts in conflict with this act are hereby repealed.

This law is undoubtedly the most important and novel in principle of any legislation adopted by any of the States upon the labor question during the past five or ten years. Its merits are obvious, but the objections lie more beneath the surface. It may be doubted whether the effect of such statutes would not be practically to destroy equity jurisdiction or the enforcement of any legal right which does not sound in damages.

SEC. 2. PENALTY FOR BREACH OF CONTRACT OF PERSONAL SERVICE.—A few of the Southern States have adopted statutes making it a penal offense to violate a contract of personal service under certain circumstances, and imposing damages for the same, usually to at least the full amount due for services already rendered. These States are South Carolina, Tennessee, Arkansas, Alabama, and Louisiana. The statutes are printed in full below.[1] And New Jersey has a severe statute applying to railway labor.

---

[1]South Carolina (1897, 286, 1; see also Chap. VI.):

Any laborer working on shares of crop or for wages in money or other valuable consideration under a verbal or written contract to labor on farm lands who shall receive advances either in money or supplies and thereafter willfully and without just cause fail to perform the reasonable service required of him by the terms of the said contract shall be liable to prosecution for a misdemeanor, and on conviction shall be punished by imprisonment for not less than twenty days nor more than thirty days, or to be fined in the sum of not less than twenty-five dollars nor more than one hundred dollars, in the discretion of the court: *Provided*, The verbal contract herein referred to shall be witnessed by at least two disinterested witnesses.

Tennessee (§ 3438):

Any persons o under contract or employ of another, leaving their employ without good and sufficient cause, before the expiration of the time for which they were employed, shall forfeit to the employer all sums due for service already rendered, and be liable for such other damages the employer may reasonably sustain by such violation of contract. (See also Art. F, § 3.)

Arkansas (§ 4790):

'If any laborer shall, without good cause, abandon his employer before the expiration of his contract, he shall be liable to such employer for the full amount of any account he may owe him, and shall forfeit to his employer all wages or share of crop due him, or which might become due him from his employer.'

Alabama (§ 3762).

Any immigrant who abandons or leaves the service of an employer without repaying all passage money and all other advances, must, on conviction, be fined in a sum not more than double the amount of wages for the unexpired term of service, and imprisoned not longer than three months, or sentenced to hard labor for the county for not more than three months, at the discretion of the jury.

Louisiana (1890, 138, 1):

Whoever shall wilfully violate a contract upon the faith of which money or goods have been advanced and without first tendering to the person from whom said money

ARTICLE F. AS TO INTERFERENCE WITH THE LABOR CONTRACT BY OTHERS, INTIMIDATION, ETC.

SEC. 1. GENERAL STATUTES PROHIBITING INTIMIDATION OF ORDINARY EMPLOYEES.—It must be carefully noted that intimidation by one or more individuals falls under a different head of the common law from combinations to intimidate made by many individuals. The statutes concerning combinations are inseparably connected with statutes prohibiting or regulating combinations in labor affairs, conspiracies, and boycotts (see, for these, in Chapter IX, below); while the law prohibiting intimidation by individuals relates to matters of police or the preservation of order, and is legally a mere development by statute of the common law of assault and battery. Yet many of the States have found it wise to adopt statutes prohibiting intimidation of laborers or employers, or the interference by threats, ridicule, etc., by others, with the performance of the labor contract; making such interference a misdemeanor or criminal offense. Five New England States, Wisconsin, and other Northwestern and Southern States, have adopted statutes which declare it a criminal offense to prevent or seek to prevent by force, threats, or intimidation any person from entering into or continuing in the employment of any other person or corporation,[1] or to prevent in the same manner the employer from employing any person.[2] Some of the States express it more broadly, and prohibit such intimidation, etc., directed at the preventing any person from carrying on any lawful trade or calling;[3] others put it specifically as by interfering

or goods were obtained the amount of money or value of the goods, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than fifty dollars nor more than two hundred dollars, and in default of payment thereof with costs shall be imprisoned in the parish jail not less than ten days nor more than thirty days at the discretion of the court.

New Jersey (p. 909, § 1):

Any engineer, officer, agent, or employé of any railroad company, who in this state, shall willfully or negligently disregard or disobey any rule, regulation, or published order of any said company or companies, in regard to the running of trains, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be punished by a fine not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court; but nothing in this act contained shall be construed to repeal any acts or parts of acts punishing either of the persons aforesaid in any other manner than that pointed out in this act.

While on the other hand, as to the employer, S. C. (1897, 301, 2):

2. Any contractor or contractors or subcontractors who shall for other purposes than paying the money loaned upon said contract expend and on that account fail to pay to any or all laborers, subcontractors and material men out of the money received as provided in section 1 of this act, and as admitted by such contractor or contractors, or as may be adjudged by any court of competent jurisdiction, shall be deemed guilty of a misdemeanor, and upon conviction, when the consideration for such work and material shall exceed the value of one hundred dollars, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisonment not less than three months nor more than twelve months; and when such consideration shall not exceed the value of one hundred dollars, shall be fined not more than one hundred dollars or imprisoned not longer than thirty days: *Provided*, Said contractor or contractors or subcontractors may have the right of arbitration by agreement with said laborers, subcontractors and material men.

[1] N. H., Mass., Me., R. I., Vt., Wis., Mo., Oreg., N. Dak., S. Dak., Ga., Ala., Tex., Okla., Miss.
[2] Vt., Ill., Ga.
[3] R. I., Ill., Mich., Wis., Mo., Ala., Tex.

with any person's tools or other property, and the use thereof,[4] or in order to compel another to employ any person or to force or induce another to alter his mode of carrying on business, or to limit or increase the number of persons employed by him, or their rate of wages, or time of service.[5] The New York statute, followed in Connecticut and Minnesota, goes further still, and makes it a misdemeanor to use or attempt the intimidation by threats or force of any person from doing or abstaining from any act which such person has a legal right to do, or to abstain from doing.[6] In North Dakota and Utah there is a constitutional provision that "any person, corporation or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any corporation or person, shall be deemed guilty of a misdemeanor, or crime (in Utah)."[7] The more important typical statutes are printed in full in the note 8.

---

[4] N. Y., Minn.

[5] Oreg., N. Dak., S. Dak., Okla.

[6] Conn., N. Y., Minn.

[7] N. Dak., Const. 1, 23; Utah, Con. 12, 19.

[8] Thus, New Hampshire (P. S., 266, 12):

If any person shall interfere in any way whatever to injure or damage another in his person or property, while engaged in his lawful business, trade, or occupation, or while on the way to or from the same, or shall endeavor to prevent any person from engaging in his lawful business, trade, or calling, he shall be fined not exceeding five hundred dollars, or be imprisoned not exceeding one year.

Massachusetts (1894, 508, 2):

No person shall, by intimidation or force, prevent or seek to prevent a person from entering into or continuing in the employment of any other person or corporation.

Maine (1889, 303; 1891, 127):

Any employer, employee, or other person, who by threats of injury, intimidation or force, alone or in combination with others, prevents any person from entering into, continuing in or leaving the employment of any person, firm or corporation, shall be punished by imprisonment not more than two years, or by fine not exceeding five hundred dollars.

Vermont (R. L., 4226-7):

A person who threatens violence or injury to another person with intent to prevent his employment in a mill, manufactory, shop, quarry, mine or railroad, shall be imprisoned not more than three months or fined not more than one hundred dollars.

A person who, by threats or intimidation, or by force, alone or in combination with others, affrights, drives away and prevents another person from accepting, undertaking or prosecuting such employment with intent to prevent the prosecution of work in such mill, shop, manufactory, mine, quarry or railroad, shall be imprisoned in the state prison not more than five years or fined not more than five hundred dollars.

Rhode Island (G. L. 278, 8):

"Every person who, by himself or in concert with other persons, shall attempt by force, violence, threats or intimidation of any kind to prevent, or who shall prevent any other person from entering upon and pursuing any employment, upon such terms and conditions as he may think proper, shall be deemed guilty of a misdemeanor and be fined not exceeding one hundred dollars or be imprisoned not exceeding ninety days." And (279, 45) "every person who shall wilfully and maliciously or mischievously injure or destroy the property of another, or obstruct the use of the property of another, or obstruct another in the prosecution of his lawful business or pursuits, in any manner, the punishment whereof is not specially provided for by statute, shall be fined not exceeding twenty dollars or be imprisoned not exceeding three months."

Connecticut (G. S. 1518):

Every person who shall threaten, or use any means to intimidate any person to

SEC. 2. INTIMIDATION IN RAILWAYS, MINES, AND OTHER SPECIAL CASES.—Besides the general statutes some States have adopted special laws applying to cases of intimidation or trespass upon mines, rail-

---

compel such person against his will, to do or abstain from doing any act which such person has a legal right to do, or shall persistently follow such person in a disorderly manner, or injure, or threaten to injure, his property with intent to intimidate him, shall be fined not more than one hundred dollars, or imprisoned not more than six months.

New York (P. C. 653), Minnesota (G. S. 6790):

A person who, with a view to compel another person to do or to abstain from doing an act which such other person has a legal right to do or to abstain from doing, wrongfully and unlawfully deprives any such person of any tool, implement or clothing, or hinders him in the use thereof; or uses or attempts the intimidation of such person by threats or force, is guilty of a misdemeanor.

Illinois (R. S. 38, 159):

If any person shall, by threat, intimidation or unlawful interference, seek to prevent any other person from working or from obtaining work at any lawful business, on any terms that he may see fit, such person so offending shall be fined not exceeding two hundred dollars.

Wisconsin (4466c):

Any person who by threats, intimidation, force or coercion of any kind shall hinder or prevent any other person from engaging in or continuing in any lawful work or employment, either for himself or as a wage-worker, or who shall attempt to so hinder or prevent, shall be punished by fine not exceeding one hundred dollars or by imprisonment in the county jail not more than six months, or by both fine and imprisonment in the discretion of the court.

Missouri (R. S. 3783):

Every person who shall, by force, menace or threats of violence to the person or property of another, compel or attempt to compel any person to abandon any lawful occupation or employment for any length of time, or prevent or attempt to prevent any person from accepting or entering upon any lawful employment, shall, upon conviction, be punished by imprisonment in the county jail not less than six months, or by a fine of not less than one hundred dollars, or by both such fine and imprisonment. Every person who shall, by threats, of violence to the person or property of another, compel or attempt to compel any person to abandon any lawful occupation or employment for any length of time, or prevent any person from accepting or entering upon any lawful employment, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine not less than fifty dollars, or imprisonment in the county jail not less than three months, or by both such fine and imprisonment.

Oregon (Annot. L. 1893):

If any person shall, by force, threats, or intimidation, prevent or endeavor to prevent any person employed by another from continuing or performing his work, or from accepting any new work or employment; or if any person shall circulate any false written or printed matter or be concerned in the circulation of any such matter, to induce others not to buy from or sell to or have dealings with any person, for the purpose or with the intent to prevent such person from employing any person or to force or compel him to employ or discharge from his employment any one, or to alter his mode of carrying on business, or limit or increase the number of persons employed by him, or their rate of wages or term of service, such person shall be deemed guilty of a misdemeanor and on conviction thereof shall be imprisoned in the county jail not less than one month nor more than six months, or by fine not less than ten nor more than two hundred dollars.

North Dakota (Rev. C. 7660-1), South Dakota (Dak. P. C. 6924-5), Oklahoma (2544-5):

Every person who, by any use of force, threats, or intimidation, prevents, or endeavors to prevent, any hired foreman, journeyman, apprentice, workman, laborer, servant, or other person employed by another, from continuing or performing his work, or from accepting any new work or employment, or to induce such hired person to relinquish his work or employment, or to return any work he has in hand before it is finished, is guilty of a misdemeanor.

Every person who, by any use of force, threats, or intimidation, prevents or endeav-

ways, or in pursuits where the public safety is involved. So far as possible, it is again important to distinguish such statutes, applying to individual cases of trespass, from statutes applying to conspiracies or combinations; but the statutes themselves do not often make the distinc-

---

ors to prevent another from employing any person, or to compel another to employ any person, or to force or induce another to alter his mode of carrying on business, or to limit or increase the number of his hired foremen, journeymen, apprentices, workmen, laborers, servants, or other persons employed by him, or their rate of wages, or time of service, is guilty of a misdemeanor.

Michigan (Howell, 9273):

If any person or persons shall, by threats, intimidations, or otherwise, and without authority of law, interfere with, or in any way molest, or attempt to interfere with, or in any way molest or disturb, without such authority, any mechanic, or other laborer, in the quiet and peaceable pursuit of his lawful avocation, such person or persons shall be deemed guilty of a misdemeanor, and on conviction by a court of competent jurisdiction, shall be severally punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail where the offence shall have been committed, not less than one month nor more than one year, or by both fine and imprisonment, in the discretion of the court; but if such punishment be by fine, the offender shall be imprisoned in such jail until the same be paid, not exceeding ninety days.

Georgia (1887, 347, 1):

If any person or persons, by threats, violence, intimidation or other unlawful means, shall prevent or attempt to prevent any person or persons in this State from engaging in, remaining in, or performing the business, labor, or duties of any lawful employment or occupation; or if any person or persons, singly or together, or in combination, shall conspire to prevent or attempt to prevent any person or persons by threats, violence, or intimidation from engaging in, remaining in, or performing the business, labor or duties of any lawful employment or occupation; or if any person or persons, singly or by conspiring together, shall hinder any person or persons who desire to labor, from so doing or hinder any person by threats, violence or intimidation from being employed as laborer or employee, or by the means aforesaid shall hinder the owner, manager or proprietor for the time being from controlling, using, operating or working any property in any lawful occupation, or shall by such means hinder such persons from hiring or employing laborers or employees, such person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction be punished as prescribed in section 4310 of the code of Georgia.

Alabama (Code 3763; 1894–5, 321):

Any person who, by threats of violence to person or property, prevents or seeks to prevent another from doing work or furnishing materials for or to any person engaged in any lawful business or who disturbs, interferes with or who shall prevent or attempt to prevent any discharged employee by printing or writing any list containing the name of any employee so discharged, or shall make any sign or token, character or figure, indicating that any discharged employee is upon any list so printed or written or in any other manner prevents or attempts to prevent the peaceable exercise of any lawful industry, business or calling by any other person, must, on conviction, be fined not less than ten nor more than five hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for not more than twelve months.

Texas (1887, 18):

Any person who shall, by threatening words, or by acts of violence or intimidation, prevent or attempt to prevent another from engaging or remaining in or from performing the duties of any lawful employment, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than five hundred dollars, or by confinement not less than one nor more than six months in the county jail.

Mississippi (1898, 70):

Any person or persons who shall, by placards, or other writing, or verbally, attempt by threats, direct or implied, of injury to the person or property of another, to intimidate such other person into an abandonment or change of home or employment, shall, upon conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or in the penitentiary not exceeding five years, as the court, in its discretion, may determine.

tion. They are printed in full below. Thus, as to mines, in Illinois;[1] as to steamboats, in Louisiana;[2] as to railways, etc., in Maine, Connecticut, New York, Wisconsin, Kansas, Nebraska, Kentucky, and West Virginia.[3] (See also Chap. IX, Art. B, §1.)

---

[1] Illinois (38, 268):

Whoever without authority of law and not being the owner or agent of adjoining lands, enters the coal bank, mine, shaft, manufactory, or place where workmen are employed of another, without the express or implied consent of the owner or manager thereof, after notice that such entry is forbidden, shall be fined not exceeding two hundred dollars; or confined in the county jail not exceeding six months, in the discretion of the court.

(Ib., 160):

Whoever enters a coal bank, mine, shaft, manufactory, building, or premises of another, with intent to commit any injury thereto, or by means of threats, intimidation, or riotous or other unlawful doings, to cause any person employed therein to leave his employment, shall be fined not exceeding $500, or confined in the county jail not exceeding six months, or both.

[2] Louisiana (R. L., 944):

Any person or persons who may, by violence or threats or in any manner intimidate and prevent another from shipping upon any steamboat within this State, or who shall thus interfere with or prevent any person who is one of the crew of a steamboat from discharging his or her duty, or unlawfully interfere with any laborer who may be taking on board or discharging cargo from a steamboat within the State of Louisiana, shall be deemed guilty of a misdemeanor, and, upon conviction before any justice of the peace of this State or recorder of the city of New Orleans, be fined not less than twenty dollars and costs of prosecution, and imprisoned not less than twenty days in the parish jail.

[3] Maine (R. S., 123; 7–10):

Whoever, by any unlawful act, or by any wilful omission or neglect, obstructs or causes to be obstructed an engine or carriage on any railroad or railway, or aids or assists therein; or whoever, having charge of any locomotive or carriage while upon or in use on any railway of any railroad corporation, wilfully stops, leaves or abandons the same, or renders, or aids or assists in rendering the same unfit for or incapable of immediate use, with intent thereby to hinder, delay, or in any manner to obstruct or injure the management and operation of any railroad or railway, or the business of any corporation operating or owning the same, or of any other corporation or person, and whoever aids or assists therein, shall be punished by fine not exceeding one thousand dollars, or imprisonment in the State prison or in jail not exceeding two years.

Whoever, having any management of, or control, either alone or with others, over any railroad locomotive, car or train, while it is used for the carriage of persons or property, or is at any time guilty of gross carelessness or neglect on, or in relation to, the management or control thereof; or maliciously stops or delays the same, in violation of the rules and regulations then in force for the operation thereof; or abstracts therefrom the tools or appliances pertaining thereto, with intent thereby maliciously to delay the same, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the state prison or in jail not exceeding three years.

Whoever, alone, or in pursuance or furtherance of any agreement or combination with others, to do, or procure to be done, any act in contemplation or furtherance of a dispute or controversy between a gas, telegraph, or railroad corporation and its employés or workmen, wrongfully and without legal authority, uses violence towards, or intimidates any person, in any way or by any means, with intent thereby to compel such person against his will to do, or abstain from doing, any act which he has a legal right to do or abstain from doing; or on the premises of such corporation, by bribery, or in any manner or by any means, induces, or endeavors or attempts to induce, such person to leave the employment and service of such corporation with intent thereby to further the objects of such combination or agreement; or in any way interferes with such person while in the performance of his duty; or threatens or persistently follows such person in a disorderly manner, or injures or threatens to injure his property with either of said intents, shall be punished by fine not exceeding three hundred dollars, or imprisonment not exceeding three months.

Any person in the employment of a railroad corporation, who, in furtherance of the interests of either party to a dispute between another railroad corporation and its

SEC. 3. INTERFERENCE BY ENTICING.—By the common law, a person enticing away any servant into his own service is liable in an action for damages; and several of the Southern States have adopted statutes

---

employés, refuses to aid in moving the cars of such other corporation, or trains in whole or in part made up of the cars of such other corporation, over the tracks of the corporation employing him; or refuses to aid in loading or discharging such cars, in violation of his duty as such employé, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the state prison or in jail not exceeding one year.

Connecticut (G. S., 1517; 1895, 87):

Every person who shall unlawfully, maliciously, and in violation of his duty or contract, unnecessarily stop, delay, or abandon any locomotive, car, or train of cars, or street railway car, or shall maliciously injure, hinder, or obstruct the use of any locomotive, car, or railroad, or street railway, shall be fined not more than one hundred dollars, or imprisoned not more than six months.

New York (P. C., 673):

A person, who willfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

Wisconsin (4466d):

Any person who shall individually or in association with one or more others, wilfully break, injure or remove any part or parts of any railway car or locomotive, or any other portable vehicle or traction engine, or any part or parts of any stationary engine, machine, implement or machinery, for the purpose of destroying such locomotive, engines, car, vehicle, implement, or machinery, or of preventing the useful operation thereof, or who shall in any other way wilfully or maliciously interfere with or prevent the running or operation of any locomotive, engine or machinery, shall be punished by fine not exceeding one thousand dollars or by imprisonment in the county jail or the state prison not exceeding two years, or by both fine and imprisonment in the discretion of the court.

Texas (1887, 92):

SEC. 1. Any person or persons who shall, by force, threats, or intimidation of any kind whatever, against any railroad engineer or engineers, or any conductor, brakeman, or other officer or employee, employed or engaged in running any passenger train, freight train, or construction train running upon any railroad in this State, prevent the moving or running of said passenger, freight, or construction train, shall be deemed guilty of an offense, and upon conviction thereof each and every person so offending shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and also imprisoned in the county jail for any period of time not less than three months nor more than twelve months.

SEC. 2. Each day said train or trains mentioned in section one of this act are prevented from moving on their road as specified in section one of this act, shall be deemed a separate offense, and shall be punished as prescribed in section one of this act.

In Kentucky:

SEC. 802. It shall be unlawful for any person or persons to prevent, hinder or delay, or to attempt to prevent, hinder or delay, by violence, the transportation of freight or passengers in this State, by any individual, firm, company, corporation or association doing business in this State, or to interfere with, by violence, any person or agency engaged in the conduct of commerce and traffic in this State in such manner as to obstruct or impede the movement and conduct of such commerce or traffic; but nothing herein shall be construed to prevent any person, or class of persons, from quitting their employment at any time they see proper.

SEC. 803. And it shall be unlawful for any person or persons to prevent or hinder, or attempt to prevent or hinder, by coercion, intimidation, or any trespass or violent interference therewith, the free and lawful use of his or its property, by any individual, firm, company, corporation, or association engaged in the business of transporting freight and passengers, and in the conduct of commerce and traffic in this State, or the free and lawful use of said property by any agent or employee of the owner thereof.

SEC. 804. Whoever shall violate the provisions of either of the two preceding sec-

making such action a misdemeanor, or imposing single or double damages upon the party offending, whether such party himself employ the servant so enticed or not.[1]

---

tions shall be deemed guilty of a misdemeanor, and, upon conviction by any court of competent jurisdiction, shall be punished for each offense by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail of the county wherein the offense is committed not less than ten days nor more than six months, or shall be both so fined and imprisoned, in the discretion of the jury.

Sec. 807. Any person who shall wilfully and maliciously tear up, displace, break or disturb any rail or other fixture attached to the track or switch of any railroad in operation, or break any bridge or viaduct of such road, or who shall place any obstruction on the track or switch of such road, or do any act whereby any engine or car might be upset, arrested or thrown from the track of such road or switch, or any branch or turn-out, shall be confined in the penitentiary not less than one nor more than five years.

Sec. 808. Any person who shall, by any of the acts mentioned in the next preceding section, cause the life of any person to be put in immediate peril, or cause any locomotive or car to be actually thrown from the track, shall be confined in the penitentiary not less than two nor more than ten years.

And similar statutes, aimed at individual trespasses, exist in New Hampshire (Chap. 266); Rhode Island (279, 29–32); Indiana (2038, 2039); Illinois (38, 186 and 189); Minnesota (6855, 6858–6859); Oregon (1893, p. 85); Nevada (1891, 67); Washington (P. C., 1, 24–25; 1895, 52); North Dakota (7547, 7548); South Dakota (6873, 6874); Idaho (1893, p. 68); Montana (P. C., 1030); South Carolina (1733–1735; Crim. L., 123, 178–182); Mississippi (1265–1280); New Mexico (1897, 15); Kansas (G. S. 2237–2240); Nebraska (6753–6757); Virginia (3725); West Virginia (145, 26, 26a and 31); Arizona (P. C., 915); Arkansas (1858–1859; 6199).

[1] Kentucky (§ 1349):

If any person shall willfully entice, persuade, or otherwise influence any person or persons, who have contracted to labor for a fixed period of time, to abandon such contract before such period of service shall have expired without the consent of the employer, shall be fined not exceeding fifty dollars, and be liable to the party injured for such damages as he or they may have sustained.

Arkansas (§ 4792) and Louisiana (1890, 138, 2):

If anyone shall willfully interfere with, entice away, knowingly employ or induce a laborer or renter who has contracted as herein provided to leave his employer or the place rented before the expiration of his contract, he shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than twenty nor more than two hundred dollars, and, in addition to such fine, he shall be liable to the employer in double the amount of damages which such employer or landlord may suffer by such abandonment.

South Carolina (Crim. L., § 291):

Any person who shall entice or persuade, by any means whatsoever, any tenants, servant or laborer, under contract with another, duly entered into between the parties before one or more witnesses, whether such contract be verbal or in writing, to violate such contract, or shall employ any laborer knowing such laborer to be under contract with another, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars, or be imprisoned in the county jail not less than ten nor more than thirty days.

Georgia (§ 4500):

If any person, by himself or agent, shall be guilty of employing the servant, cropper or farm laborer of another, under a written contract, which shall be attested by one or more witnesses, during the term for which he, she or they may be employed, knowing that such servant, cropper or farm laborer was so employed, and that his term of service was not expired; or if any person or persons shall entice, persuade or decoy, or attempt to entice, persuade or decoy any servant, cropper or farm laborer, whether under a written or parol contract, after he, she or they shall have actually entered the service of his or her employer, to leave his employer, either by offering higher wages, or any way whatever, during the term of service, knowing that said servant, cropper or farm laborer was so employed, shall be deemed

ARTICLE G. AS TO THE DUTIES AND LIABILITIES OF THE EMPLOYER TO THE EMPLOYEE.

SEC. 1. GENERAL LIABILITY.—Only the California code, copied also

---

guilty of a misdemeanor, and, upon conviction thereof, shall be punished as prescribed by section 4310 of the Code of this State.

Tennessee (§§ 3438, 3439):

It shall not be lawful for any person in this State, knowingly, to hire, contract with, decoy or entice away, directly or indirectly, any one, male or female, who is at the time under contract or in the employ of another; and * * * (any person violating the provisions of the above section shall be liable to the party who originally was entitled to the services of said employé, by virtue of a previous contract, for such damages as he may reasonably sustain by the loss of the labor of said employé; and he shall also be liable for such damages, whether he had knowledge of an existing contract or not, if he fails or refuses to discharge the person so hired, or to pay such damages as the original employer may claim, after he has been notified that the person is under contract or has violated the contract with another person,) which amount shall be ascertained and the collection enforced by action for damages before any justice of the peace of said county where said violation occurs, or the party violating section 3438 may reside.

North Carolina:

SEC. 3119. If any person shall entice, persuade and procure any servant by indenture, or any servant who shall have contracted in writing or orally to serve his employer, to unlawfully leave the service of his master or employer; or, if any person shall knowingly and unlawfully harbor and detain, in his own service and from the service of his master or employer, any servant who shall unlawfully leave the service of such master or employer; then, in either case, such person and servant may be sued, singly or jointly, by the master, and, on recovery, he shall have judgment for the actual double value of the damages assessed.

SEC. 3120. In addition to the remedy given in the preceding section against the person and servant violating the preceding section, such person and servant shall also pay a penalty of one hundred dollars to any person suing for the same, singly or jointly, one-half to his use and the other to the use of the poor of the county where suit is brought, and the offender shall be guilty of a misdemeanor and fined not exceeding one hundred dollars or imprisoned not exceeding six months.

Mississippi (§ 1068):

If any person shall willfully interfere with, entice away, knowingly employ, or induce a laborer or renter who has contracted with another person for a specified time to leave his employer or the leased premises before the expiration of his contract, without the consent of the employer or landlord, he shall, upon conviction, be fined not less than twenty-five dollars nor more than one hundred dollars, and, in addition, shall be liable to the employer or landlord for double the amount of damage which he may have sustained by reason thereof.

Florida (§ 2405):)

Whoever shall entice or persuade by any means whatsoever any tenant, servant or laborer, under contract with another, whether written or verbal, to violate such contract, or shall employ any servant or laborer, knowing him or her to be under contract as aforesaid, shall be punished by imprisonment not exceeding sixty days, or by fine not exceeding one hundred dollars.

Alabama:

SECTION 3757. Any person, who knowingly interferes with, hires, employs, entices away, or induces to leave the service of another, or attempts to hire, employ, entice away, or induce to leave the service of another, any laborer or servant who has contracted in writing to serve such other person for any given time, not to exceed one year, before the expiration of the time so contracted for, or who knowingly interferes with, hires, employs, entices away, or induces any minor to leave the service of any person to whom such service is lawfully due, without the consent of the party employing, or to whom such service is due, given in writing, or in the presence of some credible person, must, on conviction, be fined not less than fifty, nor more than five hundred dollars, at the discretion of the jury, and in no case less than double the

in the Dakotas and Montana, attempts to define generally the employer's liability.[1]

SEC. 2. FELLOW-SERVANT DOCTRINE.—The statutes extending the strict provisions of the common law on this subject are numerous and varied. They may be roughly divided into three groups: Those which do away with the fellow-servant doctrine entirely, making the employer liable in all cases of accident, whether caused by fellow-servants or not, unless primarily caused by negligence, or by contributory negligence, of the person injured (Wis. 1893, 220; Minn. 2701; Kans. 1251; Iowa, 1307; Mont. Civ. C. 905; N. Dak. 1899, 129; Mo. 1897, p. 96; N. C. law of Feb. 23, 1897; N. Mex. 1893, 28; Ga. 3036; Fla. May 4, 1891);[1] those which attempt to define who are fellow-servants,

---

damages sustained by the party whom such laborer or servant was induced to leave; * * *.

SEC. 3758. When any laborer or servant, having contracted as provided in the preceding section, is afterwards found in the service or employment of another before the termination of such contract, that fact is prima facie evidence that such person is guilty of a violation of that section, if he fail and refuse to forthwith discharge such laborer or servant, after being notified and informed of such former contract or employment.

SEC. 3761. Any person, who employs any immigrant, or otherwise entices him from his employer, in violation of the contract of such immigrant, must, on conviction, be fined in a sum not less than the amount of wages for the unexpired term of the contract, and may be imprisoned in the county jail, or sentenced to hard labor for the county, at the discretion of the jury, for not more than three months.

[1] Cal. Civ. C., 1969–1971; Mont. Civ. C., 2660–2; N. Dak. Civ. C., 4095–4097; S. Dak. Civ. C., 3752–3754:

An employer must indemnify his employee, except as prescribed in the next section, for all that he necessarily expends or loses in direct consequence of the discharge of his duties as such, or of his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying such directions, believed them to be unlawful.

An employer is not bound to indemnify his employee for losses suffered by the latter in consequence of the ordinary risks of the business in which he is employed, nor in consequence of the negligence of another person employed by the same employer in the same general business, unless he has neglected to use ordinary care in the selection of the culpable employee.

An employer must in all cases indemnify his employees for losses caused by the former's want of ordinary care.

[1] Wisconsin (1893, 220):

SEC. 1. Every railroad or railway company operating any railroad or railway, the line of which shall be in whole or in part within this State, shall be liable for all damages sustained within this State by any employee of such company, without contributory negligence on his part; first, when such injury is caused by any defect in any locomotive, engine, car, rail, track, machinery or appliance required by said company to be used by its employees in and about the business of such employment, when such defect could have been discovered by such company by reasonable and proper care, tests or inspection, and proof of such defect shall be presumptive evidence of knowledge thereof on the part of such company; second, or while any such employee is so engaged in operating, running, riding upon or switching, passenger or freight or other trains, engines or cars, and while engaged in the performance of his duty as such employee, and which such injury shall have been caused by the carelessness or negligence of any other employee, officer or agent of such company in the discharge of, or for failure to discharge his duties as such.

SEC. 3. No action or cause of action now existing shall be affected by this act.

SEC. 4. No contract, receipt, rule or regulation between any employee and a railroad company, shall exempt such corporation from the full liability imposed by this act.

Minnesota (§ 2701):

Every railroad corporation owning or operating a railroad in this State shall be liable for all damages sustained by any agent or servant thereof by reason of the negligence of any other agent or servant thereof, without contributory negligence on his part, when sustained within this State, and no contract, rule, or regulation between such corporation and any agent or servant shall impair or diminish such

by setting them off into classes (S. C. Con. 9, 15; Colo. 1893, 77, 1;

---

liability: *Provided*, That nothing in this act shall be so construed as to render any railroad company liable for damages sustained by any employee, agent, or servant while engaged in the construction of a new road, or any part thereof, not open to public travel or use.

Kansas (G. S. 1251):

Every railroad company organized or doing business in this State shall be liable for all damages done to any employee of such company in consequence of any negligence of its agents, or by any mismanagement of its engineers or other employees to any person sustaining such damage.

Iowa (§ 1307):

Every corporation operating a railway shall be liable for all damages sustained by any person, including employees of such corporation, in consequence of the neglect of agents, or by any mismanagement of the engineers or other employees of the corporation, and in consequence of the wilful wrongs, whether of commission or omission of such agents, engineers, or other employees, when such wrongs are in any manner connected with the use and operation of any railway, on or about which they shall be employed, and no contract which restricts such liability shall be legal or binding.

Montana (Civ. C. § 905):

In every case the liability of a corporation to a servant or employee acting under the orders of his superior, shall be the same in cases of injury sustained by default or wrongful act of his superior, or to an employee not appointed or controlled by him as if such servant or employee were a passenger.

North Dakota (1899, 129):

Every railroad corporation owning or operating a railroad in this State shall be liable for all damages sustained by any agent or servant thereof while engaged in switching or in the operation of trains by reason of the negligence of any other agent or servant thereof, without contributory negligence on his part when sustained within this State, and no contract, rule or regulation between such corporation and any agent or servant shall impair or diminish such liability. In actions brought under the provisions of this act, if the jury find for the plaintiff they shall specify in their verdict the name or names of the employee or employees guilty of the negligent act complained of.

Missouri (1897, p. 96):

Sec. 1. Every railroad corporation owning or operating a railroad in this State shall be liable for all damages sustained by any agent or servant thereof while engaged in the work of operating such railroad by reason of the negligence of any other agent or servant thereof: *Provided*, That it may be shown in defense that the person injured was guilty of negligence contributing as a proximate cause to produce the injury.

Sec. 2. All persons engaged in the service of any such railroad corporation doing business in this State, who are intrusted by such corporation with the authority of superintendence, control or command of other persons in the employ or service of such corporation, or with the authority to direct any other servant in the performance of any duty of such servant, or with the duty of inspection or other duty owing by the master to the servant, are vice-principals of such corporation, and are not fellow-servants with such employees.

Sec. 3. All persons who are engaged in the common service of such railroad corporation, and who while so engaged, are working together at the same time and place, to a common purpose of same grade, neither of such persons being intrusted by such corporation with any superintendence or control over their fellow employees, are fellow-servants with each other: *Provided*, That nothing herein contained shall be so construed as to make any agent or servant of such corporation in the service of such corporation a fellow-servant with any other agent or servant of such corporation engaged in any other department or service of such corporation.

Sec. 4. No contract made between any railroad corporation and any of its agents or servants, based upon the contingency of the injury or death of any agent or servant, limiting the liability of such railroad corporation for any damages under the provisions of this act, shall be valid or binding, but all such contracts or agreements shall be null and void.

North Carolina (Feb. 23, 1897):

Sec. 1. Any servant or employee of any railroad company operating in this State,

Tex. 1897, Spec., 6; Miss. 1898, 87; Utah 1896, 24);[2] and those which

---

who shall suffer injury to his person, or the personal representative of any such servant or employee who shall have suffered death in the course of his services or employment with said company by the negligence, carelessness or incompetency of any other servant, employee or agent of the company, or by any defect in the machinery, ways or appliances of the company, shall be entitled to maintain an action against such company.

Sec. 2. Any contract or agreement, expressed or implied, made by any employee of said company to waive the benefit of the aforesaid section shall be null and void.

New Mexico (1893, 28, § 1):

Every corporation operating a railway in this Territory shall be liable in a sum sufficient to compensate such employee for all damages sustained by any employee of such corporation, the person injured or damaged being without fault on his or her part, occurring or sustained in consequence of any mismanagement, carelessness, neglect, default or wrongful act of any agent or employee of such corporation, while in the exercise of their several duties, when such mismanagement, carelessness, neglect, default or wrongful act of such employee or agent could have been avoided by such corporation through the exercise of reasonable care or diligence in the selection of competent employees, or agents, or by not overworking said employees or requiring or allowing them to work an unusual or unreasonable number of hours; and any contract restricting such liability shall be deemed to be contrary to the public policy of this Territory and therefore void.

Georgia:

Sec. 2083. Railroad companies are common carriers, and liable as such. As such companies necessarily have many employees who can not possibly control those who should exercise care and diligence in the running of trains, such companies shall be liable to such employees as to passengers for injuries received from the want of such care and diligence.

Sec. 3036. If the person injured is himself an employee of the company, and the damage was caused by another employee, and without fault or negligence on the part of the person injured, his employment by the company shall be no bar to the recovery [of damages].

Florida (May 4, 1891, § 3):

If any person is injured by a railroad company by the running of the locomotives, or cars, or other machinery of such company, he being at the time of such injury an employee of the company, and the damage was caused by negligence of another employee, and without fault or negligence on the part of the person injured, his employment by the company shall be no bar to a recovery. No contract which restricts such liability shall be legal or binding.

[2] South Carolina (Constitution, Art. 9, § 15):

Every employee of any railroad corporation shall have the same rights and remedies for any injury suffered by him from the acts or omissions of said corporation or its employees as are allowed by law to other persons not employees, when the injury results from the negligence of a superior agent or officer, or of a person having a right to control or direct the services of a party injured, and also when the injury results from the negligence of a fellow-servant engaged in another department of labor from that of the party injured, or of a fellow-servant on another train of cars, or one engaged about a different piece of work. Knowledge by any employee injured of the defective or unsafe character or condition of any machinery, ways or appliances shall be no defense to an action for injury caused thereby, except as to conductors or engineers in charge of dangerous or unsafe cars or engines voluntarily operated by them. When death ensues from any injury to employees, the legal or personal representatives of the person injured shall have the same right and remedies as are allowed by law to such representatives of other persons. Any contract or agreement, expressed or implied, made by any employee to waive the benefit of this section shall be null and void; and this section shall not be construed to deprive any employee of a corporation, or his legal or personal representative, of any remedy or right that he now has by the law of the land. The general assembly may extend the remedies herein provided for to any other class of employees.

Colorado (1893, 77):

Sec. 1. Where, after the passage of this act, personal injury is caused to an

merely content themselves with saying that no person shall be deemed

---

employee, who is himself in the exercise of due care and diligence at the time: (1) By reason of any defect in the condition of the ways, works, or machinery connected with or used in the business of the employer, which arose from or had not been discovered or remedied owing to the negligence of the employer, or of any person in the service of the employer, and intrusted by him with the duty of seeing that the ways, works, and machinery were in proper condition; or (2) By reason of the negligence of any person in the service of the employer, intrusted with or exercising superintendence whose sole or principal duty is that of superintendence. (3) By reason of the negligence of any person in the service of the employer who has the charge or control of any switch, signal, locomotive engine or train upon a railroad, the employee, or in case the injury results in death the parties entitled by law to sue and recover for such damages shall have the same right of compensation and remedy against the employer, as if the employee had not been an employee of or in the service of the employer or engaged in his or its works.

Sec. 2. The amount of compensation recoverable under this act, in case of a personal injury resulting solely from the negligence of a co-employee, shall not exceed the sum of five thousand dollars. No action for the recovery of compensation for injury or death under this act shall be maintained unless written notice of the time, place and cause of the injury is given to the employer within sixty days, and the action is commenced within two years from the occurrence of the accident causing the injury or death. But no notice given under the provisions of this section shall be deemed invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of injury: *Provided*, It is shown that there was no intention to mislead, and that the party entitled to notice was not in fact misled thereby.

Sec. 3. Whenever an employee enters into a contract, either written or verbal, with an independent contractor to do part of such employer's work, or whenever such contractor enters into a contract with a subcontractor to do all or a part of the work comprised in such contract or contracts with the employer, such contract or subcontract shall not bar the liability of the empolyer for injuries to the employees of such contractor or subcontractor, by reason of any defect in the condition of the ways, works, machinery or plant, if they are the property of the employer or furnished by him, and if such defect arose or had not been discovered or remedied through the negligence of the employer or of some person intrusted by him with the duty of seeing that they were in proper condition.

Sec. 4. An employee or those entitled by law to sue and recover, under the provisions of this act, shall not be entitled under this act to any right of compensation or remedy against his employer in any case where such employee knew of the defect or negligence which caused the injury, and failed within a reasonable time to give or cause to be given information thereof to the employer or to some person superior to himself in the service of his employer, who had intrusted to him some general superintendence.

Sec. 5. If the injury sustained by the employee is clearly the result of the negligence, carelessness or misconduct of a co-employee the co-employee shall be equally liable under the provisions of this act, with the employer, and may be made a party defendant in all actions brought to recover damages for such injury. Upon the trial of such action, the court may submit to and require the jury to find a special verdict upon the question as to w[h]ether the employer or his vice-principal was or was not guilty of negligence proximately causing the injury complained of; or w[h]ether such injury resulted solely from the negligence of the co-employee, and in case the jury by their special verdict find that the injury was solely the result of the negligence of the employer or vice-principal, then and in that case the jury shall assess the full amount of plaintiff's damages against the employer, and the suit shall be dismissed as against the employee; but in case the jury by their special verdict find that the injury resulted solely from the negligence of the co-employee, the jury may assess damages both against the employer and employee.

Utah (1896, 24):

Section 1. All persons engaged in the service of any person, firm or corporation, foreign or domestic, doing business in this State, who are entrusted by such person, firm or corporation as employer with the authority of superintendence, control or command of other persons in the employ or service of such employer, or with the authority to direct any other employee in the performance of any duties of such employee are vice-principals of such employer and are not fellow-servants.

Sec. 2. All persons who are engaged in the service of such employer, and who, while so engaged, are working together at the same time and place to a common purpose,

a fellow-servant who is in a position to give orders to the person

---

of the same grade of service, neither of such persons being entrusted by such employer with any superintendence or control over his fellow employees, are fellow-servants with each other: *Provided*, That nothing herein contained shall be so construed as to make employees of such employer in the service of such employer fellow-servants with other employees engaged in any other department of service of such employer. Employees who do not come within the provisions of this section shall not be considered fellow-servants.

Texas (1897, Spec. Sess. 6):

SECTION 1. Every person, receiver, or corporation operating a railroad or street railway the line of which shall be situated in whole or in part in this State, shall be liable for all damages sustained by any servant or employee thereof while engaged in the work of operating the cars, locomotives, or trains of such person, receiver, or corporation, by reason of the negligence of any other servant or employee of such person, receiver, or corporation, and the fact that such servants or employees were fellow-servants with each other shall not impair or destroy such liability.

SEC. 2. All persons engaged in the service of any person, receiver, or corporation, controlling or operating a railroad or street railway the line of which shall be situated in whole or in part in this State, who are intrusted by such person, receiver, or corporation with the authority of superintendence, control, or command of other servants or employees of such person, receiver, or corporation, or with the authority to direct any other employee in the performance of any duty of such employee, are vice-principals of such person, receiver, or corporation, and are not fellow-servants with their coemployees.

SEC. 3. All persons who are engaged in the common service of such person, receiver, or corporation, controlling or operating a railroad or street railway, and who while so employed are in the same grade of employment and are doing the same character of work or service and are working together at the same time and place and at the same piece of work and to a common purpose, are fellow-servants with each other. Employees who do not come within the provisions of this section shall not be considered fellow-servants.

SEC. 4. No contract made between the employer and employee based upon the contingency of death or injury of the employee and limiting the liability of the employer under this act or fixing damages to be recovered shall be valid or binding.

SEC. 5. Nothing in this act shall be held to impair or diminish the defense of contributory negligence when the injury of the servant or employee is caused proximately by his own contributory negligence.

Mississippi (1898, 87, § 1):

Section 3559 of the Annotated Code of 1892 [shall] be amended so that the same shall read as follows, to wit: Every employee of any corporation shall have the same rights and remedies for an injury suffered by him from the act or omission of the corporation or its employees, as are allowed by other persons not employees where the injury results from the negligence of a superior agent or officer, or of a person having the right to control or direct the services of the party injured; and also when the injury results from the negligence of a fellow-servant engaged in another department of labor from that of the party injured, or of a fellow-servant on another train of cars, or one engaged about a different piece of work. Knowledge by an employee injured of the defective or unsafe character or condition of any machinery, ways or appliances, or of the improper loading of cars, shall not be defense to an action for injury caused thereby, except as to conductors or engineers in charge of dangerous or unsafe cars or engines voluntarily operated by them. When death ensues from an injury to an employee an action may be brought in the name of the widow of such employee for the death of the husband, or by the husb nd for the death of his wife, or by the parent for the death of a child, or in the name of the child for the death of an only parent, for such damages as may be suffered by them respectively by reason of such death, the damages to be for the use of such widow, husband or child, except that in case the widow should have children the damages shall be distributed as personal property of the husband. The legal or personal representative of the person injured shall have the same rights and remedies as are allowed by law to such representatives of other persons. In every such action the jury may give such damages as shall be fair and just with reference to the injury resulting from such death to the persons suing. Any contract or agreement, expressed or implied, made by an employee to waive the benefit of this section shall be null and void; and this section shall not deprive an employee of a corporation or his legal personal representative of any right or remedy that he now has by law.

injured (Mass. 1887, 270; 1894, 499; Ohio 1890, p. 149, 3; Ind. 7083; Ala. 2590; Minn. 1895, 173; Ark. 6248).[3] In view of the importance of the subject, all the statutes are printed below; but there is no part of the labor law where statutes are so often tinkered, and, conse-

---

[3]Massachusetts (1887, 270; as amended by 1888, 155; 1892, 260; 1893, 359; 1894, 499; 1897, 491):

SEC. 1. Where, after the passage of this act, personal injury is caused to an employee, who is himself in the exercise of due care and diligence at the time:

(1) By reason of any defect in the condition of the ways, works or machinery connected with or used in the business of the employer, which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and entrusted by him with the duty of seeing that the ways, works or machinery were in proper condition;

(2) By reason of the negligence of any person in the service of the employer, entrusted with and exercising superintendence, whose sole or principal duty is that of superintendence, or, in the absence of such superintendent, of any person acting as superintendent with the authority or consent of such employer; or

(3) By reason of the negligence of any person in the service of the employer who has the charge or control of any signal, switch, locomotive engine or train upon a railroad, the employee, or in case the injury results in death the legal representatives of such employee, shall have the same right of compensation and remedies against the employer as if the employee had not been an employee of nor in the service of the employer, nor engaged in its work. And in case such death is not instantaneous, or is preceded by conscious suffering, said legal representatives may in the action brought under this section, except as hereinafter provided, also recover damages for such death. The total damages awarded hereunder, both for said death and said injury, shall not exceed five thousand dollars, and shall be apportioned by the jury between the legal representatives and the persons, if any, entitled under the succeeding section of this act, to bring an action for instantaneous death. If there are no such persons then no damages for such death shall be recovered, and the damages, so far as the same are awarded for said death, shall be assessed with reference to the degree of culpability of the employer herein, or the person for whose negligence he is made liable. A car in use by or in the possession of a railroad company shall be considered a part of the ways, works or machinery of the company using or having the same in possession, within the meaning of this act, whether such car is owned by it or by some other company or person.

One or more cars in motion, whether attached to an engine or not, shall constitute a train within the meaning of this section; and any person who as a part of his duty for the time being, physically controls or directs the movements of a signal, switch or train, shall be deemed to be a person in charge or control of a signal, switch or train within the meaning of this section.

SEC. 2. Where an employee is instantly killed or dies without conscious suffering, as the result of the negligence of an employer, or of the negligence of any person for whose negligence the employer is liable under the provisions of this act, the widow of the deceased, or in case there is no widow, the next of kin, provided that such next of kin were at the time of the death of such employee dependent upon the wages of such employee for support, may maintain an action for damages therefor and may recover in the same manner, to the same extent, as if the death of the deceased had not been instantaneous, or as if the deceased had consciously suffered.

SEC. 3. Except in actions brought by the personal representatives under section one of this act to recover damages for both the injury and death of an employee, the amount of compensation receivable under this act in cases of personal injury shall not exceed the sum of four thousand dollars. In case of death which follows instantaneously or without conscious suffering, compensation in lieu thereof may be recovered in not less than five hundred and not more than five thousand dollars, to be assessed with reference to the degree of culpability of the employer herein, or the person for whose negligence he is made liable; and no action for the recovery of compensation for injury or death under this act shall be maintained, unless notice of the time, place and cause of the injury is given to the employer within thirty days, and the action is commenced within one year, from the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing, signed by the person injured or by some one in his behalf; but if from physical or mental incapacity it is impossible for the person injured to give the notice within the time provided in said section, he may give the same within ten days after such incapacity is removed, and in case of his death without having given the notice and without having been for

quently, no subject in which a clear, consistent code, that shall be adopted, if possible, by all the States, is more desirable. It must, however, be noted that in many of these States these statutes apply only in the case of railways (Ohio, Wisconsin, Kansas, Iowa, North

---

ten days at any time after his injury of sufficient capacity to give the notice, his executor or administrator may give such notice within thirty days after his appointment. But no notice given under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury: *Provided,* It is shown that there was no intention to mislead, and that the party entitled to notice was not in fact misled thereby.

Sec. 4. Whenever an employer enters into a contract, either written or verbal, with an independent contractor to do part of such employer's work, or whenever such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for injuries to the employees of such contractor or subcontractor, by reason of any defect in the condition of the ways, works, machinery or plant, if they are the property of the employer, or furnished by him, and if such defect arose or had not been discovered or remedied, through the negligence of the employer or of some person entrusted by him with the duty of seeing that they were in proper condition.

Sec. 5. An employee or his legal representatives shall not be entitled under this act to any right of compensation or remedy against his employer in any case where such employee knew of the defect or negligence which caused the injury, and failed within a reasonable time to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, who had entrusted to him some general superintendence.

Sec. 6. Any employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries for which compensation may be recovered under this act, or to any relief society formed under chapter two hundred and forty-four of the acts of the year eighteen hundred and eighty-two, as authorized by chapter one hundred and twenty-five of the acts of the year eighteen hundred and eighty-six, may prove, in mitigation of the damages recoverable by an employee under this act, such proportion of the pecuniary benefit which has been received by such employee from any such fund or society on account of such contribution of said employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Sec. 7. This act shall not apply to injuries caused to domestic servants, or farm laborers, by other fellow employees.

Ohio (1890, p. 149, § 3):

In all actions against the railroad company for personal injury to, or death resulting from personal injury, of any person, while in the employ of such company, arising from the negligence of such company or any of its officers or employees, it shall be held in addition to the liability now existing by law, that every person in the employ of such company, actually having power or authority to direct or control any other employee of such company, is not the fellow servant, but superior of such other employee, also that every person in the employ of such company having charge or control of employees in any separate branch or department, shall be held to be the superior and not fellow servant of employees in any other branch or department who have no power to direct or control in the branch or department in which they are employed.

Indiana:

Sec. 7083. Every railroad or other corporation, except municipal, operating in this State, shall be liable for damages for personal injury suffered by any employee while in its service, the employee so injured being in the exercise of due care and diligence, in the following cases:

First. When such injury is suffered by reason of any defect in the condition of ways, works, plant, tools and machinery connected with or in use in the business of such corporation, when such defect was the result of negligence on the part of the corporation, or some person entrusted by it with the duty of keeping such way, works, plant, tools or machinery in proper condition.

Second. Where such injury resulted from the negligence of any person in the service of such corporation, to whose order or direction the injured employee at the time of the injury was bound to conform, and did conform.

Third. Where such injury resulted from the act or omission of any person done or

Dakota, North and South Carolina, Missouri, Georgia, Florida, Texas, New Mexico, Arkansas), a subject which under the interstate com merce clause of the Constitution is within the jurisdiction of Congress. In Indiana, Mississippi, and Montana it applies only to corporations, in Indiana "other than municipal."

SEC. 3. DEFECTIVE MACHINERY AND APPLIANCES.—It will be seen

---

made in obedience to any rule, regulation or by-law of such corporation, or in obedience to the particular instructions given by any person delegated with the authority of the corporation in that behalf.

Fourth. Where such injury was caused by the negligence of any person in the service of such corporation who has charge of any signal, telegraph office, switch yard, shop, roundhouse, locomotive engine or train upon a railway, or where such injury was caused by the negligence of any person, coemploye or fellow-servant engaged in the same common service in any of the several departments of the service of any such corporation, the said person, coemploye or fellow-servant, at the time acting in the place, and performing the duty of the corporation in that behalf, and the person so injured, obeying or conforming to the order of some superior at the time of such injury, having authority to direct; but nothing herein shall be construed to abridge the liability of the corporation under existing laws.

SEC. 7085. The damages recoverable under this act, shall be commensurate with the injury sustained unless death results from such injury, when, in such case, the action shall survive and be governed in all respects by the law now in force as to such actions: *Provided*, That where any such person recovers a judgment against a railroad or other corporation, and such corporation takes an appeal, and, pending such appeal, the injured person dies, and the judgment rendered in the court below be thereafter reversed, the right of action of such person shall survive to his legal representative.

SEC. 7086. In case any railroad corporation which owns or operates a line extending into or through the State of Indiana and into or through another or other States, and a person in the employ of such corporation, a citizen of this State, shall be injured as provided in this act, in any other State where such railroad is owned or operated, and a suit for such injury shall be brought in any of the courts of this State, it shall not be competent for such corporation to plead or prove the decisions or statutes of the State where such person shall have been injured as a defense to the action brought in this State.

SEC. 7087. All contracts made by railroads or other corporations with their employees, or rules or regulations adopted by any corporation releasing or relieving it from liability to any employee having a right of action under the provisions of this act are hereby declared null and void. The provisions of this act however shall not apply to any injuries sustained before it takes effect, nor shall it affect in any manner any suit or legal proceedings pending at the time it takes effect.

Minnesota (1895, 173, § 2):

Whenever a master or employer delegates to any one the performance of his duties which he, as master or employer does to his servants, or any part or portion of such duties the person so delegated, while so acting for his master or employer shall be considered the vice principle [principal] and representative of the master.

Arkansas:

SEC. 6248. All persons engaged in the service of any railway corporations, foreign or domestic, doing business in this State, who are intrusted by such corporation with the authority of superintendence, control or command of other persons in the employ or service of such corporation, or with the authority to direct any other employee, in the performance of any duty of such employee, are vice-principals of such corporation, and are not fellow servants with such employee.

SEC. 6249. All persons who are engaged in the common service of such railway corporations, and who, while so engaged, are working together to a common purpose, of same grade, neither of such persons being intrusted by such corporations with any superintendence or control over their fellow employees, are fellow servants with each other: *Provided*, Nothing herein contained shall be so construed as to make employees of such corporation in the service of such corporation fellow servants with other employees of such corporation engaged in any other department or service of such corporation. Employees who do not come within the provisions of this section shall not be considered fellow servants.

SEC. 6250. No contract made between the employer and employee based upon the

from the statutes printed in the note to the last section that several of the States have also adopted the statute making employers liable for injury to employees caused by defects and condition of the appliances, machinery, etc.[1] These are Massachusetts, Ohio, Minnesota, Wisconsin, North Carolina, Colorado, Indiana, Alabama, Mississippi, and New Mexico. But in Indiana the law applies only to corporation employers, and in Wisconsin, North Carolina, Ohio, New Mexico only to railways. In other States the burden of proof in such cases is declared to be on the employer to show that the appliances, etc., were in good condition, or proof of such defect, when it could have been discovered, is declared to be presumptive evidence of knowledge thereof on the part of the company (Wisconsin, Ohio).[2]

---

contingency of the injury or death of the employee limiting the liability of the employer under this act, or fixing damages to be recovered, shall be valid and binding.

Alabama (§ 2590):

When a personal injury is received by a servant or employee in the service or business of the master or employer, the master or employer is liable to answer in damages to such servant or employee, as if he were a stranger, and not engaged in such service or employment, in the cases following:

1. When the injury is caused by reason of any defect in the condition of the ways, works, machinery, or plant connected with, or used in the business of the master or employer.
2. When the injury is caused by reason of the negligence of any person in the service or employment of the master or employer, who has any superintendence intrusted to him, whilst in the exercise of such superintendence.
3. When such injury is caused by reason of the negligence of any person in the service or employment of the master or employer, to whose orders or directions the servant or employee, at the time of the injury, was bound to conform, and did conform, if such injuries resulted from his having so conformed.
4. When such injury is caused by reason of the act or omission of any person in the service or employment of the master or employer, done or made in obedience to the rules and regulations or by-laws of the master or employer, or in obedience to particular instructions given by any person delegated with the authority of the master or employer in that behalf.
5. When such injury is caused by reason of the negligence of any person in the service or employment of the master or employer who has the charge or control of any signal, points, locomotive, engine, switch, car, or train upon a railway, or of any part of the track of a railway.

But the master or employer is not liable under this section, if the servant or employee knew of the defect or negligence causing the injury, and failed in a reasonable time to give information thereof to the master or employer, or to some person superior to himself engaged in the service or employment of the master or employer, unless he was aware that the master or employer, or such superior already knew of such defect or negligence; nor is the master or employer liable under subdivision one, unless the defect therein mentioned arose from, or had not been discovered or remedied owing to the negligence of the master or employer, or of some person in the service of the master or employer, and intrusted by him with the duty of seeing that the ways, works, machinery, or plant were in proper condition.

[1] For these laws in general, see notes to the last section. The Minnesota law reads (1895, 173, § 1):

Every master or employer in this State shall use reasonable care to provide the person or persons in his employ with reasonably safe, suitable and sufficient tools, implements and instrumentalities with which to do the master's work, and also use reasonable care to provide a reasonably safe and suitable place for his servants to perform the duties assigned to them by the master.

It shall also be the master's duty to use reasonable care to establish safe and suitable rules and regulations or methods for the performance of the work required of his servants, and to direct and supervise the performance of the work in a reasonably safe and prudent manner.

[2] Thus, in Ohio (1890, p. 149, § 2):

It shall be unlawful for any such corporation to knowingly or negligently use or operate any car or locomotive that is defective, or any car or locomotive upon which

Contracting out.—The statutes cited in this and the last section are very generally further protected by a provision that any contract releasing the employer from his liability to employees in the manner severally prescribed by the several statutes shall be null and void.[3] In other States only contracts are declared void which attempt to release the employer from liability for injuries resulting from his negligence, or that of other persons in his employ.[4]

In Colorado, Montana, and Wyoming the constitution provides that—

It shall be unlawful for any person, company or corporation to require of its servants or employees, as a condition of their employment or otherwise, any contract or agreement whereby such person, company or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employees while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employees thereof, and such contract shall be absolutely null and void (Col. Const., 15, 15; Mont. Const., 15, 16; Wyo. Const., Art. 19, 1);

and, in Wyoming, that "no law shall be enacted limiting the amount of damages to be recovered for causing the injury or death of any person;" so, in Utah, as to injuries resulting in death (Utah Const., 16, 5). "Any contract or agreement with any employee waiving any right to recover damages for causing the death or injury of an employee shall be void" (Wyo. Const., 10, 4).

SEC. 4. INJURIES RESULTING IN DEATH.—In Massachusetts, Ohio, Mississippi, Indiana, Alabama, Colorado and New Mexico damages up to a certain amount may be recovered by employees for injuries resulting in death, though instantaneous and not preceded by conscious suffering.[1] And in Massachusetts, South Carolina, and New Mexico

---

the machinery or attachments thereto belonging are in any manner defective. If the employee of any such corporation shall receive any injury by reason of any defect in any car or locomotive, or the machinery or attachments thereto belonging, owned and operated, or being run and operated by such corporation, such corporation shall be deemed to have had knowledge of such defect before and at the time such injury is so sustained, and when the fact of such defect shall be made to appear in the trial of any action in the courts of this State, brought by such employee, or his legal representatives, against any railroad corporation for damages, on account of such injuries so received, the same shall be *prima facie* evidence of negligence on the part of such corporation, and substantially so in New Mexico (1893, 28, 2).

[3]So in Ohio, Indiana, Wisconsin, Minnesota, Iowa, Missouri, North and South Carolina, Florida, Texas, Arkansas, Georgia (1895, 184), and New Mexico. The same would probably be law without statute.

[4]So in Massachusetts (1894, 508, 6):

No person or corporation shall, by a special contract with persons in his or its employ, exempt himself or itself from any liability which he or it might be under to such persons from injuries suffered by them in their employment and which result from the employer's own negligence or from the negligence of other persons in his or its employ.

And in Montana (Civ. C., 2242):

Any contract or agreement entered into by any person, company or corporation, with its servants or employees, whereby such person, company or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employees while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employees thereof, shall be absolutely null and void.

[1]Massachusetts (1887, 270, 2):

Where an employee is instantly killed or dies without conscious suffering, as the result of the negligence of an employer, or of the negligence of any person for whose negligence the employer is liable under the provisions of this act, the widow of the deceased, or in case there is no widow, the next of kin, provided that such next of kin were at the time of the death of such employee dependent upon the wages of such

the executors, etc., of employees of railways may recover damages for the employee's death as if not an employee if he would have been entitled to damages had not death resulted (Mass. P. S., 112, 212; 1883, 243; S. C. Const., 9, 15; N. Mex., 1893, 28, 3). By the Utah constitution (Utah Const., 16, 5) "the right of action to recover damages for injuries resulting in death shall never be abrogated" (see § 2 above). In other States actions by employees for injuries resulting in death are governed by the general law as to such suits.

ARTICLE H. DUTIES AND LIABILITIES OF THE EMPLOYEE TO THE EMPLOYER.

In this particular the law has not been extended in modern times, and, on the contrary, the old doctrine of petit treason, which made a servant in certain cases liable to extraordinary penalties for breach of faith as against his master, has long since fallen into disuse. It is sufficient, therefore, to state that a servant is liable to his master, or an employee to his employer, only for damages caused by the positive act or neglect of the servant or employee. For such damage the master or employer may, of course, bring suit against the employee; but for obvious reasons this is rarely done, and his more usual remedy is to discharge him. A discharge for such cause may commonly be made without notice or warning (see chap. 1, Art. A, § 5), and gives no rise to any action by the servant for damages unless engaged by a time contract. And in such cases if the contract be that the work is to be done to the employer's satisfaction, or a similar phrase is used, the employer's judgment is final, and the employee can not go to the jury on the question whether it was warranted by the facts. The California and Montana Codes have elaborate statutes embodying the common law.[1]

---

employee for support, may maintain an action for damages therefor and may recover in the same manner, to the same extent as if the death of the deceased had not been instantaneous, or as if the deceased had consciously suffered.

So, in effect, in Mississippi (1898, 65; 1896, 87). For the Indiana statute, see § 2, note 3 above p. 74; for Colorado, § 3, note 2 (p. 70).

In Alabama:

SEC. 2591. If such injury results in the death of the servant or employee, his personal representative is entitled to maintain an action therefor, and the damages recovered are not subject to the payment of debts or liabilities, but shall be distributed according to the statute of distributions.

SEC. 2592. Damages recovered by the servant or employee, of and from the master or employer, are not subject to the payment of debts, or any legal liabilities incurred by him.

[1] One who, for a good consideration, agrees to serve another must perform the service, and must use ordinary care and diligence therein, so long as he is thus employed.

An employee must substantially comply with all the directions of his employer concerning the service on which he is engaged, except where such obedience is impossible or unlawful, or would impose new and unreasonable burdens upon the employee.

An employee must perform his service in conformity to the usage of the place of performance, unless otherwise directed by his employer, or unless it is impracticable, or manifestly injurious to his employer to do so.

An employee is bound to exercise a reasonable degree of skill, unless his employer has notice, before employing him, of his want of skill.

An employee is always bound to use such skill as he possesses, so far as the same is required, for the service specified.

Everything which an employee acquires by virtue of his employment, except the

ARTICLE I. DUTIES AND LIABILITIES OF EMPLOYER AND EMPLOYEE TO THIRD PERSONS.

This subject, perhaps, forms no part of the matters to be investigated by the commission, but as a matter of fact there are few statutes on the subject, and the common law is, of course, preserved, by which the master or employer is liable to third persons for any acts or defaults of his servant or servants causing injury to such third persons for which they might recover if done or caused by the master himself, provided only that such acts were performed or defaults made by the servant in or about the execution of his master's business; and railroads or other common carriers are commonly by statute made liable in cases where third persons have been killed by their negligence or default, the default or incompetency of their servants, or the defective

---

compensation, if any, which is due to him from his employers, belongs to the latter, whether acquired lawfully or unlawfully, or during or after the expiration of the term of his employment.

An employee must, on demand, render to his employer just accounts of all his transactions in the course of his service, as often as may be reasonable, and must, without demand, give prompt notice to his employer of everything which he receives for his account.

An employee who receives anything on account of his employer, in any capacity other than that of a mere servant, is not bound to deliver it to him until demanded, and is not at liberty to send it to him from a distance, without demand, in any mode involving greater risk than its retention by the employee himself.

An employee who has any business to transact on his own account, similar to that intrusted to him by his employer, must always give the latter the preference (Cal. Civ. C., 1978, 1981–1988; Mont. Civ. C., 2673, 2676–2683; N. Dak., Civ. C., 4098, 4104 4114; S. Dak. Civ. C., 3758, 3761–3768—substantially identical).

An employee who is expressly authorized to employ a substitute is liable to his principal only for want of ordinary care in his selection. The substitute is directly responsible to the principal.

An employee who is guilty of a culpable degree of negligence is liable to his employer for the damage thereby caused to the latter; and the employer is liable to him, if the service is not gratuitous, for the value of such services only as are properly rendered.

Where service is to be rendered by two or more persons jointly, and one of them dies, the survivor must act alone, if the service to be rendered is such as he can rightly perform without the aid of the deceased person, but not otherwise (Cal. Civ. C., 1989–1991; Mon. Civ. C., 2684–2686; N. Dak., Civ. C.,4112–4114; S. Dak., ib., 3769–3771).

Every employment in which the power of the employee is not coupled with an interest in its subject is terminated by notice to him of:

1. The death of the employer; or,
2. His legal incapacity to contract.

Every employment is terminated:

1. By the expiration of its appointed term;
2. By the extinction of its subject;
3. By the death of the employee; or,
4. By his legal incapacity to act as such.

An employee, unless the term of his service has expired, or unless he has a right to discontinue it at any time without notice, must continue his service after notice of the death or incapacity of his employer, so far as is necessary to protect from serious injury the interests of the employer's successor in interest, until a reasonable time after notice of the facts has been communicated to such successor. The successor must compensate the employee for such service according to the terms of the contract of employment.

An employment having no specified term may be terminated at the will of either party, on notice to the other, except where otherwise provided by this title.

An employment, even for a specified term, may be terminated at any time by the employer, in case of any wilful breach of duty by the employee in the course of his

nature of their machinery or appliances, recovery, in cases of instantaneous death, being commonly limited to $5,000, and suable by the executors, or widow, or heirs of the person deceased.

In Washington it is made a misdemeanor for street railway companies not to employ experienced and competent men (Wash. 1897, 17).

In many States the employment by railroads of color-blind persons is prevented (Mass. 112, 179; Ohio 9816; Ala. 1887, 47), or of persons unable to read and write, as engineers (N. Y. P. C. 418; Minn. 6634), or of persons liable to intoxication (N. Y. 1890, 565 and 568; Ohio 1891, p. 429; Mich. 3367). The employment of such persons by any common carrier is made a misdemeanor (N. Y. 1892, 401; Wis. 1592–3).

It is in some States made a misdemeanor for a locomotive engineer or conductor to be drunk while on duty (Nebr. 1811; W. Va. 145, 30; Ark. 6198; N. Dak. P. C. 7320; S. Dak. P. C. 6665; Mont. P. C. 690; Okla. 2275; N. C. 1972; Miss. 1275; Fla. 2693).

---

employment, or in case of his habitual neglect of his duty or continued incapacity to perform it.

An employment, even for a specified term, may be terminated by the employee at any time, in case of any wilful or permanent breach of the obligations of his employer to him as an employee.

An employee, dismissed by his employer for good cause, is not entitled to any compensation for services rendered since the last day upon which a payment became due to him under the contract.

An employee who quits the service of his employer for good cause is entitled to such proportion of the compensation which would become due in case of full performance as the services which he has already rendered bear to the services which he has to render as full performance (Cal. Civ. C. 1996–2003; Mont. Civ. C. 2700–2707; N. Dak. Civ. C. 4116–4122; S. Dak. ib. 3773–3779).

Master and servant.—A servant is one who is employed to render personal service to his employer, otherwise than in the pursuit of an independent calling, and who in such service remains entirely under the control and direction of the latter, who is called his master.

A servant is presumed to have been hired for such length of time as the parties adopt for the estimation of wages. A hiring at a yearly rate is presumed to be for one year; a hiring at a daily rate, for one day; a hiring by piecework, for no specified term.

In the absence of any agreement or custom as to the term of service, the time of payment, or rate or value of wages, a servant is presumed to be hired by the month, at a monthly rate of reasonable wages, to be paid when the service is performed.

Where, after the expiration of an agreement respecting the wages and the term of service, the parties continue the relation of master and servant, they are presumed to have renewed the agreement for the same wages and term of service (Cal. Civ. C. 2009–2012; Mont. Civ. C. 2720–2723; N. Dak. Civ. C. 4123–4126; S. Dak. ib. 3780–3783).

The entire time of a domestic servant belongs to the master, and the time of other servants to such an extent as is usual in the business in which they serve, not exceeding in any case 10 hours in the day.

A servant must deliver to his master, as soon as with reasonable diligence he can find him, everything that he receives for his account, without demand; but he is not bound, without orders from his master, to send anything to him through another person.

A master may discharge any servant, other than an apprentice, whether engaged for a fixed term or not:

1. If he is guilty of misconduct in the course of his service, or of gross immorality, though unconnected with the same; or

2. If, being employed about the person of the master, or in a confidential position, the master discovers that he has been guilty of misconduct, before or after the commencement of his service, of such a nature that, if the master had known or contemplated it, he would not have so employed him (Cal. Civ. C. 2013–2015; Mont. Civ. C. 2724–2726; N. Dak. ib. 4127–4129; S. Dak. ib. 3784–3786).

CHAPTER II.

POLITICAL AND LEGAL RIGHTS OF LABORERS.

ART. A. POLITICAL RIGHTS, VOTING, ETC.

SEC. 1. GENERAL.—By the Constitution laborers in all States must have the same political rights and liberties as any other class of citizens; and no express statutes are needed to secure this. A few statutes upon the subject have, however, been passed. Thus, in Minnesota and Wyoming, where "employers are forbidden to require as a condition of employment the surrender of any right of citizenship or to discharge candidates because of their nomination for an election, or to interfere in the matter of such nomination."[1]

SEC 2. VOTING.—And in nearly all the States it is made penal or criminal for any person, by threatening to discharge an employee or to reduce his wages, or by promising to give him higher wages, or otherwise, to attempt to influence a voter to give or withhold his vote;[1] but in Utah this statute applies to corporation employers only. And in New York and other States political "pay envelopes" or political placards are forbidden to be used by employers.[2] In a few States a

---

[1] Wyo. 1893, 9; Minn. 6962.

[1] Mass. 1898, 548, 410; Conn. 276; N. Y. P. C., 41 p; 41 t; N. J. 1890, 231, 71, 1898, 139; Pa. Dig. p. 480, § 52; Del. 1881, 329; Ohio 1892, 32; Ind. 2341; Mich. 9382; Iowa 1892, 33; Wis. 4548a; Kans. 1897, 129; Del. 16, 1; Mo. 1897, p. 108; W. Va. 5, 7; N. C. 2715; Minn. 114; Tenn. 1897, 14; Ark. 2656; Cal. 1893, 16; Nev. 1895, 103, 19; Colo. 1891, p. 167 (see note below); S. Dak. 1891, 58; Idaho 1891, p. 50; Mont. P. C. 108; Wyo. 1890, 80, 174; Utah 1897, 50, 8; S. C. Crim. L. 241; La. R. L. 902; U. S. R. S. 5507; N. Mex. 1889, 135, 4; Ariz. 1895, 20. But in some States this statute applies only to corporations: Tenn., W. Va. In Utah the constitution forbids the political and commercial control of employees (Art. 16, § 3). And so by statute (1897, 50) in Colorado.

[2] By the Colorado statute (1897, 50):

SECTION 1. It shall be unlawful for any individual, company or corporation or any member of any firm, or agent, officer or employee of any company or corporation, to prevent employees from forming, joining or belonging to any lawful labor organization, union, society or political party, or to coerce or attempt to coerce employees by discharging or threatening to discharge them from their employ or the employ of any firm, company or corporation, because of their connection with such lawful labor organization, union, society or political party.

SEC. 2. Any person or any member of any firm, or agent, officer or employee of any such company or corporation, violating the provisions of section one of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars or imprisoned for a period not less than six months nor more than one year, or both, in the discretion of the court.

[2] It shall not be lawful for any employer, in paying his employees the salary or wages due them, to inclose their pay in "pay envelopes" upon which there is written or printed any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions

period of two hours, or reasonable time to vote, is required to be given employees of manufacturing, mechanical, or mercantile establishments upon election days;[3] and in Tennessee absence for voting is declared no violation of a contract for personal service; "and every contract which will, or is designed to, keep such voters away from the polls shall be void.[4] In many States election day is made a legal holiday;[5] so, in New Jersey, eight hours is made a full day's work upon election days.[6]

SEC. 3. SPECIAL PRIVILEGES OF ARMY AND NAVY VETERANS.—There are in many States recent statutes specially giving preference of work to veterans of the civil war, or exempting them from the operation of civil-service laws, or giving to them or the Sons of Veterans special educational or eleemosynary privileges. Thus, in many States discharged soldiers or sailors are to be *preferred* in all public works by or in behalf of the State or municipalities thereof,[1] but only provided they possess the other requisite qualifications; and, in Massachusetts, without having passed the civil-service examination. So, the widows and orphans of deceased soldiers and sailors may not be discharged.[2]

The new constitution of New York provides for such a preference, and that all examinations shall be competitive "so far as practicable;" and under it the act of 1895, chapter 344, providing that competitive examination shall not be deemed practicable or necessary in cases when the pay of the office does not exceed $4 per day, has been held constitutional in a lower court.[3]

SEC. 4. COMPETITION OF ALIEN LABOR, CONTRACTS WITH ALIENS, ETC.—By the constitution of California, "No corporation now existing or hereafter formed under the laws of this State shall, after the adoption of this constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian * * * " (Cal. Const. 19, 2). This section, and sections 178 and 179 of the Penal Code, which were enacted to give it effect, were adjudged by the circuit court of the

---

of such employees. Nor shall it be lawful for any employer, within ninety days of general election, to put up or otherwise exhibit in his factory, workshop, or other establishment or place where his employees may be working, any handbill or placard containing any threat, notice, or information that in case any particular ticket or candidate shall be elected, work in his place or establishment will cease, in whole or in part, or his establishment be closed up, or the wages of his workmen be reduced, or other threats expressed or implied, intended or calculated to influence the political opinions or actions of his employees. This section shall apply to corporations, as well as individuals, and any person or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and any corporation violating this section shall forfeit its charter (N. Y. P. C. 41, t; 1894, 714; Mont. P. C. 109; Utah 1897, 50, 8; Tenn. 1897, 14, 4–5; Cal. ib.; Nev. ib. 36; Colo. ib.; S. Dak. ib.; Ariz. ib).

[3] Mass. 1898, 548, 5; N. Y. 1892, 680, 113, 1896, 909, 109; Ohio 1890, p. 280; Ind. 2341, 6240; Ill. 46, 312; Iowa 1892, 33; Minn. 12; Kans., W. Va. 3, 52; N. C. 1895, 159, 72, 1897, 185; Ky. Con. 48; Stats. Mo. 1895; Cal. Pol. C. 1212; Colo. 1891, p. 165; S. Dak. 1897, 60; Okla. 2820; Utah ib. 19; Ariz. 1891, 64.

[4] Tenn. 1039. See also Chap. I, Art. C, § 4.

[5] N. Y., Pa., Wis., Md., Mo., Tex., Cal., Oreg., Dak., Idaho, Mont., S. C., Fla., Ariz. But *quaere* as to whether these statutes apply as to industrial labor. See Stimson's Am. Stat. Law, §§ 4134, 4727.

[6] N. J. p. 368, 177.

[1] Pa. Dig., p. 1922; Conn. 1889, 124; N. Y. 1887, 464; 1894, 716; Ohio 10015; Minn. 8041; Kans. 5927, 5928; Dak. 1887, 205; Mass. 1896, 517; Cal. 1891, 212; Wash. 1895, 84; S. Dak. Pol. C. 2474.

[2] Kans. 5928.

[3] Re Keymer, 12; Misc. (N. Y.) 615. So in Mass.

United States to be in conflict with the treaty of the United States with China, and to be therefore void (see In re Tiburcio Parrot, 1 F. R. 481); and this decision would probably also annul similar laws in Nevada and Idaho (Nev. 4764–4766, 4948–4949; Idaho 1897, p. 5).

This is the only attempt that has been made to prohibit by statute the employment of aliens in private employments. But in several States it is forbidden to employ Chinese[1] or aliens[2] upon State, municipal, or public works (in California, Wyoming, Idaho, by the constitution), and such work can be given only to United States citizens;[3] and in New York and Minnesota, in stonecutting work, the stone must be worked, dressed, and carved within the State,[4] while in all cases, "preference" is to be given to the citizens of the State.[5] In Massachusetts, in public work, preference must be given to United States citizens (1896, 494). And in New York it was made a criminal offense for a contractor on public work to employ an alien; but this statute was declared unconstitutional, besides being in violation of our treaty with Italy.[6] There was an alien tax law in Pennsylvania (1897, 139) held unconstitutional.

There are further specific provisions in California and Nevada restricting the immigration and labor rights of Chinese and Mongolians, but they are probably inconsistent with Federal law and treaties.[7] The national Chinese exclusion law applies to Hawaii (U. S. 1898, Int. Rev. No. 55). Indiana has a law prohibiting the bringing of alien contract labor into the State,[8] and Virginia and Arkansas a law permitting such contracts not exceeding two years, or in Arkansas one year.[9]

---

[1] Cal. Const. 19, 3; Oreg. M. L. 4235; Nev. 4947; Idaho 1891, p. 233. Except as a punishment for crime. But this law has also been held unconstitutional.

[2] N. Y. 1874, 622; N. J. 1899, 202; Ill. 6, 12–17; Idaho Const. 13, 5; Laws 1897, p. 5; Wyo. Const. 19, 1.

[3] N. Y. G. L. 32, 1, 13; Pa. 1895, 182; Ill., Idaho.

[4] N. Y. *ib.* 14; Minn. 1895, 347.

[5] N. Y. *ib.* 13; Mass. 1896, 494.

[6] People *v.* Warren, 34 N. Y. Sup., 942. The general labor law now provides (N. Y. G. L., 32, 1, 13):

Preferences in employment of persons upon public works. In the construction of public works by the State or a municipality, or by persons contracting with the State or such municipality, only citizens of the United States shall be employed; and in all cases where laborers are employed on any such public works, preference shall be given citizens of the State of New York. In each contract for the construction of public works, a provision shall be inserted, to the effect that if the provisions of this section are not complied with, the contract shall be void.

[7] Nev. 4764–7.

In Massachusetts (86, 12):

Every corporation which brings into this Commonwealth any person not having a settlement therein, or by whose means or at whose instigation any such person is so brought, for the purpose of performing labor for such corporation, shall give a bond to the Commonwealth, to be delivered to the State board [of health, lunacy and charity] in the sum of three hundred dollars, conditioned that neither such person, nor any one legally dependent on him for support, shall within two years become a city, town, or State charge.

[8] Ind. 7079–7082.

[9] Va. 6, 44; Ark. 4782. In Wyoming:

Sec. 1075. No contract made for labor or services with any alien or foreigner previous to the time that such alien or foreigner may come into the Territory, shall be enforced within this Territory for any period after six months from the date of such contract.

Sec. 1076. Any alien or foreigner who shall hereafter perform labor or services for any person or persons, company, or corporation within this Territory shall be

ART. B. LEGAL RIGHTS AND PRIVILEGES.

SEC. 1. ATTACHMENT OF WAGES.—Laborers are generally protected by laws prohibiting the attachment, by garnishment or trustee process or by execution, of debts due them or their wives and children for wages or personal service. In some States such wage debts are exempt to any amount;[1] in others the amount exempt is limited to $50 or $100,[2] or to one month, or 60 days' wages.[3] And in a few of these States an exception is made of claims for necessaries furnished the debtor or his family.[4] In some States the exemption only exists when the debtor is a householder having a family,[5] or is head of a family,[6] or when the wages thus exempted are necessary for the support of the family.[7]

The wages of the debtor's wife and children, or family, to any amount, are also exempt in several States.[8]

The costs in such suits are limited, in Connecticut.[9]

SEC. 2. ASSIGNMENTS OF WAGES.—No assignment of wages is valid against the employer unless it is recorded in the town clerk's office (or

---

entitled to recover from such person or persons, company or corporation, a reasonable compensation for such labor or services, notwithstanding such person or persons, company or corporation, may have paid any other party or parties for the same; and in actions for the price of such labor or services no defense shall be admitted to the effect that the defendant or defendants had contracted with other parties, who had, or pretended to have, power or authority to hire out the labor or services of such party or parties, or to receive the pay or price for such labor or services.

SEC. 1077. Any person, whether he or she, acts for himself or herself, or as agent, attorney or employee for another or others, who shall, in pursuance of, or by virtue of, any contract made with any alien or foreigner, made before such alien or foreigner came into the Territory, receive or offer to receive any money, pay or remuneration for the labor or services of any alien or foreigner, excepting the person so performing such labor or services, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be fined in a sum not less than five hundred dollars, and not more than five thousand dollars, and imprisoned in the county jail for not less than three nor more than twelve months, for each and every offense.

[1] Pa. Dig., p. 2077; Del., v. 15, 185; Tex. Const. 16, 28; Ala. 2512; Ga. 3554; Fla. 2008; Okla. 2846. But at a rate not exceeding $25 a month (Ala.), $100 (D. C.).

[2] Thus, $20: N. H.; Miss. 1963; Mass. 183, 30; Me. 86, 55; $25: Minn. 5314; Mich. 8032, 8096; $30: Tenn. 2931; $50: Conn. 1231; Ill. 62, 14; Ky. 1701; Va. 3652; Nev. 3267; $100: Md. 9, 32; D. C. U. S. 1878, 321; Wyo. 2831; Miss. 196, 3; $8 a week: Ill. 1897, p. 231; $200 (in railway labor); Ark. 1897, Ex. 43, $60; Colo. 2567; Wash, 526.

[3] Thirty days' or one month's wages only are exempt: Ind. 971; Minn.; Mo. 5220; Nev.; Ky.; Cal. C. P. 690 (7); Oreg. C. P. 313; Nev.; Colo.; Idaho C. C. P. 4480; Ga.; Ariz. 4, 98. So 60 days' wages only: Nebr. C. C. P. 371; Ark. 3717: Wash. 1893, 56, 23; N. Dak. Civ. C. 5567; S. Dak. Civ. C. 5179; Mont. C. C. P. 1221; S. C. C. C. P. 317; N. Mex. 1897, 71; 90 days: Iowa 3074; Kans. 4588-9; Okla. 4384; 4803; N. Mex. 1887, 37, 1. One-half the debtor's wages only are exempt (Del. 111, 1), but only for 30 (Colo.) or 60 days (Utah) preceding; Colo. 1889, p. 463; Utah, 3429. Twenty dollars are exempt unless the suit is for necessaries; in that case $10: Mass. 183, 30.

[4] N. H., Mass., Me., Ky., Cal., Ga., Mont. (one-half).

[5] Va.

[6] D. C., Fla., Ill., Colo., Mo., Mich., Nebr., Miss.

[7] Cal., Colo., Utah, Idaho, Ariz., S. C., N. Dak., S. Dak., Mont., Okla., Kans., Wyo., Oreg., Nev., Wash.

[8] N. H. 245, 20; Me.; Mass. 183, 29; Conn.; Vt. 1075; Mich. 8096; Minn.; Iowa 4299; Del. ibid.; N. Mex.

[9] Conn., 1239, 1240.

register of deeds) where the assignor resides.[1] (See also Chap. I, Art. C., § 4.)

In Virginia and Wyoming there is a new statute (Wyo. 1895, 47; Va. 1898, 628) making it unlawful for any creditor or holder of any debt, book account, or claim against any laborer, servant, clerk, or employee of any corporation, firm, or individual in the State to sell, assign, or dispose of such claim, etc., to any person, firm, or corporation, or to institute elsewhere than in the State, or prosecute any suit for such claim against such laborer, etc., by any process seeking to attach the wages of such person earned within sixty days prior to the commencement of such proceedings for the purpose of avoiding the effect of the laws of Wyoming concerning exemptions, and it is made unlawful for any person to aid, assist, abet, or counsel a violation of this act. Proof of the institution of such suit or service of garnishment by any person, firm, or individual in any court of any State or Territory other than in Wyoming, is declared *prima facie* evidence of such evasion of the law of Wyoming, and such persons may be made liable to the parties injured for the amount of the debt so sold or assigned and an attorney's fee. A similar but simpler statute exists in Pennsylvania, Ohio, Indiana, Illinois, Wisconsin, Iowa, Minnesota, Nebraska, and South Dakota.[2]

SEC. 3. ORDINARY EXEMPTIONS NOT VALID AGAINST LABOR DEBTS.—By the constitution of Virginia, and the statutes of a few other States, no property is exempt from attachment or execution for wages due any clerk, mechanic, laborer, or servant,[1] or no stay is granted upon such claims.[2]

And the ordinary exemptions of personal property from execution are much restricted in the case of judgments obtained for labor or services other than professional.[3]

SEC. 4. PREFERENCE OR PRIORITY OF WAGE DEBTS.—And further, the State laws very generally give a claim either absolutely preferred, or preferred after taxes, State or Government dues, and costs, to servants, laborers, and employees, and in some cases clerks, for debts due, for wages, or salaries, above all other claims against the estate of an insolvent person,[1] or an insolvent corporation or its receiver,[2] or the

---

[1] N. H. 215, 4; Mass. 183, 39; R. I. 254, 28; Me. 1897, 301.

[2] Pa. Dig. p. 834; Ohio 7014; Ind. 2283; Ill. 62, 32; Wis. 1891, 57; Iowa 1894, 102; Minn. 1895, 353; Nebr. 6120; S. Dak. 1893, 97.

[1] Va. Const. 11, 1, Code, 3630; N. Y. City, N. Y. 1882, 410, 1086 (as to females, only, up to $50); Pa. Dig., p. 2073 ($100); Mich. 7091 (as to women plaintiffs only); Mo. 4910; Kans. C. L. 1885, 2660; Nebr. C. C. P. 531; Okla. 2848. But the amount of the claim is sometimes limited; as, in Michigan, $25, in New York, $50, in Missouri, $90. The ordinary exemption may be claimed against labor debts of a greater amount.

[2] Mich. 7091a.

[3] Mich. 7717a–7717f.

[1] N. H. 201, 32; Me. 70, 40; Vt. 1867; R. I. 274, 58; Conn. 514; Mass. 157, 104; N. Y. R. S., p. 2276; 1886, 283; 1897, 266; Pa. Dig., p. 2074, 9; N. J., p. 38, 8; 1896, 27, Ohio, 6355; Ind. 7058; Mich. 8749m; Ill. 10a, 6; 38a, 1; Wis. 1693c; Del. 110, 1; Iowa 1890, 48; Minn. 4234; Nebr. 6, 44; Md. 47, 15; Mo. 4911; Cal. C. C. P. 1204–6; Nev. 3829; Oreg. 1893, p. 30; Colo. 193; 1897, 26; Wash. 3122; N. Dak. Civ. C. 6070; Wyo. 1893, 15; Mont. C. C. P. 2150; Pol. C. 4514; Utah 1892, 30; 1896, 49; La. 3191; Ariz. 1889, 10; Conn. 1897, 40; N. J. 1896, 185; U. S. 1898, 541.

[2] N. Y. G. L. 32, 1, 8; N. J., p. 44; 1892, 278; 1896, 185; Mich. 1887, 94; Wis. 2787a; Mo., Iowa., Pa., Minn. 6254; Oreg., Nev., Md., Mont., Utah, Ark. 1897, 48; Conn. 1897, 40; Vt. 1991; Ind. 7051; Ill. 38a, 1; N. Dak., Ala. 1899, 766.

estate of a deceased insolvent.[3] In New York this statute only applies to corporations other than "moneyed." Such preference is usually given to claims not exceeding a fixed amount,[4] or for wages due for not more than a limited time.[5] But in the case of a receivership there appears to be no such limitation in Indiana.[6]

That such preferred claims are assignable, see Falconio *v.* Larsen, 48 Pac., 703. They extend to wages due to persons no longer in the employ of the debtor at the time of the assignment, etc.[7]

And in some States a lien is given to all laborers for amounts due from a corporation up to the time of the act of insolvency upon all the assets of the company, which is paid prior to any other debt, and such lien is given to all workmen or employees, or claimants for labor or services, whether in the actual employ of the corporation at the time of the insolvency or not.[8] So, in New Jersey, whenever a receiver is appointed in a suit at law or equity, to take possession of property of any manufacturer, etc., and wages are due, the chancellor may order a sale of the property to pay the same without delay, or so much of it as may be necessary.[9]

And the statute is not unusual that claims for labor done on railroads, or liabilities to contractors for construction, laborers, etc., take precedence of any mortgage before or after created.[10] So, in Pennsylvania, and any assignment or conveyance of the real or personal estate of said company without the written assent of such creditors first obtained is declared fraudulent and void.[11] And in New Jersey no attachment or execution may be made on the property of any manufacturer or other person unless all claims due for labor, not exceeding one month's wages, are first paid.[12] The United States courts have granted a preference to employees' claims and claims for necessary supplies in the case of railroads, but denied it as to other corporations (Fosdick *v.* Schall, 99 U. S., 235; Keelyer *v.* Carolina Telephone Co., 90 Fed., 29).

SEC. 5. LIABILITY OF CORPORATION STOCKHOLDERS FOR WAGE DEBTS.—Besides the ordinary provisions of law making stockholders personally liable for the debts of corporations in certain cases, Michi-

---

[3] Mass. 137, 1; Pa. Dig., p. 591; Ohio 6090; Ind. 2534; Ill. 3, 70; Kans. 2864; Del. 89, 25; Minn. 6256; Cal., Nev. 3830; Wash. 1897, 22; Oreg. C. P. 1183; Wyo. 1891, 70, 25; Mont. C. C. P. 2151; Ala. 2079; La., Mo. 183; Ark. 110; Ariz.

[4] Such as $50 (Del., N. H , Me., Vt., Ind., Colo.); $100 (Mass., R. I., Wash., Conn., Minn., Nev., Mont.); $200 (Ariz , Pa.); $300 (N. J., Ohio). In others the amount is not limited (N. Y., Utah, Mich., Wis., Wyo., Oreg.).

[5] For a time not exceeding one month (Del.); sixty days (N. J., Cal., Wash., Ariz., Mont.); three months (Wyo., Nev., Wis., Iowa, Conn., Ill., Ark., Ind., Minn., Colo., R. I., Mo., Oreg.); nine months (Nebr.); twelve months (Mass., Pa., Ala., Ohio, La., Utah); six months (Me., Vt., R. I.).

[6] R. S., 7058.

[7] Re Scott, 42 N. E. 1079.

[8] N. J. Rev., p. 188, § 63; 1887, 71; Minn., 6254; Del. 70, 38; Tenn. 2768; Mont. C. C. P., 2150.

[9] N. J. Sup., p. 770, 1.

[10] Pa. Dig., p. 139, § 1; Minn. 6254; Ky. G. S., 70, 3, 1; and so of manufactories, etc., in Kentucky. In Garrett County, Md., if any individual engaged in mining or manufacturing, or any corporation whatever, is indebted for thirty days to employees, or to furnishers of raw material, in the aggregate sum of $25, and neglects or refuses to pay the same, the circuit court may, upon petition of any such employee or material man, appoint a receiver (Md. Local Laws, 1888, Garrett Co., 145).

[11] Pa., p. 139, § 1.

[12] N. J. Rev., p. 749, § 1,

gan has a constitutional provision, and several States have passed express statutes, making them in all cases individually liable for debts of the corporation due for labor or personal services.[1] In some States each stockholder is jointly and severally liable therefor to any extent,[2] in others only to an amount equal to the par value of his stock.[3] In most cases a demand must first be made,[4] or suit brought,[5] against the corporation. In some States the law applies only to railroads[6] or manufacturing corporations,[7] mining companies,[8] and other specified classes of corporations.[9]

Sec. 6. Procedure in Suits for Wages.—Suitors for money due for personal service have in several States special privileges in the courts. Thus in some States action for wages "shall be first in order for trial,"[1] no security for costs is required,[2] additional costs may be recovered,[3] no court fees at all required,[4] no stay of execution allowed,[5] or a special attorney's fee recovered,[6] and joint appeals are provided for,[7] or joint suits brought.[8]

In Louisiana suits for wages are tried in a summary manner upon three days' citation (La. 1874, 25).

Sec. 7. Exemption from Trust Laws.—In several States, where there is a stringent law against trusts, there is a special exception that this anti-trust act shall not apply to contracts and combinations relating to the services of laborers or artisans who are formed into societies or organizations for the benefit and protection of their members.[1] See, for such laws, Chap. X, § 3.

Sec. 8. Mechanics' Liens, etc.—By the Constitution of Texas:

Art. 16.—*Mechanics' liens.* Sec. 37. Mechanics, artisans and material men, of every class, shall have a lien upon the buildings and articles made or repaired by them, for the value of their labor done thereon, or material furnished therefor; and the legislature shall provide by law for the speedy and efficient enforcement of said liens.

Mechanics' liens given for work done upon real estate exist in all the States and Territories without exception. Their provisions are not only

---

[1] Mass. 106, 61; N. Y. 1892, 688, 54; Pa. Dig., pp. 1075, 1292; Ind. 5077; Mich. Const. 15, 7; Wis. 1769; N. C. 1940; Okla. 1074; Tenn. Part I. Title 9, *passim.*

[2] Mass., N. Y., Ind., N. C., Okla., Tenn., N. Dak. 3157; S. Dak. Pol. C. 3111; D. C. R. S., 574. But not for an amount due for services rendered more than six months before (Mass., Pa. in mfg. co.'s). So, for thirty days' wages, only (N. C.), or six months (Wis.).

[3] Pa. Dig. p. 423, 99 (of general corporations); Wis.

[4] Mass., N. Y.

[5] Pa., N. Y., N. C., Okla.

[6] N. C., Ind. 5198.

[7] Pa., Mass., Okla., Ind., N. Dak.

[8] Pa., Okla., Ind., N. Dak.

[9] Mass., Ind. 5449, 5471; Tenn.

[1] Ohio 5134; Pa. Dig. p. 2073.

[2] Wis. 3783a; Mich. 7717e.

[3] As to female employees others than domestic servants: N. Y. 1882, 410, 1424 (in New York City); C. C. P. 3131 (in Brooklyn); Ohio 6732a; Minn. 5499.

[4] In suits for less than $50 in New York City: N. Y. 1882, 410, 1416. In all suits "*in forma pauperis*": N. J. Rev. p. 896; Ind. 1894, 2; Ill. 33, 5; Va. 3538; W. Va. 138, 1; Ky. 884; Tenn. 3912; Ark. 798; Colo. 676; Miss. 870.

[5] Mich. 7091a; Iowa 3063; Pa. Dig. p. 2073; Wis. 3674; D. C. R. S. 1025.

[6] Mich. 7091a; Utah 1896, 40; Ohio 6563a; Ill. 13, 13; Kans. 1893, 187, 7; Okla. 1895, 51.

[7] Pa. 1897, 127.

[8] Mass. 1896, 444.

[1] Mich. 1889, 225; Wis. 1893, 219, 9; Nebr. 1897, 79; Mont. P. C. 325. See Shade *v.* Luppert, 17 Pa. Co. Ct. R., 460; in re Grice 79 Fed. 627. which held such a statute in Texas unconstitutional as being class legislation.

lengthy and complicated, but liable to amendment or change at each session of the legislature. It is wholly out of the question to incorporate them in this report. It may be stated, in a general way, that they undertake to give all classes of mechanics, or material men, liens either on the building and land covered by the lien, or upon the building and a certain amount of land surrounding it; and, in some States, such liens even take precedence of the prior mortgage. There is also a very elaborate statute requiring head contractors, or employers generally, to require bonds from subcontractors for the payment of their labor; and in Georgia the person for whom the building is being done is not even allowed to pay his contractor more than 75 per cent of the money due until all labor is shown to have been paid.

Liens on personal property.—There are also other general statutes for liens on personal property, made or repaired, for the work done; and in special employments, such as lumbering, on the logs, etc. Such liens would probably exist without statute by the common law.

Arkansas, Idaho, Georgia, Florida, Texas, and Louisiana codify the law of artisans' or servants' liens and apply the law also to liens on land or crops for agricultural labor, which lien in other States exists usually only under the system of farming on shares, or is provided for by special statute. See Chap. VI, § 3. (Ark. 4766–4781; Idaho Feb. 27, 1893, Chap. 3; Ga., 1974; Fla. 1728; Tex. 1897, 152; La. Civ. C. 2770–2777, 3216, 3217.)

Chapter III.

PRISON LABOR.

This subject having been deputed specially by vote of the Commission to Mr. Olmsted, reference is made to his report in this volume.

Sec. 1. Convict-made Goods.—Several States have adopted statutes requiring convict-made goods of other States to be so marked before being placed on sale. They are generally unconstitutional.

Convict-made goods made in the State or elsewhere must be labeled. and can, in New York, Ohio, and Indiana, only be sold by persons specially licensed therefor[1] (N. Y. G. L. 32, 50–55; Pa. Dig., p. 1661; Ohio 8662; 1894, p. 346).

---

[1]Thus, in New York (G. L. 32):

Sec. 50. License for sale of convict-made goods.—No person or corporation shall sell, or expose for sale, any convict-made goods, wares or merchandise, either by sample or otherwise, without a license therefor. Such license may be obtained upon application in writing to the comptroller, setting forth the residence or post-office address of the applicant, the class of goods desired to be dealt in, the town, village or city, with the street number, if any, at which the business of such applicant is to be located. Such application shall be accompanied with a bond, executed by two or more responsible citizens, or some legally incorporated surety company authorized to do business in this State, to be approved by the comptroller, in the sum of five thousand dollars, and conditioned that such applicant will comply with all the provisions of law, relative to the sale of convict-made goods, wares and merchandise. Such license shall be for a term of one year unless sooner revoked. Such person or corporation shall pay, annually, on or before the fifteenth day of January, the sum of five hundred dollars as a license fee, into the treasury of the State, which amount shall be credited to the maintenance account of the State prisons.

Such license shall be kept conspicuously posted in the place of business of such licensee.

Sec. 51. Revocation of license.—The comptroller may revoke the license of any such person or corporation, upon satisfactory evidence of, or upon conviction for the violation of any statute regulating the sale of convict-made goods, wares or merchandise; such revocation shall not be made until after due notice to the licensee so complained of. For the purpose of this section, the comptroller or any person duly appointed by him, may administer oaths and subpœna witnesses and take and hear testimony.

Sec. 52. Annual statement of licensee.—Each person or corporation so licensed shall, annually, on or before the fifteenth day of January, transmit to the secretary of state a verified statement setting forth:

1. The name of the person or corporation licensed.

2. The names of the persons, agents, wardens or keepers of any prison, jail, penitentiary, reformatory or establishment using convict labor, with whom he has done business, and the name and address of the person or corporation to whom he has sold goods, wares and merchandise, and

3. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise and the character thereof.

Sec. 53. Labeling and marking convict-made goods.—All goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in which convict labor is employed, shall be branded, labeled or marked as herein provided. The brand, labor or mark, used for such purpose, shall contain at the head or top thereof the words "convict-made," followed by the year

In some States the law applies only to convict-made goods manufactured outside the State, and is probably unconstitutional (Ind., 1895, 162; Ky. 524–526; Wis. 1897, 155).

The importation of foreign convict-made goods is forbidden by act of Congress (U. S. 1897, c. 11).

---

when, and the name of the penitentiary, prison, reformatory or other establishment in which the article branded, labeled or marked was made.

Such brands, labels and marks shall be printed in plain English lettering, of the style and size known as great primer Roman condensed capitals. A brand or mark shall be used in all cases where the nature of the article will permit and only where such branding or marking is impossible shall a label be used. Such label shall be in the form of a paper tag and shall be attached by wire to each article, where the nature of the article will permit, and shall be placed securely upon the box, crate or other covering in which such goods, wares or merchandise are packed, shipped or exposed for sale.

Such brand, mark or label shall be placed upon the most conspicuous part of the finished article and its box, crate or covering.

No convict-made goods, wares or merchandise shall be sold or exposed for sale without such brand, mark or label.

Sec. 54. Duties of commissioner of labor statistics relative to violations; fines upon convictions.—The commissioner of labor statistics shall enforce the provisions of this article. If he has reason to believe that any of such provisions are being violated, he shall advise the district attorney of the county wherein such alleged violation has occurred of such fact, giving the information in support of his conclusion. The district attorney shall, at once, institute the proper proceedings to compel compliance with this article and secure conviction for such violations.

Upon the conviction of a person or corporation for a violation of this article, one half of the fine recovered shall be paid and certified by the district attorney to the commissioner of labor statistics, who shall use such money in investigating and securing information, in regard to violations of this act and in paying the expenses of such conviction.

Sec. 55. Articles not to apply to goods manufactured for the use of the State or a municipal corporation.—Nothing in this article shall apply to or affect the manufacture in State prisons, reformatories and penitentiaries, and furnishing of articles for the use of the offices, departments and institutions of the State or any political division thereof.

CHAPTER IV.

SPECIAL PROVISIONS RELATIVE TO FACTORY AND SHOP LABOR.

SEC. 1. FACTORY ACTS.—The subject of hours of labor in factories as well as in general occupations was necessarily treated together (See Chap. I, Art. B). The theme of this chapter is that covered by what is known as the factory acts, first passed in England in 1831, and the recent statutes applying to aggregated labor employed in tenements or other places not technically factories. These are known as "sweat-shops." By far the most complete legislation on this subject was found in Massachusetts, but the recent New York general act upon labor is even more full. These statutes are, therefore, printed in full in the note (17).

In all, about half the States have so far passed what may be called a factory act; that is, laws for the regulation, mainly sanitary, of conditions in factories and workshops. These include most of the States which have dealt at all by statute with the limitation of hours of labor; the New England States generally, New York and the Northern Central and Northwestern States following its legislation. There are almost no factory acts in the South nor in the purely agricultural States of the West, but these statutes are being passed rapidly, and, moreover, in States where they have already been enacted, are being amended every year. The simpler way to show their general nature is to describe briefly their purport, as follows:

Factory acts.—The States adopting such legislation have usually created one or more factory inspectors, charged with the duty of seeing that the statutes are carried out, generally with powers to enter personally or by deputy and to inspect all factories at any time.[1] Accidents must be promptly reported to such inspectors.[2]

The most usual statutes are those making provision for proper fire escapes;[3] or against use of explosive oils, etc., for the removal of

[1] Mass. 1894, 481; R. I. 68, 3; Conn. 2264; N. Y. G. L. 32, Art. 5; Art. 6, 90; 1899, 192; N. J. 1894, 54; Sup. p. 407, 12, 13; Pa. Dig., p. 865; 1897, 26,10; Ohio 2573 a, b; Ind. 1899, 142,13 and 19; Ill. 1893, p. 9; Mich. 1895, 184; Del. 1897, 452,7; Iowa 1896, 86; Wis. 1021 b; Minn. 2259; Mich. 1895, 184, 12; 1897, 241; Tenn. 1891, 157; 1899, 401; Mo. 8216–8218. One or some of these must be women (R. I., Pa., Del.).

[2] N. Y. G. L. 32, 87; Pa. 1897, 26, 7; Ohio 1898, p. 43; Mass. ib. § 8; R. I. 68, 7; N. J. Sup. p. 772, 15; Ind. *ib.* 8; Minn. 2256; Mo. 1891, p. 159; Wash. 1897, 29.

[3] N. H. 116, 1; Me. 26, 26; Mass. *ib.* 24; Vt. 1892, 83; R. I. 108, 1; Conn. 2645; 1895, 254; N. Y. G. L. 32, 82; N. J. 1890, 63; Pa. Dig., p. 865, 21; Ohio 2573; Ind., 1897, 56, 6; Ill. 55a, 1; Mich. 1897, 11 111; Wis. 4575a; Minn. 8005; Nebr. 1897, 39; Del. 127, 1; Va. 1890, 199; Mo. 8220; N. Dak. Pol. C. 1717; S. Dak. Pol. C. 2416; Ga. 1889, 610; La., 1888, 97; D. C. 1887, 45; Wash. 1891, 81; Mont. 1891, 282; Wy. 1891, 80; Md. 1898, 123, 280.

noxious vapors or dust by fans or other contrivances;[4] requiring guards to be placed about dangerous machinery, belting, elevators, wells, air-shafts, crucibles, vats, etc.;[5] providing that doors shall open outward;[6] prohibiting the machinery from being cleaned while in motion by any person[7] (very many of the States provide that machinery shall not be cleaned by women or minors under a certain age;[8] see Chap. I, Art. B, § 5); requiring mechanical belt shifters, etc.;[9] requiring connection by bells, tubes, etc., between any room where machinery is used and the engine room;[10] laws requiring a certain amount of cubic air space in factories (or other statutes to prevent overcrowding) and secure sanitary conditions generally;[11] requiring walls to be limed or painted;[12] laws providing specially for decency on the part of the operatives, such as laws requiring separate toilet rooms;[13] laws requiring screened stairways[14] or handrails on stairways.[15] Finally, there are many statutes regulating the construction of buildings, providing for railings upon scaffolds, and for suitable scaffolds generally. These will usually be found in the building laws, which are often specially enacted for special cities. As they are not primarily enacted as statutes concerning labor, but as part of the police regulation of building, they form no logical part of this report. Moreover, it would be quite impossible to digest them, on account of their number and frequent change. Employers are frequently permitted or required to ring bells and use whistles in towns and cities for the purpose of waking their employees, or giving them other notice.[16]

(For definitions of factories[11] under this statute, see also Art. A, § 3.)

NOTE.—The New York and Massachusetts provisions relating to factory inspection, in full, follow.

New York (1897, 415, being ch. 32, G. L.):

ARTICLE I.—*General provisions.*

SECTION 1. Short title.—This chapter shall be known as the labor law.

SEC. 2. Definitions.—The term employee, when used in this chapter, means a mechanic, workingman, or laborer who works for another for hire.

The person employing any such mechanic, workingman, or laborer, whether the

---

[4] Conn. 1893, 204; N. Y. G. L. 32, 86 and 81; N. J. Sup. p. 773, 25; Pa. Dig. p. 866; Ind. 1897, 65, 8; Ohio 1898, p. 30; p. 155; Mich. 1895, 184; Minn. 2253; Md. 27, 148; Mo., Cal. 1889, 5. Against noxious vapors by fans, etc., see: Mass. 1894, 508, 38 and 39; R. I. *ib.* 9; N. J. *ib.* 24; Ill. 1897, p. 250; Mo. *ib.*; 1891, p. 179; 1897, p. 143; Mich. 1887, 136; Minn. 2249, 2250; Cal. 1889, 5; La. 1890, 123. Such laws are constitutional (People *v.* Smith, 66 N. W. 382).

[5] Mass. *ib.* §§ 23, 41–43; R. I. 68, 5; 108, 15; Conn. 2265, 2266; N. Y. *ib.* 79; N. J. Sup. p. 772, 16 and 18; Ohio 2573 c; Ind. *ib.* 5 and 9; Mich. 1897, 22, 5; Wis. 1887, 549; Pa. 1897, 26, 5; Minn. *ibid.;* Mo. *ibid.;* Tenn. 1899, 401, 3.

[6] Mass. *ibid;* N. J. 1887, 177, 6; Ind. *ib.* 6; Wis. 1636 c; Mich. *ib.;* Minn. 2252; Miss. 2088; Dak., Ind., Mo.; N. Dak. Pol. C. 1719; S. Dak. Pol. C. 2412.

[7] Mass., Conn., N. Y.; N. J. *ib.* 17; Pa. *ib.* 6; Ind.; Mich. Compare §§ 14, 17, 18; Stimson's Handbook.

[8] Mo. *ibid.*

[9] N. Y. *ib.* 81; Pa. *ibid;* Mich. *ib.;* Ind. *ib.* 9; Minn. 2249.

[10] Mass. *ib.* 51; Wis. 1891, 226; Ind. *ib.* 7.

[11] Mass. *ib.* 23; R. I. 68, 9; Conn.; N. J. *ib.* 10, 23; Ohio 1898, p. 30; Pa. Dig. p. 866, § 21; Mich. 1895, 184, 10; Minn. 2251; Wis. 1636 f; Mo. 8220; N. Y. *ib.* 85–86; Md.; La. 1890, 123; Cal. 1889, 5; Tenn. *ib.*

[12] N. Y. *ib.* 84; Ind. *ib.* 12; N. Y. *ib.* 8; Mo.

[13] N. Y. *ib.* 88; Pa. *ib.* 8; Mich. 1895, 184, 10; Minn. 2254; Mo., Cal; Ind. *ib.* 10; Tenn. *ib.* 5.

[14] Mich. 1895, 184, 7; N. Y. G. L. 32, 80; Ohio 1898, p. 87; Ind.

[15] Ohio 1898, p. 87; N. Y. *ib.;* Minn. 2252; Ind. *ib.* 6.

[16] Mass. 1883, 84; Vt. 1890, 75.

owner, proprietor, agent, superintendent, foreman, or other subordinate, is designated in this chapter as an employer.

The term "factory," when used in this chapter, shall be construed to include also any mill, workshop, or other manufacturing or business establishment where one or more persons are employed at labor.

The term "mercantile establishment," when used in this chapter, means any place where goods, wares, or merchandise are offered for sale.

Whenever, in this chapter, authority is conferred upon the factory inspector, it shall also be deemed to include his assistant or a deputy acting under his direction.

SEC. 17. Seats for female employees in factories.—Every person employing females in a factory shall provide and maintain suitable seats for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health.

SEC. 18. Scaffolding for use of employees.—A person employing or directing another to perform labor of any kind in the erection, repairing, altering, or painting of a house, building, or structure shall not furnish or erect, or cause to be furnished or erected, for the performance of such labor scaffolding, hoists, stays, ladders, or other mechanical contrivances which are unsafe, unsuitable, or improper, and which are not so constructed, placed, and operated as to give proper protection to the life and limb of a person so employed or engaged.

Scaffolding or staging swung or suspended from an overhead support, more than twenty feet from the ground or floor, shall have a safety rail of wood, properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, and properly attached thereto, and such scaffolding or staging shall be so fastened as to prevent the same from swaying from the building or structure.

SEC. 19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.—Whenever complaint is made to the commissioner of police, superintendent or other person in charge of the police force of a city, that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning or pointing of buildings within the limits of such city, are unsafe or liable to prove dangerous to the life or limb of any person, such police commissioner, superintendent or other person in charge of the police force, shall immediately detail a competent police officer to inspect such scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or other parts connected therewith. If, after examination, such officer finds such scaffolding or any of such parts to be dangerous to life or limb, he shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger.

The officer making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes or other parts thereof, examined by him, stating that he has made such examination, and that he has found it safe or unsafe, as the case may be. If he declares it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact, and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection, or by conspicuously affixing it to the scaffolding, or the part thereof declared to be unsafe. After such notice has been so served or affixed, the person responsible therefor shall immediately remove such scaffolding or part thereof and alter or strengthen it in such a manner as to render it safe, in the discretion of the officer who has examined it, or of his superiors.

Any officer detailed to examine or test any scaffolding or part thereof, as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use.

All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon, when in use, and not more than four men shall be allowed upon any swinging scaffolding at one time.

SEC. 20. Protection of persons employed on buildings in cities.—All contractors and owners, when constructing buildings in cities, where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material of [or] brickwork, shall complete the flooring or filling in as the building progresses, to not less than within three tiers of beams below that on which the ironwork is being erected.

If the plans and specifications of such buildings do not require filling in between

the beams of floors with brick or fire-proof material, all contractors for carpenter work, in the course of construction, shall lay the under flooring thereof on each story, as the building progresses, to not less than within two stories below the one to which such building has been erected. Where double floors are not to be used, such contractor shall keep planked over the floor two stories below the story where the work is being performed.

If the floor beams are of iron or steel, the contractors for the iron or steel work of buildings in course of construction, or the owners of such buildings, shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts.

The chief officer, in any city, charged with the enforcement of the building laws of such city, is hereby charged with enforcing the provisions of this section.

ARTICLE II.—*Commissioner of labor statistics.*

SEC. 30. Commissioner of labor statistics.—There shall continue to be a commissioner of labor statistics, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for the term of three years, and receive an annual salary of three thousand dollars. He may appoint a deputy commissioner of labor statistics, at an annual salary of two thousand and five hundred dollars, and a chief clerk at an annual salary of two thousand dollars, and such other clerks and assistants as he may deem necessary and fix their salaries.

The term of office of the successor of the commissioner in office when this chapter takes effect is abridged so as to expire on the last day of December preceding the time when such term would otherwise expire, and thereafter the term of office of such commissioner shall begin on the first day of January.

SEC. 31. Duties and powers.—The commissioner of labor statistics shall collect, assort, systematize and present in annual reports to the legislature, within ten days after the convening thereof in each year, statistical details in relation to all departments of labor in the State, especially in relation to the commercial, industrial, social and sanitary condition of workingmen and to the productive industries of the State. He may subpœna witnesses, take and hear testimony, take or cause to be taken depositions and administer oaths.

SEC. 32. Statistics to be furnished upon request.—The owner, operator, manager or lessee of any mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing establishment, or any agent, superintendent, subordinate, or employee thereof, shall, when requested by the commissioner of labor statistics, furnish any information in his possession or under his control which the commissioner is authorized to require, and shall admit him to any place herein named for the purpose of inspection. All statistics furnished to the commissioner of labor statistics, pursuant to this article, may be destroyed by such commissioner after the expiration of two years from the time of the receipt thereof.

A person refusing to admit such commissioner, or a person authorized by him, to any such establishment, or to furnish him any information requested, or who refuses to answer or untruthfully answers questions put to him by such commissioner, in a circular or otherwise, shall forfeit to the people of the State the sum of one hundred dollars for each refusal and answer untruthfully given, to be sued for and recovered by the commissioner in his name of office. The amount so recovered shall be paid into the State treasury.

ARTICLE V.—*Factory inspector, assistant and deputies.*

SEC. 60. Factory inspector and assistant.—There shall continue to be a factory inspector and assistant factory inspector, who shall be appointed by the governor, by and with the advice and consent of the senate. The term of office of each shall be three years. The term of office of the successor of the factory inspector and assistant factory inspector in office when this chapter takes effect shall be abridged so as to expire on the last day of December preceding the time when each such term would otherwise expire, and thereafter each such term shall begin on the first day of January. There shall be paid to the factory inspector an annual salary of three thousand dollars, and to the assistant factory inspector an annual salary of two thousand five hundred dollars.

SEC. 61. Deputies and clerks.—The factory inspector may appoint, from time to time, not more than thirty-six persons as deputy factory inspectors, not more than ten of whom shall be women, and who may be removed by him at any time. Each deputy inspector shall receive an annual salary of one thousand two hundred dollars. The factory inspector may designate six or more of such deputies to inspect the buildings and rooms occupied and used as bakeries and to enforce the provisions of this chapter relating to the manufacture of flour or meal food products. One of such deputies shall have a knowledge of mining, whose duty it shall be, under the direction of the factory inspector, to inspect mines and quarries and to enforce the provisions of this chapter relating thereto.

The factory inspector may appoint one or more of such deputies to act as clerk in his principal office.

SEC. 62. General powers and duties of factory inspector.—The factory inspector may divide the State into districts, assign one or more deputy inspectors to each district, and may, in his discretion, transfer them from one district to another.

The factory inspector shall visit and inspect, or cause to be visited and inspected, the factories, during reasonable hours, as often as practicable, and shall cause the provisions of this chapter to be enforced therein and prosecute all persons violating the same.

Any lawful municipal ordinance, by-law or regulation relating to factories or their inspection, in addition to the provisions of this chapter and not in conflict therewith shall be observed and enforced by the factory inspector.

The factory inspector, assistant, and each deputy may administer oaths and take affidavits in matters relating to the enforcement of the provisions of this chapter.

No person shall interfere with, obstruct or hinder, by force or otherwise, the factory inspector, assistant factory inspector or deputies while in the performance of their duties, or refuse to properly answer questions asked by such officers pertaining to the provisions of this chapter.

All notices, orders, and directions of assistant or deputy factory inspectors given in accordance with this chapter are subject to the approval of the factory inspector.

SEC. 63. Reports.—The factory inspector shall report annually to the legislature in the month of January. The assistant factory inspector and each deputy shall report to the factory inspector, from time to time, as he may require.

SEC. 64. Badges.—The factory inspector may procure and cause to be used, badges for himself, his assistant and deputies, while in the performance of their duties, the cost of which shall be a charge upon the appropriation made for the use of the department.

SEC. 65. Payment of salaries and expenses.—All necessary expenses incurred by the factory inspector and his assistant in the discharge of their duties, shall be paid by the State treasurer, upon the warrant of the comptroller, issued upon proper vouchers therefor. The reasonable necessary traveling and other expenses of the deputy factory inspectors, while engaged in the performance of their duties, shall be paid in like manner upon vouchers approved by the factory inspector and audited by the comptroller. All such expenses and the salaries of the factory inspector, assistant and deputies shall be payable monthly.

SEC. 66. Suboffice in New York City.—The factory inspector may establish and maintain a suboffice in the city of New York, if, in his opinion, the duties of his office demand it. He may designate one or more of the deputy factory inspectors to take charge of and manage such office, subject to his direction. The reasonable and necessary expenses of such office shall be paid, as are other expenses of the factory inspector.

SEC. 67. Duties of factory inspector relative to apprentices.—The factory inspector, his assistant and deputies shall enforce the provisions of the Domestic Relations Law, relative to indentures of apprentices, and prosecute employers for failure to comply with the provisions of such indentures and of such law in relation thereto.

ARTICLE VI.—*Factories.*

SEC. 70. Employment of minors.—A child under the age of fourteen years shall not be employed in any factory in this State. A child between the ages of fourteen and sixteen years shall not be so employed, unless a certificate executed by a health officer be filed in the office of the employer.

SEC. 71. Certificate for employment, how issued.—Such certificate shall be issued by the executive officer of the board, department or commissioner of health of the city, town or village where such child resides, or is to be employed, or by such other

officer thereof as may be designated, by resolution, for tha purpose, upon the application of the child desiring such employment. At the time of making such application, there shall be filed with such board, department, commissioner or officer, the affidavit of the parent or guardian of such child, or the person standing in parental relation thereto, showing the date and place of birth of such child. Such certificate shall not be issued unless the officer issuing the same is satisfied that such child is fourteen years of age or upward, and is physcally able to perform the work which he intend to do. No fee shall be demanded or received for administering an oath as required by this section.

SEC. 72. Contents of certificate.—Such certificate shall state the date and place of birth of the child, if known, and describe the color of the hair and eyes, the height and weight, and any distinguishing facial marks of such child, and that in the opinion of the officer issuing such certificate, such child is upward of fourteen years of age, and is physically able to perform the work which he intends to do.

SEC. 73. School attendance required.—No such certificate shall be granted unless it appears to the satisfaction of such board, department, commissioner, or officer, that the child applying therefor has regularly attended at a school in which reading, spelling, writing, arithmetic, English grammar and geography are taught, or upon equivalent instruction by a competent teacher elsewhere than at a school, for a period equal to one school year, during the year previous to his arriving at the age of fourteen years, or during the year previous to applying for such certificate, and is able to read and write simple sentences in the English language.

The principal or chief executive officer of a school, or teacher elsewhere than at a school, shall furnish, upon demand, to a child who has attended at such school or been instructed by such teacher, or to the factory inspector, his assistant or deputies, a certificate stating the school attendance of such child.

SEC. 74. Vacation certificates.—A child of fourteen years of age, who can read and write simple sentences in the English language, may be employed in a factory during the vacation of the public schools of the city or school district where such child resides, upon complying with all the provisions of the foregoing sections, except that requiring school attendance. The certificate issued to such child shall be designated a "vacation certificate," and no employer shall employ a child to whom such a certificate has been issued, to work in a factory at any time other than the time of the vacation of the public school in the city or school district where such factory is situated.

SEC. 75. Report of certificates issued.—The board or department of health or health commissioner of a city, village or town, shall transmit, between the first and tenth day of each month, to the office of the factory inspector a list of the names of the children to whom certificates have been issued.

SEC. 76. Registry of children employed.—Each person owning or operating a factory and employing children therein shall keep, or cause to be kept in the office of such factory, a register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years.

Such register and the certificates filed in such office shall be produced for inspection, upon the demand of the factory inspector, his assistant or deputies.

SEC. 77. Hours of labor of minors.—A female under the age of twenty-one years or a male under the age of eighteen years shall not be employed at labor in any factory in this State before six o'clock in the morning or after nine o'clock in the evening of any day, or for more than ten hours in any one day or sixty hours in any one week, except to make a shorter work day on the last day of the week; or more hours in any one week than will make an average of ten hours per day for the whole number of days so worked. A printed notice stating the number of hours per day for each day of the week required of such persons, and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed.

But such persons may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not be required to perform any labor in such factory, except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the factory inspector.

SEC. 78. Change of hours of labor of minors.—When, in order to make a shorter workday on the last day of the week, a female under twenty-one, or a male under eighteen years of age, is to be required or permitted to work in a factory more than ten hours in a day, the employer of such persons shall notify the factory inspector, in writing, of such intention, stating the number of hours of labor per day, which it

is proposed to require or permit, and the time when it is proposed to cease such requirement or permission; a similar notification shall be made when such requirement or permission has actually ceased. A record of the names of the employees thus required or permitted to work overtime, with the amount of such overtime and the days upon which such work was performed, shall be kept in the office of such factory, and produced upon the demand of the factory inspector.

SEC. 79. Inclosure and operation of elevators and hoisting shafts; inspection.—If, in the opinion of the factory inspector, it is necessary to protect the life or limbs of factory employees, the owner, agent, or lessee of such factory where an elevator, hoisting shafts, or wellhole is used, shall cause, upon written notice from the factory inspector, the same to be properly and substantially inclosed, secured or guarded, and shall provide such proper traps or automatic doors so fastened in or at all elevator ways, except passenger elevators inclosed on all sides, as to form a substantial surface when closed and so constructed as to open and close by action of the elevator in its passage either ascending or descending. The factory inspector may inspect the cable, gearing or other apparatus of elevators in factories and require them to be kept in a safe condition.

No child under the age of fifteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator in a factory, nor shall any person under the age of eighteen years be employed or permitted to have the care, custody of or management of or to operate an elevator therein, running at a speed of over two hundred feet a minute.

SEC. 80. Stairs and doors.—Proper and substantial hand rails shall be provided on all stairways in factories. The steps of such stairs shall be covered with rubber, securely fastened thereon, if in the opinion of the factory inspector the safety of employees would be promoted thereby. The stairs shall be properly screened at the sides and bottom. All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable, and shall not be locked, bolted or fastened during working hours.

SEC. 81. Protection of employees operating machinery.—The owner or person in charge of a factory where machinery is used, shall provide, in the discretion of the factory inspector, belt shifters or other mechanical contrivances for the purpose of throwing on or off belts or pulleys. Whenever practicable, all machinery shall be provided with loose pulleys. All vats, pans, saws, planers, cogs, gearing, belting, shafting, set screws and machinery, of every description, shall be properly guarded. No person shall remove or make ineffective any safeguard around or attached to machinery, vats or pans, while the same are in use, unless for the purpose of immedately making repairs thereto, and all such safeguards so removed shall be promptly replaced. Exhaust fans of sufficient power shall be provided for the purpose of carrying off dust from emery wheels, grindstones and other machinery creating dust. If a machine or any part thereof is in a dangerous condition or is not properly guarded, the use thereof may be prohibited by the factory inspector, and a notice to that effect shall be attached thereto. Such notice shall not be removed until the machine is made safe and the required safeguards are provided, and in the meantime such unsafe or dangerous machinery shall not be used. When, in the opinion of the factory inspector, it is necessary, the halls leading to workrooms shall be properly lighted. No male person under eighteen years of age or woman under twenty-one shall be permitted or directed to clean machinery while in motion.

SEC. 82. Fire escapes.—Such fire escapes as may be deemed necessary by the factory inspector shall be provided on the outside of every factory in this State consisting of three or more stories in height. Each escape shall connect with each floor above the first, and shall be of sufficient strength, well fastened and secured, and shall have landings or balconies not less than six feet in length and three feet in width, guarded by iron railings not less than three feet in height, embracing at least two windows at each story and connected with the interior by easily accessible and unobstructed openings. The balconies or landings shall be connected by iron stairs, not less than eighteen inches wide, with steps of not less than six inches tread, placed at a proper slant and protected by a well-secured hand rail on both sides, and shall have a drop ladder not less than twelve inches wide reaching from the lower platform to the ground.

The windows or doors to the landing or balcony of each fire escape shall be of sufficient size and located as far as possible, consistent with accessibility from the stairways and elevator hatchways or openings, and a ladder from such fire escape shall extend to the roof. Stationary stairs or ladders shall be provided on the inside of every factory from the upper story to the roof, as a means of escape in case of fire.

SEC. 83. Factory inspector may order erection of fire escapes.—Any other plan or style of fire escape shall be sufficient if approved in writing by the factory inspector. If there is no fire escape, or the fire escape in use is not approved by the factory inspector, he may, by a written order served upon the owner, proprietor or lessee of any factory, or the agent or superintendent thereof, or either of them, require one or more fire escapes to be provided therefor, at such locations and of such plan and style as shall be specified in such order.

Within twenty days after the service of such order, the number of fire escapes required therein shall be provided, each of which shall be of the plan and style specified in the order, or of the plan and style described in the preceding section.

SEC. 84. Walls and ceilings.—The walls and ceilings of each workroom in a factory shall be lime-washed or painted, when in the opinion of the factory inspector, it will be conducive to the health or cleanliness of the persons working therein.

SEC. 85. Size of rooms.—No more employees shall be required or permitted to work in a room in a factory between the hours of six o'clock in the morning and six o'clock in the evening than will allow to each of such employees, not less than two hundred and fifty cubic feet of air space; and, unless by a written permit of the factory inspector, not less than four hundred cubic feet for each employee, so employed between the hours of six o'clock in the evening and six o'clock in the morning, provided such room is lighted by electricity at all times during such hours, while persons are employed therein.

SEC. 86. Ventilation.—The owner, agent or lessee of a factory shall provide, in each workroom thereof, proper and sufficient means of ventilation; in case of failure the factory inspector shall order such ventilation to be provided. Such owner, agent or lessee shall provide such ventilation within twenty days after the service upon him of such order, and in case of failure, shall forfeit to the people of the State, ten dollars for each day after the expiration of such twenty days, to be recovered by the factory inspector, in his name of office.

SEC. 87. Accidents to be reported.—The person in charge of any factory, shall report in writing to the factory inspector all accidents or injuries sustained by any person therein, within forty-eight hours after the time of the accident, stating as fully as possible the extent and cause of the injury, and the place where the injured person has been sent, with such other information relative thereto as may be required by the factory inspector who may investigate the cause of such accident, and require such precautions to be taken as will, in his judgment, prevent the recurrence of similar accidents.

SEC. 88. Wash room and water-closets.—Every factory shall contain a suitable, convenient and separate water-closet or water-closets for each sex, which shall be properly screened, ventilated and kept clean and free from all obscene writing or marking; and also a suitable and convenient wash room. The water-closets used by women shall have separate approaches. If women or girls are employed, a dressing room shall be provided for them, when required by the factory inspector.

SEC. 89. Time allowed for meals.—In each factory at least sixty minutes shall be allowed for the noonday meal, unless the factory inspector shall permit a shorter time. Such permit must be in writing and conspicuously posted in the main entrance of the factory, and may be revoked at any time. Where employees are required or permitted to work overtime for more than one hour after six o'clock in the evening, they shall be allowed at least twenty minutes to obtain a lunch, before beginning to work overtime.

SEC. 90. Inspection of factory buildings.—The factory inspector, or other competent person designated by him, upon request, shall examine any factory outside of the cities of New York and Brooklyn, to determine whether it is in a safe condition. If it appears to him to be unsafe, he shall immediately notify the owner, agent or lessee thereof, specifying the defects, and require such repairs and improvements to be made as he may deem necessary. If the owner, agent or lessee shall fail to comply with such requirement, he shall forfeit to the people of the State the sum of fifty dollars, to be recovered by the factory inspector in his name of office.

Massachusetts (1894, 481):

Inspection of factories, workshops, etc.

SECTION 1. The district police force shall be divided into two departments, which shall be known respectively as the inspection department and the detective department of said force. The inspection department shall consist of twenty-four male members and two female members, together with the chief of said force; the detective

department shall consist of twelve members, and said chief. The chief of said district police force shall be the head of each of said departments. No member of the inspection department of said district police force shall be called to perform any other duties than those pertaining to the office of inspector of factories and public buildings, unless his services are commanded by the governor as provided by law in suppressing riots and preserving the peace; but the members of said inspection department shall continue to have and exercise all powers now given by law to members of said district police. Vacancies in either of said departments shall be filled by appointment to the department in which the vacancy occurs.

SEC. 2. Such inspectors shall enforce the provisions of this act, except as herein specified, and the various provisions of law relating to the employment of women and minors in manufacturing, mechanical and mercantile establishments, and the employment of children, young persons or women in factories or workshops, and the ventilation of factories or workshops, and the securing of proper sanitary provisions in factories or workshops, and the making of clothing in unsanitary conditions; and for this purpose the said inspectors may enter all buildings used for public or manufacturing purposes, or for factories or workshops, examine the methods of protection from accident, the means of escape from fire, the sanitary provisions and the means of ventilation, and may make investigations as to the employment of children, young persons and women.

SEC. 3. One member of said force shall be detailed to inspect, under the direction of the chief of said force, uninsured stationary steam boilers and their appurtenances, and to inquire into the ability and competency of the engineers in charge thereof and report to said chief.

SEC. 4. The superior court shall have concurrent jurisdiction with the supreme judicial court of all proceedings under this chapter.

SEC. 5. Any person or corporation aggrieved by the order, requirement or direction of an inspector given under this act may, within ten days from the day of the service thereof, apply for an injunction against the enforcement of the same to a justice of the superior court; and thereupon, after such notice as the said justice shall order to all parties interested, a hearing may be had before some justice of said court at such early and convenient time and place as shall be fixed by said order, or the said justice may appoint three experts to examine the matter and hear the parties, which experts shall be disinterested persons and skilled in the subject-matter of the controversy; and the decision of said court, or the majority of said experts in writing, under oath, filed within ten days from the date of such hearing in the clerk's office of said court in the county where the subject of the controversy lies, may either alter the order, requirement or direction of such inspector, annul it in full or affirm the same. A duly certified copy of said decision, so filed as aforesaid, shall have the same authority, force and effect as the original order of the inspector; and said decision shall have the same authority and effect as the original order, requirement or direction. If such decision shall annul or alter the order, requirement or direction of the inspector, the court shall also enjoin the said inspector from enforcing his order, requirement or direction, and in every such case the certificate required by section twenty-seven of this act, shall thereupon be issued by said justice or by his order, or the said experts appointed by said justice.

SEC. 6. The court may award reasonable compensation to experts appointed under the provisions of this act, to be paid by the county where the subject of the controversy lies, providing the appeal is decided against the order of the inspector; and to be paid by the party taking the appeal in case the order of the inspector is sustained.

SEC. 7. If the order, requirement or direction of the inspector is affirmed by the court or experts, costs shall be taxed as in civil cases against the party moving for the injunction, such costs to be paid into the treasury of the county where the subject of the controversy lies.

SEC. 8. All manufactures, manufacturing corporations and proprietors of mercantile establishments shall forthwith send to the chief of the district police a written notice of any accident to an employee while at work in any factory, manufacturing or mercantile establishment operated by them, whenever the accident results in the death of said employee or causes bodily injury of such a nature as to prevent the person injured from returning to his work within four days after the occurrence of the accident.

SEC. 9. When notice of any accident is sent to the chief of the district police under the provisions of section eight of this act he shall forthwith return to the sender of such notice a written or printed acknowledgment of the receipt of the same.

SEC. 10. The chief of the district police shall keep a record of all accidents so

reported to him, together with a statement of the name of the person injured, the city or town where the accident occurred and the cause thereof, and shall include an abstract of said record in his annual report.

Sec. 23. The belting, shafting, gearing and drums of all factories, when so placed as to be, in the opinion of the inspectors of factories and public buildings, dangerous to persons employed therein while engaged in their ordinary duties, shall be as far as practicable securely guarded. No machinery other than steam engines in a factory shall be cleaned while running, if objected to in writing by one of said inspectors. All factories shall be well ventilated and kept clean.

Sec. 24. Every building now or hereafter used, in whole or in part, as a public building, public or private institution, schoolhouse, church, theatre, public hall, place of assemblage or place of public resort, and every building in which ten or more persons are employed above the second story in a factory, workshop, or mercantile or other establishment, and every hotel, family hotel, apartment house, boarding house, lodging house or tenement house in which ten or more persons lodge or reside above the second story, and every factory, workshop, mercantile or other establishment the owner, lessee or occupant of which is notified in writing by the inspector hereinafter mentioned that the provisions of this act are deemed by him applicable thereto, shall be provided with proper ways or egress, or other means of escape from fire, sufficient for the use of all persons accommodated, assembling, employed, lodging or residing in such building; and such ways of egress and means of escape shall be kept free from obstruction, in good repair and ready for use. Every room above the second story in any such building, in which ten or more persons are employed, shall be provided, if the said inspector shall so direct in writing, with more than one way of egress by stairways on the inside or outside of the building, placed as near as practicable at opposite ends of the room; stairways on the outside of the building shall have suitable railed landings at each story above the first, and shall connect with each story by doors or windows, and such landings, doors and windows shall be kept clear of ice and snow and other obstructions. Women or children shall not be employed in a factory, workshop, or mercantile or other establishment, in a room above the second story from which there is only one way of egress, if the said inspector shall so direct in writing. All doors and windows in any building subject to the provisions of this section shall open outwardly, if the said inspector shall so direct in writing. * * *

Sec. 25. No building designed to be used, in whole or in part, as a public building, public or private institution, schoolhouse, church, theatre, public hall, place of assemblage or place of public resort, and no building more than two stories in height designed to be used above the second story, in whole or in part, as a factory, workshop, or mercantile or other establishment, and having accommodations for ten or more employees above said story, and no building more than two stories in height designed to be used above the second story, in whole or in part, as a hotel, family hotel, apartment house, boarding house, lodging house or tenement house and having ten or more rooms above said story, shall hereafter be erected until a copy of the plans of such building has been deposited with the inspector of factories and public buildings for the district in which such building is to be located, by the person causing the erection or construction of such building, or by the architect who has drawn such plans, which plans shall include therein the system or method of ventilation provided for such building, together with a copy of such portion of the specifications of such building as such inspector may require, nor shall any such building be so erected without the provision of sufficient ways of egress and other means of escape from fire, properly located and constructed. The certificate of the inspector above named, endorsed with the approval of the chief of the district police force, shall be conclusive evidence of a compliance with the provisions of this act: *Provided,* That after the granting of such certificate no change is made in the plans or specifications of such ways of egress and means of escape unless a new certificate is obtained therefor. Such inspector may require that proper fire stops shall be provided in the floors, walls and partitions of such buildings, and may make such further requirements as may be necessary or proper to prevent the spread of fire therein or its communication from any steam boiler or heating apparatus; and no pipe for conveying hot air or steam in such building shall be placed nearer than one inch to any woodwork, unless protected to the satisfaction of such inspector by suitable guards or casings of incombustible material, and no wooden flue or air duct for heating or ventilating purposes shall be placed in any such building.

Sec. 26. Any person erecting or constructing a building, or any architect or other person who shall draw plans or specifications, or superintend the erection or con-

struction of a building, in violation of the provisions of this act, shall be punished by a fine of not less than fifty nor more than one thousand dollars, and such erection or construction may be enjoined in a proceeding to be had before the superior or supreme judicial court at the instance of the inspector above named, and upon the filing of a petition for such injunction any justice of the court may issue a temporary injunction or restraining order, as provided in proceedings in equity.

SEC. 27. It shall be the duty of such inspectors of factories and public buildings as may be assigned to such duty by the chief of the district police force to examine, as soon as may be after the passage of this act, and thereafter from time to time, all buildings within his district subject to the provisions of this act. In case any such building conforms, in the judgment of such inspector, to the requirements of this act, he shall issue to the owner, lessee or occupant of such building, or of any portion thereof used as above mentioned in section twenty-four of this act, a certificate to that effect, specifying the number of persons for whom the ways of egress and means of escape from fire are deemed to be sufficient. Such certificate shall be conclusive evidence, as long as it continues in force, of a compliance on the part of the person to whom it is issued with the provisions of this act; but such certificate shall be of no effect in case a greater number of persons than therein specified are accommodated or employed, or assembled, lodge or reside within such building or portion thereof, or in case such building is used for any purposes materially different from those for which it was used at the time of the granting thereof, or in case the internal arrangements of such building are materially altered, or in case any ways of egress or means of escape from fire existing in such building at the time of such granting are stopped up, rendered unavailable or materially changed; and in no case shall such certificate continue in force for more than five years from its date. Such certificate may be revoked by such inspector at any time upon written notice to the person holding the same, or occupying the premises for which it was granted, and shall be so revoked whenever in his opinion any conditions or circumstances have so changed that the existing ways of egress and means of escape are no longer proper and sufficient. A copy of the said certificate shall be kept posted in a conspicuous place upon every floor of such building by the person occupying the premises covered thereby.

SEC. 28. Upon an application being made to an inspector for the granting of a certificate under this act he shall issue to the person making the same an acknowledgment that such certificate has been applied for, and pending the granting or refusal of such certificate such acknowledgment shall have for a period of ninety days the same effect as such certificate, and such acknowledgment may be renewed by such inspector with the same effect for a further period not exceeding ninety days, and may be further renewed by the chief of the district police force, until such time as such certificate shall be granted or refused.

SEC. 29. In case any change is made in any premises for which a certificate has been issued under this act, whether in the use thereof or otherwise, such as terminates the effect of such certificate, as above provided in section twenty-seven, it shall be the duty of the person making the same to give written notice thereof forthwith to the inspector for the district, or to the chief of the district police.

SEC. 30. In case any building, or portion thereof subject to the provisions of this act is found by an inspector to fail to conform thereto, or in case any change is made in such building or portion thereof, such as terminates the effect of a certificate formerly granted therefor as aforesaid, it shall be the duty of such inspector to give notice in writing to the owner, lessee or occupant of such building specifying and describing what additional ways of egress or means of escape from fire are necessary in the opinion of such inspector, in order to conform to the provisions of this act, and to secure the granting of a certificate as aforesaid. Notice to any agent of such owner, lessee or occupant in charge of the premises shall be sufficient notice under this section to such owner, lessee or occupant.

SEC. 31. In case any building subject to the provisions of this act is owned, leased or occupied, jointly or in severalty, by different persons, any one of such persons shall have the right to apply to any part of the outside of such building, and to sustain from any part of the outside wall thereof, any way of egress or means of escape from fire specified and described by an inspector as above provided, notwithstanding the objection of any other such owner, lessee or occupant; and any such way of egress or means of escape may project over the highway.

SEC. 32. When a license is required by law or municipal ordinance, in order to authorize any premises to be used for any purpose mentioned in section twenty-four, no license for such purpose shall be granted until a certificate for such building or portion thereof shall first have been obtained from an inspector as above provided,

and no such license hereafter issued shall continue in force any longer than such certificate remains in force.

SEC. 33. No wooden flue or air duct for heating or ventilating purposes shall hereafter be placed in any building subject to the provisions of section twenty-four of this act, and no pipe for conveying hot air or steam in such building shall be placed or shall remain placed nearer than one inch to any woodwork, unless protected to the satisfaction of the said inspector by suitable guards or casings of incombustible material.

SEC. 34. Every story above the second of a building subject to the provisions of section twenty-four of this act shall be supplied with means of extinguishing fire, consisting either of pails of water or other portable apparatus, or of a hose attached to a suitable water supply and capable of reaching any part of such story; and such means of extinguishing fire shall be kept at all times ready for use and in good condition.

SEC. 35. It shall be the duty of such members of the inspection department of the district police force as may be assigned to such duty by the chief of such force to enforce the provisions of sections twenty-four to thirty-four inclusive of this act, outside of the city of Boston; and for such purpose such inspectors shall have the right of access to all parts of any building subject to the provisions of said sections.

SEC. 36. Cities may by ordinance provide that the provisions of said sections twenty-four to thirty-four inclusive of this act shall apply to any buildings of three or more stories in height within their respective limits.

SEC. 37. It shall be the duty of every person or corporation, being the owner, lessee or occupant of a factory, workshop or manufacturing establishment, or owning or controlling the use of any building or room mentioned in and subject to sections twenty-four to thirty-four inclusive of this act, to cause the provisions thereof to be carried out; and such person or corporation shall be liable to any person injured for all damages caused by a violation of the provisions of this act. No criminal prosecution shall be made for such violation until four weeks after notice in writing by an inspector of factories and public buildings of any changes necessary to be made to comply with and conform to the provisions of said sections twenty-four to thirty-four inclusive, has been sent by mail or delivered to such person or corporation, nor then, if in the meantime such changes have been made in accordance with such notification. Notice to one member of a firm or to the clerk or treasurer of a corporation or to the person in charge of the premises shall be deemed sufficient notice hereunder to all members of such firm or such corporation owning, leasing or controlling the premises. Such notice may be given to them in person or sent by mail.

SEC. 38. Any person using or occupying a building contrary to the provisions of this act may be enjoined from such use or occupation in a proceeding to be had before the superior court or supreme judicial court at the instance of the inspector, and upon the filing of a petition therefor any justice of the court in which such proceeding is pending may issue a temporary injunction or restraining order, as provided in proceedings in equity.

SEC. 39. Sections twenty-four to thirty-eight inclusive of this act shall not apply to the city of Boston.

SEC. 41. The openings of all hoistways, hatchways, elevators and wellholes upon every floor of a factory or mercantile or public building shall be protected by good and sufficient trapdoors, or self-closing hatches and safety catches, or such other safeguards as the inspectors of factories and public buildings direct; and all due diligence shall be used to keep such trapdoors closed at all times, except when in actual use by the occupant of the building having the use and control of the same.

SEC. 42. All elevator cabs or cars, whether used for freight or passengers, shall be provided with some suitable mechanical device, to be approved by the inspectors of factories and public buildings, whereby the cabs or cars will be securely held in event of accident to the shipper rope or hoisting machinery, or from any similar cause.

SEC. 43. If any elevator, whether used for freight or passengers, is, in the judgment of the inspector of factories and public buildings of the district in which such elevator is used, unsafe or dangerous to use, or has not been constructed in the manner required by law, the said inspector shall immediately placard conspicuously upon the entrance to or door of the cab or car of such elevator, a notice of its dangerous condition, and prohibit the use of such elevator until made safe to the satisfaction of said inspector. No person shall remove such notice or operate such elevator while such notice is placarded as aforesaid without authority from said inspector. This section shall not apply to the city of Boston.

SEC. 46 No explosive or inflammable compound shall be used in any factory in such

place or manner as to obstruct or render hazardous the egress of operatives in case of fire.

Sec. 51. In every manufacturing establishment where the machinery used is propelled by steam, communication shall be provided between each room where such machinery is placed and the room where the engineer is stationed, by means of speaking tubes, electric bells or appliances that may control the motive power, or such other means as shall be satisfactory to the inspectors of factories: *Provided*, That in the opinion of the inspectors such communication is necessary.

Sec. 52. No prosecution for a violation of the provisions of section fifty-one of this act shall be made until four weeks after notice in writing by an inspector has been sent by mail to such person, firm or corporation of any changes necessary to be made to comply with the provisions of said section, nor then, if in the meantime such changes have been made in accordance with such notification.

Sec. 53. No outside or inside doors of any building wherein operatives are employed shall be so locked, bolted or otherwise fastened during the hours of labor as to prevent free egress.

Sec. 54. Any person, firm or corporation, being the owner, lessee or occupant of any such building shall, after receiving five days' notice in writing from one of the inspectors of factories and public buildings, comply with the provisions of the preceding section.

Sec. 55. The inspectors of factories and public buildings shall enforce the provisions of this act.

Sec. 56. A district police officer detailed to perform the duties required by this act, who fails to perform such duties faithfully, shall be immediately discharged from his office.

Sec. 57. The chief of the district police shall report in print to the governor on or before the first day of January of each year, in relation to factories and public buildings, with such remarks, suggestions and recommendations as he may deem necessary.

Sec. 59. Any person, firm or corporation, being the occupant of any manufacturing establishment, or controlling the use of any building or room where machinery propelled by steam is used, violating the provisions of section fifty-one of this act, shall forfeit to the use of the Commonwealth not less than twenty-five dollars, and not more than one hundred dollars.

Sec. 60. Any person or corporation owning, leasing, occupying or controlling any building or room mentioned in section twenty-five of this act, who shall fail to observe the provisions of sections twenty-four to thirty-four of this act, shall be punished by a fine of not less than fifty nor more than one thousand dollars.

Sec. 61. Any person or corporation failing to send notice of any accident as required by section eight of this act, shall be punished by a fine not exceeding twenty dollars.

Sec. 62. Any person or corporation violating any provision of this act, where no other special provision is made, shall be punished by a fine not exceeding one hundred dollars.

Massachusetts (1894, 508):

Sec. 26. All children, young persons and women, five or more in number, employed in the same factory, shall be allowed their meal time or meal times at the same hour, except that any children, young persons and women who begin work in such factory at a later hour in the morning than the other children, young persons or women employed therein, may be allowed their meal time or meal times at a different time; but no such children, young persons or women shall be employed during the regular meal hour in tending the machines or doing the work of any other children, young persons or women in addition to their own.

Sec. 27. No child, young person or woman shall be employed in a factory or workshop in which five or more children, young persons or women are employed, for more than six hours at one time, without an interval of at least half an hour for a meal, but a child, young person or woman may be so employed for not more than six and one half hours at one time if such employment ends at an hour not later than one o'clock in the afternoon, and if such child, young person or woman is then dismissed from the factory or workshop for the remainder of the day, or for not more than seven and one half hours at one time, if such child, young person or woman is allowed sufficient opportunity for eating a lunch during the continuance of such employment, and if such employment ends at an hour not later than two o'clock in the afternoon, and such child, young person or woman is then dismissed from the factory or workshop for the remainder of the day.

Sec. 28 Sections twenty-six and twenty-seven of this act shall not apply to iron works, glass works, paper mills, letter press establishments, print works, bleaching

works or dyeing works; and the chief of the district police, where it is proved to his satisfaction that in any other class of factories or workshops it is necessary, by reason of the continuous nature of the processes or of special circumstances affecting such class, to exempt such class from the provisions of this act, and that such exemption can be made without injury to the health of the children, young persons or women affected thereby, may, with the approval of the governor, issue a certificate granting such exemption, public notice whereof shall be given in the manner directed by said chief, without expense to the Commonwealth.

SEC. 29. If any minor under the age of eighteen years or any woman shall, without the orders, consent or knowledge of the employer, or of any superintendent, overseer or other agent of the employer, labor in a factory or workshop during any part of any time allowed for dinner or for other meals in such factory or workshop, according to the notice required by law, and if a copy of such notice was posted in a conspicuous place in the room where such labor took place, together with a rule of the establishment forbidding such minor or woman to labor during such time, then neither the employer, nor any superintendent, overseer or other agent of the employer, shall be held responsible for such labor.

SEC. 30. Every person or corporation employing females in any manufacturing, mechanical or mercantile establishment in this Commonwealth shall provide suitable seats for the use of the females so employed, and shall permit the use of such seats by them when they are not necessarily engaged in the active duties for which they are employed.

SEC. 31. No child under the age of fourteen years shall be permitted to clean any part of the machinery in a factory when such part is in motion by the aid of steam, water or other mechanical power, or to clean any part of such machinery which is in dangerous proximity to such moving part.

SEC. 32. No person, firm or corporation shall employ or permit any person under fifteen years of age to have the care, custody, management or operation of any elevator, or shall employ or permit any person under eighteen years of age to have the care, custody, management or operation of any elevator running at a speed of over two hundred feet a minute.

SEC. 33. Every factory in which five or more persons are employed, and every factory, workshop, mercantile or other establishment or office in which two or more children, young persons or women are employed, shall be kept in a cleanly state and free from effluvia arising from any drain, privy or other nuisance, and shall be provided, within reasonable access, with a sufficient number of proper water closets, earth closets or privies for the reasonable use of the persons employed therein; and wherever two or more male persons and two or more female persons are employed as aforesaid together, a sufficient number of separate and distinct water closets, earth closets or privies shall be provided for the use of each sex, and plainly so designated; and no person shall be allowed to use any such closet or privy assigned to persons of the other sex.

SEC. 34. It shall be the duty of every owner, lessee or occupant of any premises so used as to come within the provisions of section thirty-three of this act, to carry out the same and to make the changes necessary therefor. In case such changes are made upon the order of an inspector of factories by the occupant or lessee of the premises, he may at any time within thirty days of the completion thereof bring an action before any trial justice, police, municipal or district court against any other person having an interest in such premises, and may recover such proportion of the expense of making such changes as the court adjudges should justly and equitably be borne by such defendant.

SEC. 35. When it appears to an inspector of factories that any act, neglect or fault in relation to any drain, water closet, earth closet, privy, ashpit, water supply, nuisance or other matter in a factory or in a workshop included under section thirty-three of this act, is punishable or remediable under chapter eighty of the public statutes, or under any law of the Commonwealth relating to the preservation of the public health, but not under this act, such inspector shall give notice in writing of such act, neglect or default, to the board of health of the city or town within which such factory or workshop is situated; and it shall thereupon be the duty of such board of health to make inquiry into the subject of the notice and to enforce the laws relative thereto.

SEC. 36. No criminal prosecution shall be instituted against any person for a violation of the provisions of sections thirty-three and thirty-four of this act until four weeks after notice in writing by an inspector of factories of the changes necessary to be made to comply with the provisions of said sections has been sent by mail or

delivered to such person, nor then, if in the meantime such changes have been made in accordance with such notification. A notice shall be deemed a sufficient notice under this section to all members of a firm or to a corporation when given to one member of such firm, or to the clerk, cashier, secretary, agent or any other officer having charge of the business of such corporation, or to its attorney; and in case of a foreign corporation notice to the officer having the charge of such factory or workshop shall be sufficient; and such officer shall be personally liable for the amount of any fine in case a judgment against the corporation is returned unsatisfied.

SEC. 37. Every factory in which five or more persons are employed, and every workshop in which five or more children, young persons or women are employed shall, while work is carried on therein, be so ventilated that the air shall not become so exhausted or impure as to be injurious to the health of the persons employed therein, and shall also be so ventilated as to render harmless so far as is practicable, all gases, vapors, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein, which may be injurious to health.

SEC. 38. If in a workshop or factory included in section thirty-seven of this act any process is carried on by which dust is generated and inhaled to an injurious extent by the persons employed therein, and it appears to an inspector of factories that such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means, and that the same can be provided without incurring unreasonable expense, such inspector may direct a fan or other mechanical means of a proper construction to be provided within a reasonable time, and such fan or other mechanical means shall be so provided, maintained and used.

SEC. 39. No criminal prosecution shall be instituted for any violation of the provisions of sections thirty-seven and thirty-eight of this act unless such employer shall have neglected for four weeks to make such changes in his factory or workshop as shall have been ordered by an inspector of factories, by a notice in writing delivered to or received by such employer.

SEC. 57. The following expressions used in this act shall have the following meanings:

The expression "person" means any individual, corporation, partnership, company or association.

The expression "child" means a person under the age of fourteen years.

The expression "young person" means a person of the age of fourteen years and under the age of eighteen years.

The expression "woman" means a woman of eighteen years of age and upwards.

The expression "factory" means any premises where steam, water or other mechanical power is used in aid of any manufacturing process there carried on.

The expression "workshop" means any premises, room or place, not being a factory as above defined, wherein any manual labor is exercised by way of trade or for purposes of gain in or incidental to any process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article, and to which or over which premises, room or place, the employer of the persons working therein has the right of access or control: *Provided, however*, That the exercise of such manual labor in a private house or private room by the family dwelling therein or by any of them, or in case a majority of the persons therein employed are members of such family, shall not of itself constitute such house or room a workshop within this definition.

The expression "iron works" means any mill, forge or other premises in or on which any process is carried on for converting iron into malleable iron, steel or tin plate, or for otherwise making or converting steel.

The expression "glass works" means any premises in which the manufacture of glass is carried on.

The expression "paper mills" means any premises in which the manufacture of paper is carried on.

The expression "letter press establishments" means any premises in which the process of letter press printing is carried on.

The expression "print works" means any premises in which is carried on the process of printing figures, patterns or designs upon any cotton, linen, woolen, worsted or silken yarn or cloth, or upon any woven or felted fabric not being paper.

The expression "bleaching works" means any premises in which the process of bleaching any yarn or cloth of any material is carried on.

The expression "dyeing works" means any premises in which the process of dyeing any yarn or cloth of any material is carried on.

The expression "public building" means any building or premises used as a place of public entertainment, instruction, resort or assemblage.

The expression "schoolhouse" means any building or premises in which public or private instruction is afforded to not less than ten pupils at one time.

The aforesaid expressions shall have the meanings above defined for them respectively in all laws of this Commonwealth, relating to the employment of labor, whether heretofore or hereafter enacted, unless a different meaning is plainly required by the context.

SEC. 71. Whoever, either for himself, or as superintendent, overseer or other agent of another, violates the provisions of sections twenty-six, twenty-seven, twenty-eight or twenty-nine of this act, as to meal hours, shall be punished by fine not exceeding one hundred dollars and not less than fifty dollars.

SEC. 72. Any person or corporation violating the provisions of section thirty of this act, as to seats for females, shall be punished by fine not exceeding thirty dollars and not less than ten dollars for each offense.

SEC. 73. Whoever, either for himself, or as superintendent, overseer or other agent of another, violates the provisions of section thirty-one of this act, as to cleaning of dangerous machinery, shall be punished by fine not exceeding one hundred dollars and not less than fifty dollars for each offense.

SEC. 74. Whoever violates the provisions of section thirty-two of this act, as to the care of elevators, shall be punished by fine not exceeding one hundred dollars and not less than twenty-five dollars for each offense.

SEC. 2. SHOPS AND STORES.—Most of the legislation connected with mercantile establishments is concerned solely with the hours of labor, but a few States have statutes relating to space, sanitary conditions, etc.[1] And in Pennsylvania the factory law (§ 1, above) applies also to mercantile establishments.

---

[1]Thus, in New York (G. L. 32):

SEC. 168. Wash rooms and water-closets.—Suitable and proper wash rooms and water-closets shall be provided in, adjacent to or connected with mercantile establishments where women and children are employed. Such rooms and closets shall be so located and arranged as to be easily accessible to the employees of such establishments.

Such water-closets shall be properly screened and ventilated, and, at all times, kept in a clean condition. The water-closets assigned to the female employees of such establishments shall be separate from those assigned to the male employees.

If a mercantile establishment has not provided wash rooms and water-closets, as required by this section, the board or department of health or health commissioners of the town, village or city where such establishment is situated, shall cause to be served upon the owner of the building occupied by such establishment, a written notice of the omission and directing such owner to comply with the provisions of this section respecting such wash rooms and water-closets.

Such owner shall, within fifteen days after the receipt of such notice, cause such wash rooms and water-closets to be provided.

SEC. 169. Lunch rooms.—If a lunch room is provided in a mercantile establishment where females are employed, such lunch room shall not be next to or adjoining the water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and it may be revoked at any time by the board or department of health or health commissioner, if it appears that such lunch room is kept in a manner or in a part of the building injurious to the health of the employees.

SEC. 170. Seats for women in mercantile establishments.—Chairs, stools or other suitable seats shall be maintained in mercantile establishments for the use of female employees therein, to the number of at least one seat for every three females employed, and the use thereof by such employees shall be allowed at such times and to such extent as may be necessary for the preservation of their health. If the duties of the female employees, for the use of whom the seats are furnished, are to be principally performed in front of a counter, table, desk or fixture, such seats shall be placed in front thereof; if such duties are to be principally performed behind such counter, table, desk or fixture, such seats shall be placed behind the same.

SEC. 171. Employment of women and children in basements.—Women or children shall not be employed or directed to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health com-

SEC. 3. SWEATSHOPS.[1]—The subject of sweatshops is new to treatment by statute. The name itself was hardly used before a few years ago, and the earliest statute is the New York law of 1892. Laws have so far been passed in Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, and Missouri only, and they are generally identical in requiring inspection of shops or tenements or even of private dwelling houses (Mass. 1894, 508, 44; 1898, 150; N. Y. G. L. 32, 100; 1899, 191; N. J. 1893, 216; Ill. 1893, p. 99; Ind. 1897, 65, 13; 1899, 142, 14–15; Pa. 1897, 37; 1899, 64; Mich. 1899, 233; Ohio 1896, p. 317; Mo. 1899, p. 273) or of buildings in the rear of dwelling houses (N. Y., N. J., Ind.), where the manufacture of special articles, usually clothing, artificial flowers (N. Y., Pa., N. J., Ill., Ind., Mich., Mo.), tobacco (N. Y., Pa., Ohio, N. J., Ill., Ind., Mich.), is carried on. In Pennsylvania, the manufacture of such articles in tenements or dwelling houses is absolutely prohibited. In other States it is permitted only to members of the family living therein (Mass., N. Y., N. J., Ohio, Ill., Ind., Mo.), and a license even for carrying on such labor in dwelling houses by members of the family is required (Mass., N. Y., N. J., Ill., Mich.), which must usually

---

missioner of the town, village or city where such mercantile establishment is situated. Such permission shall be granted unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition.

SEC. 172. Enforcement of article.—The board or department of health or health commissioners of a town, village or city affected by this article shall enforce the same and prosecute all violations thereof. Proceedings to prosecute such violations must be begun within thirty days after the alleged offense was committed. All officers and members of such boards or department, all health commissioners, inspectors and other persons appointed or designated by such boards, departments or commissioners may visit and inspect, at reasonable hours and when practicable and necessary, all mercantile establishments within the town, village or city for which they are appointed. No person shall interfere with or prevent any such officer from making such visitations and inspections, nor shall he be obstructed or injured by force or otherwise while in the performance of his duties. All persons connected with any such mercantile establishment shall properly answer all questions asked by such officer or inspector in reference to any of the provisions of this article.

SEC. 173. Copy of article to be posted.—A copy of this article shall be posted in three conspicuous places in each mercantile establishment affected by its provisions.

[1] The Massachusetts statute, as amended, has proved to be the most effective. It is as follows (Mass. 1894, 508, am. by 1898, 150):

SECTION 44. No room or apartment in any tenement or dwelling house shall be used for the purpose of making, altering, repairing or finishing therein any coats, vests, trousers or wearing apparel of any description whatsoever, except by the members of the family dwelling therein, and any family desiring to do the work of making, altering, repairing or finishing any coats, vests, trousers or wearing apparel of any description whatsoever in any room or apartment in any tenement or dwelling house shall first procure a license, approved by the chief of the district police, to do such work as aforesaid. A license may be applied for by and issued to any one member of any family desiring to do such work. No person, partnership or corporation, shall hire, employ or contract with any member of a family not holding a license therefor, to make, alter, repair or finish any garments or articles of wearing apparel as aforesaid, in any room or apartment in any tenement or dwelling house as aforesaid. Every room or apartment in which any garments or articles of wearing apparel are made, altered, repaired or finished, shall be kept in a cleanly condition and shall be subject to the inspection and examination of the inspectors of the district police, for the purpose of ascertaining whether said garments or articles of wearing apparel or any part or parts thereof are clean and free from vermin and every matter of an infectious or contagious nature. A room or apartment in any tenement or dwelling house which is not used for living or sleeping purposes, and which is not connected with any room or apartment used for living or sleeping purposes, and which has a separate and distinct entrance from the outside, shall not be subject to the provisions of this act. Nor shall anything in this act be so construed

be posted in the room, and the house or tenement made subject to official inspection. But the law does not apply to apartments "not used for living or sleeping purposes" (Mass.). In some States the inspecting and licensing is left to the board of health (Ill.), and in others to the police authorities (Mass.), or factory inspector (N. Y., Pa., N. J., Ind., Mich., Mo.). In several States the sale of goods made in tenements in violation of the law is prohibited (Ohio, N. Y., Mo.), or such goods are required to be labeled "tenement made" (Mass., N. Y., Mo.); in some they may be seized and destroyed by the board of health (Mass., Pa. N. Y., Ill.), and no one can contract with a member of a family not holding a license for such work in such tenement (Mass., N. J., N. Y., Pa., Ind., Mich., Ohio). Many of the States have given the inspecting authorities power over garments or goods imported into the State (Mass., N. Y., Ill.). Such tenements, etc., must always be kept in a cleanly condition; in some States 250 feet cubic air space by day, 400 by night, for each person is required (N. Y., Pa., Ind.). Usually sweatshop employers must keep a registry of all persons to whom they give work (N. Y., Pa., Ohio, Mich., Mo.).

---

as to prevent the employment of a tailor or seamstress by any person or family for the making of wearing apparel for such person's or family's use.

SECTION 45. If said inspector finds evidence of infectious disease present in any workshop or in any room or apartment in any tenement or dwelling house in which any garments or articles of wearing apparel are made, altered or repaired, or in goods manufactured or in the process of manufacture therein, he shall report the same to the chief of the district police, who shall then notify the local board of health to examine said workshop or any room or apartment in any tenement or dwelling house in which any garments or articles of wearing apparel are made, altered or repaired, and the materials used therein; and if said board shall find said workshop or tenement or dwelling house in an unhealthy condition, or the clothing and materials used therein unfit for use, said board shall issue such order or orders as the public safety may require.

SEC. 46. Whenever it is reported to said inspector or to the chief of the district police, or to the state board of health or to either of them, that ready-made coats, vests, trousers, overcoats or other garments are being shipped to this Commonwealth, having previously been manufactured in whole or in part under unhealthy conditions, said inspector shall examine said goods and the condition of their manufacture, and if upon such examination said goods or any of them are found to contain vermin or to have been made in improper places or under unhealthy conditions, he shall make report thereof to the state board of health, which board shall thereupon make such order or orders as the public safety may require.

SEC. 47. Whoever sells or exposes for sale any coats, vests, trousers or any wearing apparel of any description whatsoever which have been made in a tenement or dwelling house in which the family dwelling therein has not procured a license, as specified in section forty-four of this act, shall have affixed to each of said garments a tag or label not less than two inches in length and one inch in width, upon which shall be legibly printed or written the words "tenement made," and the name of the State and the town or city where said garment or garments were made.

SEC. 48. No person shall sell or expose for sale any of said garments without a tag or label as aforesaid affixed thereto, nor sell or expose for sale any of said garments with a false or fraudulent tag or label, nor willfully remove, alter or destroy any such tag or label, upon any of said garments when exposed for sale.

In Maryland (1896, 467, 149 A):

If any individual or body corporate engaged in the manufacture or sale of clothing or of any other article whereby disease may be transmitted, shall, with reasonable means of knowledge, by purchase, contract or otherwise, directly or indirectly, cause or permit any garments, or such other articles as aforesaid, to be manufactured or made up, in whole or in part, or any work to be done thereupon within this State, and in place or under circumstances involving danger to the public health, the said individual or corporation, upon conviction in any court of competent jurisdiction, shall be fined not less than ten dollars or more than one hundred dollars for each garment manufactured, made up or worked upon.

SEC. 4. OTHER SHOPS REGULATED AS TO SANITARY CONDITION.—The States having sweat-shop laws have usually extended similar provisions to the regulation of bakeries as to sanitary condition (Conn. 1897, 174; N. J. 1896, 181; N. Y. G. L. 32, 110; Pa. 1897, 95; Ohio 1898, p. 159; Wis. 1897, 375; Minn. 2251; Mo. 1891, p. 159; 1899, p. 274); prohibiting sleeping rooms and living rooms being used as such (Conn. N. Y., Pa., Ohio, Wis., Minn., Mo., N. J.), and specially limiting the hours of labor in such employment. (See Chap. I, Art. B, sec. 4.

Chapter V.

MINING LABOR.

Reference is made to the special report on mining labor, in this volume.

CHAPTER VI.

AGRICULTURAL LABOR, DOMESTIC SERVICE.

SEC. 1. GENERAL.—There is very little legislation on this subject. South Carolina has laws relating to sharing of crops with laborers,[1] and making penal the breach of a contract for agricultural labor.[2] There has never been any attempt at the regulation of the hours of agricultural labor or domestic service. The antitrust laws do not in some States apply to agricultural labor or to combinations of farmers

[1] In South Carolina:

CHAPTER 85.—*Contracts with, employment and payment of wages of, laborers.* (*a*)

SEC. 2215. All contracts made between owners of land, their agents, administrators or executors, and laborers shall be witnessed by one or more disinterested persons, and, at the request of either party, be duly executed before a trial justice, whose duty it shall be to read and explain the same to the parties. Such contracts shall clearly set forth the conditions upon which the laborer or laborers engaged to work, embracing the length of time, the amount of money to be paid, and when; if it be on shares of crops, what portion thereof.

SEC. 2216. Whenever labor is performed under contract on shares of any crop, such crop shall be gathered and divided off before it is removed from the place where it was planted, harvested or gathered. When desired by either party to the contract, such division shall be made by a disinterested person, who shall be chosen by and with the consent of the contracting parties. If the parties fail to agree upon any disinterested persons, or if within ten days after such division complaint is made that it has been unfairly made, it shall be the duty of the trial justice residing nearest the place where such crop is planted, harvested or gathered to cause, under his immediate supervision, such equitable division as may be stipulated in the contract. Such disinterested person or trial justice shall receive reasonable compensation for such service, to be paid by both of the contracting parties, according to their several interests, except in case of an attempt by one of the contracting parties willfully to defraud the others, and then such compensation shall be paid by the party so attempting to defraud the other. When such division has been made each party shall be free to dispose as they see fit of their several portions: *Provided*, That if either party be in debt to the other for any obligation incurred under contract, the amount of said indebtedness may be then and there settled and paid by such portion of the share of the party so indebted as may be agreed upon by the parties themselves, or set apart by the trial justice, or any person chosen to divide said crop.

SEC. 2217. Laborers who assist in making any crop on shares, or for wages in money or other valuable consideration, shall have a lien thereon to the extent of the amount due them for such labor, next in priority to the lien of the landlord for rent; and as between such laborers there shall be no preference. Such portion of the crop to them belonging, or such amount of money or other valuable consideration as may be due them, shall be recoverable by an action in any court of competent jurisdiction.

SEC. 2218. Unless otherwise provided by special contract, all persons who employ laborers upon plantations or elsewhere by the day, week, month or year shall pay such laborers or employees in lawful money.

[2] See Chap. I, Art. E, § 2.

In South Carolina (Crim. Laws):

SEC. 288. Whenever such contract is violated, or attempted to be violated, or broken, or whenever fraud is practiced or attempted to be practiced, by either party to such contract or contracts, at any time before the conditions of the same are fulfilled

to increase the price of produce, etc.[3] (See Chap. X, § 3.) But the Texas statute (March 30, 1887) exempting "agricultural products or live stock while in the hands of the raiser," has been held unconstitutional. (See Chap. II, Art. B, § 7, above.) The North Carolina law of 1899 contains a similar provision.

SEC. 2. LIENS ON CROPS.—It is very commonly provided that croppers, or laborers working land upon shares, shall have a lien upon the crops for their wages, or other share.[1] (See also Chap. II, Art. B, § 8.)

---

and the parties released therefrom, complaint may be made before a trial justice. If the offending party be the land owner or owners, his, her or their agent or agents, and fraud has been practiced or attempted to be practiced, either in keeping in any account or accounts between him, her and them or the other party or parties to such contract or contracts, or in the division of the crop or crops, or the payment of money or other valuable consideration, upon conviction such offender or offenders shall be fined in a sum of not less than five dollars nor more than one hundred ($100) dollars, or be imprisoned not less than ten days nor more than thirty days; or if it be a disinterested party chosen to make a division or divisions of crops as provided in Chapter LXXXV, Article 2, of these statutes, he, she or they shall be liable for prosecution as for a misdemeanor, and on conviction shall be fined in a sum of not less than five nor more than one hundred dollars, or be imprisoned for a period not less than ten days nor more than thirty days.

If the offending party be a laborer, or laborers, and the offense consists either in failing willfully and without just cause to give the labor reasonably required of him, her or them by the terms of such contract, or in other respects shall refuse to comply with the conditions of such contract or contracts, or shall fraudulently make use of or carry away from the place where the crop or crops he, she or they may be working or [are] planted any portion of said crop or crops, or anything connected therewith or belonging thereto, such person or persons so offending shall be liable to prosecution, and on conviction before any trial justice be fined in a sum of not less than five dollars nor more than one hundred dollars, or be imprisoned for a period of not less than ten days or more than thirty days.

SEC. 289. Any trial justice, or other officer before whom complaint is made, and whose duty it is to try such cases as provided in the preceding section, who shall offend against the true intent and meaning of Chapter LXXXV, Article 2, of these statutes, or shall refuse to hear and determine impartially all cases that may be brought before him under the provisions of said chapter, and all peace officers whose duty it is to apprehend all offenders against the laws of the State who shall refuse to perform their duty in bringing to justice any and all offenders against the preceding section and the above mentioned chapter, shall be liable to a charge of malfeasance in office, and upon proof to conviction shall be forthwith removed from office and fined a sum not less than fifty nor more than one hundred dollars.

SEC. 290. Any person or persons who shall offer to any laborer or employee, at the time when the wages of such laborer or employee are due and payable by agreement, unless otherwise provided for by special contract, as compensation for labor, or services performed, checks, or scrips of any description, known as plantation checks, payable at some future time, or in the shops or stores of employers, in lieu of lawful money, shall be liable to indictment and punishment, by a fine not exceeding two hundred dollars, or by imprisonment not exceeding one year, or both, according to the discretion of the court: *Provided*, The word "checks" herein shall not be construed so as to prohibit the giving of checks upon any of the authorized banks of deposit or issue in this State.

[3] Tex. 4847 a, 13; Mon. P. C. 325; Ala. 1891, 202, 3; Miss. 1890, 36, 13. (See, for these laws, report of Professor Jenks.)

[1] Thus, in Idaho (1893, Feb. 27, Chap. 3):

SEC. 1. Any person who does any labor on a farm or land in tilling the same, or in cultivating, harvesting, or housing any crop or crops, raised thereon has a lien on all such crop or crops for such labor; *Provided*, That the interest of any lessor or lessors in any crop where the premises are leased in consideration of a share of the crop raised thereon, is not subject to such lien.

SEC. 2. Any person claiming the benefit of this chapter, must within sixty days after the close of said work or labor file for record with the county recorder of the county in which said work and labor was performed, a claim which shall be in substance in accordance with the provisions of section 7, of chapter 2, of this act, so far

as the same may be applicable, which said claim shall be verified, as in said section provided, and said liens may be enforced in the civil action, in the same manner, as near as may be, as provided in section 11 of chapter 2 of this act.

In Mississippi:

SEC. 2682 (as amended by chapter 71, acts of 1894). Every employer shall have a lien on the share or interest of his employee in any crop made under such employment, for all advances of money, and for the fair market value of other things advanced by him, or any one at his request, for supplies for himself and his family and business during the existence of such employment, which lien the employer may offset, recoup, or otherwise assert and maintain; and every employee, laborer, cropper, part owner, overseer or manager, or other person who may aid by his labor to make, gather, or prepare for sale or market any crop, shall have a lien on the interest of the person who contracts with him for such labor for his wages, share or interest in such crop, whatever may be the kind of wages or the nature of the interest, which lien such employee, laborer, cropper, part owner, overseer or manager, or other person may offset, recoup or otherwise assert and maintain. And such liens shall be paramount to all liens and incumbrances or right of any kind created by or against the person so contracting for such assistance, except the lien of the lessor of the land on which the crop is made, for rent and supplies furnished, as provided in the chapter on "Landlord and Tenant."

SEC. 2683. Said liens shall exist by virtue of the relation of the parties as employer and employee, and without any writing, or, if in writing, without recording.

In South Carolina (§ 2513. See also § 1, note 1, above):

Laborers working on shares of crops, or for wages in money or other valuable consideration, as hereinafter provided, shall have a lien upon said crop or crops, in whose hands soever it may be. Such portion of the crop or crops to them belonging, or such amount of money or other valuable consideration due, shall be recoverable by an action in any court of competent jurisdiction.

In Alabama (§ 3065):

When one party furnishes the land and the team to cultivate it, and another party furnishes the labor, with stipulations, express or implied, to divide the crop between them in certain proportions, the contract of hire shall be held to exist, and the laborer shall have a lien upon the crop produced by his labor for the value of the portion of the crop to which he is entitled; and such lien shall have the same force and effect, and shall be enforced in the same manner, and under the same conditions, and in the same cases as the lien in favor of a landlord; but no more of the crop shall be levied on than may be necessary to satisfy the demand.

In North Dakota (§ 4826):

Any person who performs services for another in the capacity of farm laborer between the first day of April and the first day of December in any year, shall have a lien on all crops of every kind grown, raised or harvested by the person for whom the services were performed during said time as security for the payment of any wages due or owing to such person for services so performed, and said lien shall have priority over all other liens, chattel mortgages or incumbrances, excepting, however, seed grain and threshers' liens; *Provided, however,* That the wages for which a lien may be obtained must be reasonable, and not in excess of that which is usually charged for the same kind of work in the locality where the labor is performed; *Provided, further,* That in case any such person without cause quits his employment before the expiration of the time for which he is employed, or if he shall be discharged for cause, then he shall not be entitled to a lien as herein provided.

In Tennessee:

SEC. 2771. Whenever any person shall perform any labor, or render service to another in accordance with a contract, written or verbal, for cultivating soil, and shall produce a crop, he shall have a lien upon the crop produced, which shall be the results of his labor, for the payment of such wages as were agreed upon in the contract.

SEC. 2772. This lien shall exist three months from the fifteenth day oi November, of the year in which the labor is performed, and shall be enforced by execution or attachment, as landlord's liens are enforced; *Provided,* That an amount of such labor rendered be kept and sworn to before some justice of the peace, or clerk of the court issuing the writ of distraint of attachment.

SEC. 2773. This lien shall in no wise abridge or interfere with the landlord's lien for rent or supplies, as now established by law; but the same shall be second to the landlord's lien, and none other.

In Washington:

SEC. 1695. Any person who shall do labor upon any farm or land, in tilling the same or in sowing or harvesting or thrashing any grain, as laborer, contractor, or otherwise, or laboring upon, or securing or assisting in securing or housing any crop or crops sown, raised, or thrashed thereon during the year in which said work or labor was done, such person shall have a lien upon all such crops as shall have been raised upon all or any of such land, for such work or labor, and every landlord shall have a lien upon the crops grown or growing upon the demised lands of any year for the rents accrued or accruing for such year, whether the same is paid wholly or in part in money or specific articles of property, or products of the premises, or labor, and also for the faithful performance of the lease; and the lien created by the provisions of this section shall be a preferred lien, and shall be prior to all other liens.

SEC. 1696. Any person claiming the benefit of this chapter must, within forty days after the close of said work and labor, or after the expiration of the term, or after the expiration of each year of the lease, for which any lands were demised, file for record with the county auditor of the county in which said work and labor was performed, or said demised lands are situated, a claim.

CHAPTER VII.

RAILWAY LABOR.

SEC. 1. UNITED STATES LAW.—This subject has received the attention of Congress. The Interstate Commerce Act, the Anti-Trust Act, or Sherman Act, and the recent arbitration act, with the acts requiring safety couplings, etc., have largely covered the field.

SEC. 2. STATE LAWS.—Some States have special statutes regulating the hours of labor upon railways (see Chap. I, Art. B, sec. 4). In many States the common law of liability of the employer for injuries caused by negligence of fellow servants is specially modified in railway employment (see Chap. I, Art. G, sec. 2). But these have necessarily been treated in connection with the statutes applying generally, and it seems unnecessary to devote a special section to this subject.

SEC. 3. PROTECTION OF RAILWAY EMPLOYEES.—Many of the States have statutes for the protection of trainmen; as statutes regulating automatic couplers or buffers;[1] blocking of frogs or switches;[2] guards for overhead bridges;[3] and the height of bridges is usually regulated, to at least 18 feet in the clear; regulation of electric poles or wires crossing track;[4] power breaks from the locomotive;[5] and guard rails at bridges, to protect trusses.[6]

SEC. 4. PROTECTION OF STREET RAILWAY EMPLOYEES.—Some States have statutes requiring platforms or fronts to be inclosed in winter.[1]

---

[1] Ohio 1898, p. 286; Mass. 1884, 222; 1895, 362; Conn. 3537; N. Y. P. C. 424; 1893, 544; 1896, 485; Ill. 114, 98; Mich. 1885, 147; Iowa 1890, 18; Nebr. 1794.

[2] Ohio 9822; 1898, p. 342; Mass. 1886, 120; 1894, 41; Me. 1889, 216; Vt. 1888, 22; R. I. 187, 50; Colo. 1897, 69; Mich. 1883, 174; Wis. 1809a; Minn. 2681; Mo. 2627; Wash. 1899, 35.

[3] N. H. 159, 26; Vt. 1892, 65; N. Y. 1890, 565, 49; Mich. 3437; Ky. 776; La. 1882, 39.

[4] Ohio 1898, p. 154.

[5] Mass. *ibid.;* R. I. 187, 22; N. Y. 1896, 486; Ohio 1893, p. 184; Iowa 1890, 18; Nebr. 1796.

[6] N. Y.

[1] Mass. 1897, 452; N. H. 1899, 69; Conn. 1897, 241; N. J. 1897, 190; Ohio 1893, p. 220; Ind. 1895, 71; Kans. 1897, 172; Nebr. 1897, 54; Mich. 1895, 9; Wis. 1895, 279; Minn. 2767; Wash. 1895, 144; Va. 1898, 181; Mo. 1897, 102.

Chapter VIII.

INDUSTRIAL EDUCATION.

ART. A. THE APPRENTICE SYSTEM.

Most of the States have still upon their statute books elaborate apprentice laws, but they have generally fallen into complete disuse; and even in States where conditions might still warrant the apprentice system the regulations of the labor unions have stepped in to interfere. A digest of the apprentice laws will be found in the second special report of the United States Commissioner of Labor, 1896, pp. 14–33.

ART. B. INDUSTRIAL SCHOOLS.

The subject of industrial education has not received the attention it deserves. Undoubtedly some such instruction is given in the ordinary common schools,[1] and a few States have established separate manual training or industrial schools,[2] and doubtless in several States, as in Massachusetts, the cities or towns have established such schools without a special statute. Such action was declared legal by the courts of Massachusetts, where the city of Lowell had established a textile school without express statute authority. Now a statute provides for the establishment of such schools in cities having in operation 450,000 spindles.[3]

ARTICLE C. PUBLIC LIBRARIES, LECTURES, READING ROOMS, ETC.

Sec. 1. Libraries.—Most of the large cities and many of the towns in the North and East have free public libraries. In the State of Massachusetts a very few towns out of several hundred are without them. The matter should be mentioned while treating of industrial education, as public libraries undoubtedly largely supplement the work of the public schools and help to supply the want of special industrial schools, or a more elaborate system of industrial education.

Sec. 2. Free Lectures for Workingmen.—These have been authorized by statute in Massachusetts, New York, and New Jersey, but may have been established in cities of other States without special statute.

---

[1] Mass. 1898, 496; Conn. 2118; N. Y. 1888, 334; 1894, 566; N. J. 1888, 38; Ohio 8695; Ind. 5948; Ill. Chap. 122; Wis. 1895, 358; Ga. 1884, p. 72.

[2] N. J. Sup. p. 375; 1887, 173; 1894, 349; Ohio 760, 763, 768, 943; 8696; Ill. *ibid.*; Kans. 1893, 146; Md. 1898, 273; Colo. 2167–2182; 2187–2198; N. Dak. Const. § 216 Pol. C. 885, 974; N. C. 1891, 139; Ga. 1273; Ala. 1891, 449; La. 1894, 68.

[3] Mass. 1895, 475.

The New York law requires them to be given in the evening in the public schoolhouses—one, at least, in each ward (see Mass. 1893, 208; N. Y. 1888, 545; 1891, 71 and 43; N. J. 1895, 48).

In Michigan (1891, 137) the State board of agriculture is empowered to hold institutes and maintain courses of reading and lectures for the instruction of citizens in agriculture, mechanic arts, domestic economy and the sciences relating thereto, one such course to be given in each county where a farmers' institute society numbering 20 persons has been formed.

ART. D. LICENSING OF TRADES.

Possibly consequent on the decrease of the apprentice system there is a rapid increase in the laws regulating or restricting employment in specified trades and requiring that they shall not be practiced, except by persons who have had certain instruction or experience. Such legislation will usually be found also in the statutes regulating mining labor. (See Chap. 5). A brief table of the trades hitherto regulated in the several States, with a rough indication of the nature of qualification required, is here appended in the note.[1]

---

[1] Stationary engineers (examination by board): Md. 1898, 123, 426–430; Mass. 1896, 546; 1895, 471; Ill. 24, 424; Minn. 480; Mont. Pol. C. 550; D. C., U. S. 1887, 272.

Plumbers or gasfitters (examination by board): N. H. 1899, 55; Md. 1898, 123, 509; D. C. 1898, 467; Wis. 1897, 338; Wash. 1897, 80; Minn. 1897, 319; Tex. 1897, 163; Ill. 1897, p. 279; Mass. 1897, 265; 1894, 455; N. Y. 1892, 602; Pa. 1895, 133; Mich. 1895, 10; Cal. Pol. C., p. 459; Colo. 1893, 132.

Horseshoers (examination by board): Md. 1898, 491; Minn. 1897, 128; N. Y. G. L. 32, Art. 12, 1899, 558; Ill. 1897, v. 233; Mich. 1899, 229; Colo. 1897, 54.

Barbers (examination by board): Minn. 1897, 186; Mo. 1899, p. 44.

Locomotive engineers: Ala. 1887, 59.

Steamboat engineers: N. H. 1899, 56.

Chapter IX

TRADE UNIONS, COMBINATIONS OF EMPLOYEES, ETC.

ARTICLE A. TRADE UNIONS.

Sec. 1. Laws Authorizing Trade Unions.—Nearly all the States have adopted statutes permitting the formation or incorporation of trades unions, and there is also a national statute[1], but the workingmen have hitherto taken advantage of them in the rarest possible instances. There are very few legally incorporated trade unions in this country, though there are many in England. The States having such acts are Massachusetts (1888, 134), New York, Pennsylvania (Dig. p. 2017), Michigan (1897, 13), Maryland (23, 37), Iowa (1091), Kansas (miners, 1899, 33), and Louisiana (1890, 50).

Special provision is made for the incorporation of assemblies of Knights of Labor (Mich. 1883, 159; Wyo. 589, 590, 599).

In Nebraska the lodges of Knights of Labor have apparently all been incorporated by general act without their expressed consent (Nebr. 1892, 1893):

No union has yet been incorporated under this law.

Sec. 2. Trades Unions Excepted from General Statutes Regulating Corporations, etc.—A few States have statutes excepting trade unions from the regulation of other statutes. Thus, (1) from the statute concerning the organization and regulation of fraternal beneficiary societies (Kans. 1899, 23, 16; Mass. 1899, 468); (2) from all "antitrust" acts (see Chap. X, § 3).

---

[1] U. S., 1885–6, 567:

Incorporation of national trade unions.

Sec. 1. The term "National Trade Union," in the meaning of this act, shall signify any association of working people having two or more branches in the States or Territories of the United States for the purpose of aiding its members to become more skillful and efficient workers, the promotion of their general intelligence, the elevation of their character, the regulation of their wages and their hours and conditions of labor, the protection of their individual rights in the prosecution of their trade or trades, the raising of funds for the benefit of sick, disabled, or unemployed members, or the families of deceased members, or for such other object or objects for which working people may lawfully combine, having in view their mutual protection or benefit.

Sec. 2. National Trade Unions shall, upon filing their articles of incorporation in the office of the recorder of the District of Columbia, become a corporation under the technical name by which said National Trade Union desires to be known to the trade; and shall have the right to sue and to be sued, to implead and be impleaded, to grant and receive, in its corporate or technical name, property, real, personal, and mixed, and to use said property, and the proceeds and income thereof, for the objects of said corporation as in its charter defined: *Provided*, That each union may hold only so much real estate as may be required for the immediate purposes of its incorporation.

Sec. 3. An incorporated National Trade Union shall have power to make and establish such constitution, rules, and by-laws as it may deem proper to carry out its lawful objects, and the same to alter, amend, add to, or repeal at pleasure.

Sec. 4. An incorporated National Trade Union shall have power to define the duties and powers of all its officers, and prescribe their mode of election and term of office, to establish branches and subunions in any Territory of the United States.

Sec. 5. The headquarters of an incorporated National Trade Union shall be located in the District of Columbia.

SEC. 3. LAWS REGULATING UNION LABOR.—A statute has been almost universally adopted in New England and the Northern States prohibiting employers from discharging employees for belonging to or for joining labor unions, or from making it a condition of employment that they should not be members of such unions, and the blacklisting statutes are in part aimed at the same thing (see Chap. X, § 1; Chap. II, Art. A, § 2).[1]

It must be stated that there is considerable doubt as to the constitutionality of such statutes, and the supreme court of Missouri has held them unconstitutional, while there are indications that such will be the holding of the higher courts of New York and other States. On the other hand, an Ohio court sustained the law; and an Illinois court has held that there is no constitutional objection to the vote of a municipality, or its executive board or officers, to employ solely union labor.

The States which have so far adopted such a statute are: Massachusetts (1894, 508, 3), Connecticut (1899, 170), New York (P. C. 171a), Pennsylvania (1897, 98), New Jersey (1894, 212), Ohio (1892, p. 269), Indiana (2302), Illinois (1893, p. 98), Wisconsin (4466b), Minnesota (1895, 172, and 174), Kansas (1897, 120), Missouri * (1893, p. 197), California (P. C. 679), Colorado (1897, 50), Idaho (1899, p. 314), Georgia (1893, 380). The Pennsylvania statute applies to corporation employees only.

---

[1] Thus, in Massachusetts and Connecticut:

No person or corporation, or agent or officer on behalf of any person or corporation, shall coerce or compel any person or persons into an agreement, either written or verbal, not to join or become a member of any labor organization, as a condition of such person or persons securing employment or continuing in the employment of any such person or corporation.

In New York (P. C., § 171a, added by chapter 688, acts of 1887):

Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employee or employees, laborer or mechanic to enter into an agreement, either written or verbal from such person, persons, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

In Pennsylvania (1897, 98, § 1):

If any officer, agent or employee of any corporation chartered under the laws of this Commonwealth, or any foreign corporation doing business in this Commonwealth, shall coerce or attempt to coerce any employee of such corporation by discharging them or threatening to discharge them from employment of such corporation because of their connection with any lawful labor organization which such employee may have formed, joined or belonged to, or if any such officer, agent, or employee shall exact from any applicant for employment in such corporation any promise or agreement not to form, join or belong to such lawful labor organization, or not to continue a member of such lawful labor organization, or if any such officer, agent or employee shall in any way prevent or endeavor to prevent any employee from forming, joining or belonging to such lawful labor organization, or shall interfere or attempt to interfere by any other means whatsoever, direct or indirect, with any employee's free and untrammeled connection with such lawful labor organization, be [he?] or they shall be guilty of a misdemeanor, and on conviction thereof shall be liable to a fine of not more than two thousand nor less than one thousand dollars ($1,000), and imprisonment for a term not exceeding one year, or either, or both, in the discretion of the court.

And for the new Colorado statute, see Chap. II, Art. A, § 2, above.

* Held unconstitutional.

SEC. 4. UNION LABELS.—Nearly all the States have now adopted a statute allowing members of trade unions, or labor unions, or associated laborers, or (in Mass., N. J., Iowa, Colo., Tenn., Idaho, Okla., Wash., Mo., and La.) any other persons, association, or corporation, to adopt labels or trade-marks to be used solely to designate the products of their own labor, or of the labor of members of their own trade unions or labor unions in alliance with them.[1] In Massachusetts (1899, 359) there appears to be no limitation in the use of such label to goods actually made by the persons using it, but usually they must be made, packed, or sold by him. (This form of statute is made use of by the National Association of Consumers' League, a voluntary association of benevolent persons who agree to buy only goods which are made under sanitary and fair conditions.) Provision is usually made for the registration of such label or trade-mark with the secretary of state, a penalty imposed for counterfeiting it, and remedies by injunction or equity process given the laborers or other persons using the label against its infringement or unauthorized use.

Badges, etc.—A few States have statutes making penal the counterfeiting or wearing labor badges, or the using fraudulent credentials of labor unions at labor conventions, or representing nonexistent organizations at such conventions or meetings (N. Y. 1898, 671; Pa. 1897, 116).

Requirement of union label.—In Nevada and Montana, by a recent statute, all State printing must bear the union label (Mont. 1897, p. 58; Nev. 1895, 63).

SEC. 5. NON-UNION LABOR.—Corresponding to the provisions of the above section, no States have statutes expressly protecting the rights of nonunion employees, but they are impliedly guarded in the statutes against intimidation (Chap. I, Art. F), and the statutes against boycotts (see Chap. IX, Art. B, § 2).

ART. B. STRIKES, BOYCOTTS, PICKETS, ETC.

(See also above, Chap. I, Art. F, § 2.)

SEC. 1. LEGISLATION AS TO STRIKES.—A very few States have statutes expressly aimed at the regulation of strikes, though in some States the common law of conspiracy has been so modified as to seriously influence the treatment by the courts of combinations to strike. There is in Pennsylvania an express statute that "any laborers or employees acting either as individuals or as members of any union may refuse to work for any person whenever in their opinion the wages paid are insufficient or the treatment unjust or offensive, or the continued labor by them would be contrary to the rules of any union, etc., without subjecting such persons to prosecution for criminal conspiracy: *Provided*, That this shall not prevent the prosecution under any law other than conspiracy of any person who shall by the

[1] N. H. 1895, 42, 1–7; N. Y. G. L. 32, 15–16; N. J. 1898, 50; Mass. 1895, 462; Me. 1891, 14; 1893, 276; Conn. 1893, 162; Pa. 1895, 68; Ohio, 1890, Apr. 2; 1892, Mar. 30; 1894, May 1; Ind. 8693–8703; Ill. 140, 6–12; Mich. 1891, 41; Wis. 1891, 280; 1893, 14; 1895, 151; Iowa 1892, 36; Minn. 6917–6929; Kans. 1891, 213; Nebr. 3549–3553; Md. 1892, 357; Del. 68, 1–7; 1899, 266; Va. 1898, 33; Tenn. 1897, 107; Ky. 4749–4755; Mo. 8569–8576; Tex. 1895, 81; Cal. Pol. C. 3200–1; Wash. 1897, 47; S. Dak. 1890, 153; Mont. P. C. 641–646; Ga. 1893, 380; La. 1898, 49; Colo. 1899, 154; Idaho 1899, p. 427; Okla 1897, 40.

use of force, threats, or menace of harm to person or property hinder persons who desire to labor from so doing, or conspire to commit a felony."[1]

The New York statute also expressly legalizes certain strikes: "A person who wilfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing or having reasonable cause to believe that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor, * * * but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered"

---

[1] The Pennsylvania law in full is as follows (Dig., pp. 484, 2017, 2019):

SEC. 72. It shall be lawful for any laborer or laborers, workingman or workingmen, journeyman or journeymen, acting either as individuals or as the member of any club, society or association, to refuse to work or labor for any person or persons, whenever, in his, her or their opinion, the wages paid are insufficient, or the treatment of such laborer or laborers, workingman or workingmen, journeyman or journeymen, by his, her or their employer is brutal or offensive, or the continued labor by such laborer or laborers, workingman or workingmen, journeyman or journeymen, would be contrary to the rules, regulations or by-laws of any club, society or organization to which he, she or they might belong, without subjecting any person or persons, so refusing to work or labor, to prosecution or indictment for conspiracy under the criminal laws of this Commonwealth: *Provided*, That this act shall not be held to apply to the member or members of any club, society or organization, the constitution, by-laws, rules and regulations of which are not in strict conformity to the constitution of the State of Pennsylvania, and to the Constitution of the United States: *Provided*, That nothing herein contained shall prevent the prosecution and punishment, under existing laws, of any person or persons who shall, in any way, hinder persons who desire to labor for their employers from so doing, or other persons from being employed as laborers.

SEC. 73. It shall be lawful for employees, acting either as individuals or collectively, or as the members of any club, assembly, association or organization, to refuse to work or labor for any person, persons, corporation or corporations, whenever in his, her or their opinion the wages paid are insufficient, or his, her or their treatment is offensive or unjust, or whenever the continued labor or work by him, her or them would be contrary to the constitution, rules, regulations, by-laws, resolution or resolutions of any club, assembly, association, organization or meeting of which he, she or they may be a member or may have attended, and as such individuals or members or as having attended any meeting, it shall be lawful for him, her or them to devise and adopt ways and means to make such rules, regulations, by-laws, resolution or resolutions effective, without subjecting them to indictment for Conspiracy at common law or under the criminal laws for this commonwealth:

Provided, first, That this act shall not be held to apply to the member or members of any club, assembly, association, organization or meeting, the constitution, rules, regulations, by-laws, resolution or resolutions of which are not in conformity with the constitution of the United States, and to the constitution of this Commonwealth:

Provided, second, That nothing herein contained shall prevent the prosecution and punishment, under any law, other than that of conspiracy, of any person or persons who shall, by the use of force, threats or menace of harm to person or property, hinder or attempt to hinder any person or persons who may desire to labor or work for any employer from so doing for such wages and upon such terms and conditions as he, she or they may deem proper:

And provided, third, That nothing herein contained shall prevent the prosecution and punishment of any persons conspiring to commit a felony.

SEC. 3. The second proviso in * * * section [2 above] * * * shall be so construed that the use of lawful or peaceful means, having for their object a lawful purpose, shall not be regarded as "in any way hindering" persons who desire to labor; and that the use of force, threat or menace of harm to persons or property, shall alone be regarded as in any way hindering persons who desire to labor for their employers from so doing, or other persons from being employed as laborers.

(N. Y. P. C. 673, 675). And also in New York, Minnesota, Mississippi, North and South Dakota, Montana, and Oklahoma the common law of conspiracy is repealed, and

If two or more persons conspire, either (N. Y. P. C. 168; Minn. 6423; Miss. 1006; N. Dak. 7037); * * *

To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use or employment thereof,

or (N. Y., Minn., N. Dak., S. Dak. 6425, Okla. 2061, Mont. P. C. 320 Miss.),

To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws—

Each of them is guilty of misdemeanor;

and (N. Y. P. C. 170, Minn. 6424, Mont. P. C. 322, N. Dak. 7039)

No conspiracy is punishable criminally unless it is one of those enumerated in the last section, and the orderly and peaceable assembling or cooperation of persons employed in any calling, trade, or handicraft, for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such vote is not a conspiracy.

And also in Minnesota (6425) and South Dakota (6427) and Oklahoma (2063) and Montana (P. C. 323):

No agreement except to commit a felony upon the person of another, or to commit arson or burglary amounts to a conspiracy, unless some act beside such agreement be done to effect the object thereof, by one or more of the parties to such agreement.

In New Jersey (Sup. p. 774):

It shall not be unlawful for any two or more persons to unite, combine or bind themselves by oath, covenant, agreement, alliance or otherwise, to persuade, advise or encourage, by peaceable means, any person or persons to enter into any combination for or against leaving or entering into the employment of any person, persons or corporation;

and also (Rev. p. 261, § 191, as amended by § 9, p. 1296, Revision of 1877, and § 43, p. 199, Sup. of 1886):

If two or more persons shall combine, unite, confederate, conspire, or bind themselves by oath, covenant, agreement or other alliance to commit any crime, * * * , or to cheat and defraud any person of any property by any means which are in themselves criminal, or to cheat and defraud any person of any property by any means which, if executed, would amount to a cheat, * * * , or to commit any act for the perversion or obstruction of justice, or the due administration of the laws, they shall, on conviction, be deemed guilty of a conspiracy, and shall be punished by imprisonment at hard labor not exceeding two years, or by a fine not exceeding five hundred dollars, or both; but no agreement to commit any crime other than murder, manslaughter, sodomy, rape, arson, burglary or robbery, shall be deemed a conspiracy, unless some act in execution of such agreement be done to effect the object thereof by one or more of the parties to such agreement. *Provided,* That nothing in this section shall be construed to apply to any person or persons lawfully and by peaceful means persuading, advising or encouraging other persons to enter into any combination for or against leaving or entering into the employment of other persons.

In Illinois (38, 158):

If any two or more persons shall combine for the purpose of depriving the owner or possessor of property of its lawful use and management, or of preventing, by threats, suggestions of danger, or any unlawful means, any person from being employed by or obtaining employment from any such owner or possessor of property, on such terms as the parties concerned may agree upon, such persons so offending shall be fined not exceeding $500, or confined in the county jail not exceeding six months.

In Minnesota (§ 6815):

A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the pub-

lic peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor; but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

In Maryland, following the English statute, the entire common law of conspiracy is repealed as follows: "An agreement or combination by two or more persons, to do, or procure to be done, any act in contemplation or furtherance of a trade dispute between employers and workmen, shall not be indictable as a conspiracy, if such act, committed by one person, would not be punishable as an offense; nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or any offence against any person or against property" (Md. 27, 31), and Kansas has a novel statute aimed at corporations.[2]

SEC. 2. STRIKES ON RAILWAYS.—A few States have statutes specially regulating strikes upon railways (see also, for the regulation of acts of individuals, Chap I, Art. F, Sec. 2; and for Illinois, etc., see 3 below). These States are Maine, Pennsylvania, Illinois, New Jersey, Kansas, Delaware, and Mississippi.[1]

---

[2] Kansas, 1899, spec. 10, 42.

[1] Thus, in Maine (123, 6):

Any employee of a railroad corporation who, in pursuance of an agreement or combination by two or more persons to do, or procure to be done, any act in contemplation or furtherance of a dispute between such corporation and its employees, unlawfully or in violation of his duty or contract, stops or unnecessarily delays or abandons, or in any way injures a locomotive or any car or train of cars on the railway track of such corporation, or in any way hinders or obstructs the use of any locomotive, car or train of cars on the railroad of such corporation, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the State prison or in jail not exceeding one year.

In New Jersey (p. 946, 173–176), Pennsylvania (Dig. p. 533, 128–131), and Delaware (127, 1–5):

If any locomotive engineer, or other railroad employee (conductor, baggage master, brakeman or trainman, in Delaware) upon any railroad within this state, engaged in any strike, or with a view to incite others to such strike, or in furtherance of any combination or preconcerted arrangement with any other person to bring about a strike, shall abandon the locomotive engine in his charge, when attached either to a passenger or freight train, at any place other than the schedule or otherwise appointed destination of such train, or shall refuse or neglect to continue to discharge his duty, or to proceed with said train to the place of destination as aforesaid, he shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

If any locomotive engineer, or other railroad employee, within this state, for the purpose of furthering the object of, or lending aid to any strike or strikes, organized or attempted to be maintained on any other railroad, either within or without this state, shall refuse or neglect, in the course of his employment, to aid in the movement over and upon the tracks of the company employing him, [or] the cars of such other railroad company, received therefrom in the course of transit, he shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

If any person, in aid or furtherance of the objects of any strike upon any railroad, shall interfere with, molest or obstruct any locomotive engineer, or other railroad employee, engaged in the discharge and performance of his duty as such, every person so offending shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be fined not less than one hundred nor more than two hundred dollars, and may be imprisoned for a term not exceeding six months, at the discretion of the court.

If any person or persons, in aid or furtherance of the objects of any strike, shall

Strikes in mines.—North Dakota has adopted a special statute relating to conspiracies and mobs against mines (7662): "In all cases when two or more persons shall associate themselves together for the purpose of obtaining possession of a lode, gulch, or placer claim then in the actual possession of another by force and violence, or by threats

---

obstruct any railroad track within this state, or shall injure or destroy the rolling stock or any other property of any railroad company, or shall take possession of, or remove any such property, or shall prevent or attempt to prevent the use thereof by such railroad company or its employees, every such person so offending shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be fined not less than five hundred dollars nor more than one thousand dollars, and may be imprisoned not less than six months nor more than one year, at the discretion of the court.

In Illinois (109–111, 114), and Kansas, substantially (see below):

If any locomotive engineer in furtherance of any combination or agreement, shall wilfully and maliciously abandon his locomotive upon any railroad at any other point than the regular schedule destination of such locomotive, he shall be fined not less than $20, nor more than $100, and confined in the county jail not less than twenty days, nor more than ninety days.

If any person or persons shall wilfully and maliciously, by any act or by means of intimidation, impede or obstruct, except by due process of law, the regular operation and conduct of the business of any railroad company *or other corporation, firm or individual in this State*, or of the regular running of any locomotive engine freight or passenger train of any such company, or the labor and business of any such corporation, firm or individual, he or they shall, on conviction thereof, be punished by a fine of not less than twenty dollars nor less [more] than two hundred dollars, and confined in the county jail not more [less] than twenty days nor more than ninety days.

If two or more persons shall wilfully and maliciously combine or conspire together to obstruct or impede by any act, or by means of intimidation, the regular operation and conduct of the business of any railroad company or any other corporation, firm or individual in this State, or to impede hinder or obstruct, except by due process of law, the regular running of any locomotive engine freight or passenger train on any railroad, or the labor or business of any such corporation, firm, or individual, such person shall, on conviction thereof, be punished by fine not less than twenty dollars, nor more than two hundred dollars, and confined in the county jail not less than twenty days, nor more than ninety days.

This act, shall not be construed to apply to cases of persons voluntarily quitting the employment of any railroad company or such other corporation, firm or individual, whether by concert of action or otherwise, e[x]cept as is provided in [par. 109] * * *.

And also (Ill. 38, 187, 188, and 190):

If any two or more persons shall conspire or combine to break down, take up, injure or destroy any railroad track, or railroad bridge, or to burn or destroy any engine, engine house, car house, machine shop, or any other building or machinery necessary to the free use of any railroad, every such person shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

If any two or more persons shall attempt to prevent the passage of any railroad train, carrying any provisions, troops or munitions of war, for the use or in the employment of this State or of the United States, by any violence or offer of violence, or shall assemble themselves together for that purpose, or if any person shall induce, entice or persuade, or attempt to induce, entice or persuade any other person to do so, such persons, and each of them, shall be imprisoned in the penitentiary not less than one nor more than ten years.

Whoever shall maliciously hire, persuade or induce, attempt to hire, induce or persuade any person to burn, or in any way injure or destroy any railroad bridge, to take up, injure or destroy any railroad track, or any machine shop, engine house, car house, engine or car, or other machinery or property necessary for the operation of any railroad, shall be imprisoned in the penitentiary not less than one nor more than ten years.

In Kansas (2480–2483):

If any locomotive engineer, in furtherance of any combination or agreement, shall willfully and maliciously abandon his locomotive, upon any railroad, at any other point than the regular schedule destination of such locomotive, he shall be fined not

of violence, or by stealth, and shall proceed to carry out such purpose by making threats against the party or parties in possession, or who shall enter upon such lode or mining claim for the purpose aforesaid, or who shall enter upon or into—

any lode, gulch, placer claim or quartz mill or other mining property, or, not being upon such property but within hearing of the same, shall make any threats or make use of any language, sign or gesture calculated to intimidate any person or persons at work on said property from continuing work thereon or therein, or to intimidate others from engaging to work thereon or therein, every such person so offending, shall, upon conviction, be punished by imprisonment in the county jail not exceed-six months and not less than thirty days, and by fine not exceeding two hundred and fifty dollars, such fine to be discharged either by payment or by confinement in such jail until such fine is discharged at the rate of two dollars and fifty cents per day. On trials under this section, proof of a common purpose of two or more persons to obtain possession of property as aforesaid, or to intimidate laborers as above set forth, accompanied or followed by any of the acts above specified, by any of them, shall be sufficient evidence to convict any one committing such acts, although the parties may not be associated together at the time of committing the same.

SEC. 3. BOYCOTTS.—The ordinary acts committed by persons engaged in a boycott are usually prohibited by the statutes forbidding intimidation by individuals (see Chapter I, Art. F). As we said in that article, we have here to consider only those statutes which apply to combinations of

---

less than twenty dollars nor more than one hundred dollars, and confined not less than twenty days nor more than ninety days in the county jail.

If any person or persons shall willfully or maliciously, by any act or by means of intimidation, impede or obstruct, except by due process of law, the regular operation and conduct of the business of any railroad company, or other corporation, firm or individual in this State, or of the regular running of any locomotive engine, freight or passenger train of any such company, or the labor and business of any such corporation, firm or individual, he or they shall, on conviction thereof, be punished by a fine of not less than twenty dollars, nor more than two hundred dollars, and confined in the county jail not less than twenty days nor more than ninety days.

If two or more persons shall willfully and maliciously combine or conspire together to obstruct or impede by any act, or by means of intimidation, the regular operation and conduct of the business of any railroad company, or any other corporation, firm or individual in this State, or to obstruct, hinder, or impede, except by due process of law, the regular running of any locomotive engine, freight or passenger train on any railroad, or the labor or business of any such corporation, firm or individual, such persons shall on conviction thereof be punished by a fine of not less than twenty dollars, nor more than two hundred dollars, and confined in the county jail not less than twenty days nor more than ninety days.

This act [these paragraphs] shall not be construed to apply to cases of persons voluntarily quitting the employment of any railroad company, or such other corporation, firm or individual, whether by concert of action or otherwise, except as is provided in section one of this act [paragraph 2480].

In Mississippi:

SEC. 1266. If any person shall wantonly or maliciously injure, or place any impediment or obstruction on any railroad, or do any other act by means of which any car or vehicle might be caused to diverge, or be derailed, or thrown from the track, such person, on conviction, shall be imprisoned in the penitentiary not longer than ten years; and the penalty provided in this section shall apply to any engineer, conductor, switchman, brakeman, train dispatcher, or telegraph operator who shall willfully or negligently cause the derailment or collision of a passenger train.

SEC. 1270. If two or more persons shall willfully and maliciously combine or conspire together to obstruct or impede, by any act, or by means of intimidation, the regular operation and conduct of the business of any railroad company, or to impede hinder, or obstruct, except by due process of law, the regular running of any locomotive engine, freight or passenger train on any railroad, or the labor and business of such railroad company, such persons, and each of them, shall on conviction, be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months, or both; but this section shall not apply to persons who merely quit the employment of a railroad company, whether by concert of action or otherwise.

persons to boycott or injure others. The statutes concerning strikes or combinations to leave work, etc., will be found in section 1 of this article. In many cases, as will have been seen, these statutes apply also to combinations to boycott, the two matters being often covered by the same statute; but a few States have separate statutes applying expressly to boycotting. These are Maine, Illinois, Michigan, Wisconsin, Kansas, Colorado, Georgia, Florida, and Texas.[1] The Maryland and Montana

---

[1] Thus, in Maine (R. S., 126, 18):

SEC. 18. If two or more persons conspire and agree together, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business, or property of another; or to do any illegal act injurious to the public trade, * * *, they are guilty of a conspiracy, and every such offender, and every person convicted of conspiracy at common law, shall be punished by imprisonment for not more than three years, or by fine not exceeding one thousand dollars.

In Illinois (38, 46):

If any two or more persons conspire or agree together, or the officers or executive committee of any society or organization or corporation, shall issue or utter any circular or edict, as the action of or instruction to its members, or any other persons, societies, organizations, or corporations, for the purpose of establishing a so-called boycott or blacklist, or shall post or distribute any written or printed notice in any place, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business, or employment, or property of another, * * *, or to do any illegal act injurious to the public trade, health, morals, police, or administration of public justice, or to prevent competition in the letting of any contract by the State, or the authorities of any counties, city, town or village, or to induce any person not to enter into such competition, * * * they shall be deemed guilty of a conspiracy; and every such offender, whether as individuals or as the officers of any society or organization, and every person convicted of conspiracy at common law, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding two thousand dollars, or both.

In Kansas (2481–2483) and Illinois (114, 109–111—see § 2 above):

If any person or persons shall willfully and maliciously by any act, or by means of intimidation, impede or obstruct, except by due process of law, the regular operation and conduct of the business of any railroad company or *other corporation, firm or individual in this state*, or of the regular running of any locomotive engine, freight, or passenger train of any such company, or the labor and business of any such corporation, firm or individual, he or they shall, on conviction thereof, be punished by imprisonment in the county jail not more than three months, or in the state prison for a period not exceeding one year.

If two or more persons shall willfully and maliciously combine, or conspire together, to obstruct or impede, by any act or by means of intimidation, the regular operation and conduct of the business of any railroad company or any other corporation, firm, or individual in this state, or to impede, hinder, or obstruct, except by due process of law, the regular running of any locomotive engine, freight or passenger train, on any railroad, or the labor and business of any such corporation, firm, or individual, such persons shall, on conviction thereof, be punished by imprisonment in the county jail for a period not more than three months or in the state prison for a period not exceeding two years.

This act shall not be construed to apply to cases of persons voluntarily quitting the employment of any railroad company or such other corporation, firm, or individual, whether by concert of action or otherwise.

In Michigan this statute appears to have been repealed.

In Wisconsin (4466a):

Any two or more persons who shall combine, associate, agree, mutually undertake, or concert together for the purpose of willfully or maliciously injuring another in his reputation, trade, business or profession, by any means whatever, or for the purpose of maliciously compelling another to do or perform any act against his will, or preventing or hindering another from doing or performing any lawful act, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars.

In Colorado (1295):

It shall not be unlawful for any two or more persons to unite, or combine, or agree in any manner, to advise or encourage, by peaceable means, any person or persons to

statutes (see section 1 of this article) seem to legalize all boycotts in labor cases; and other statutes of other States quoted in section 1 might apply as well to boycotts as to strikes. Such are the laws of New York, New Jersey, Pennsylvania, Illinois, Minnesota, North and South Dakota, Montana, Oklahoma, and Mississippi. In Wisconsin, North Dakota, and Florida the statutes concerning blacklisting (see Chap. X, section 1), cover also the matter of boycotts.

SEC. 4. PICKETING.—The English statute has expressly regulated this subject, substantially permitting picketing or patrolling by not more than two persons conducted in a peaceable manner for purposes of observation. There are no statutes whatever upon the subject in the United States.

SEC. 5. INJUNCTIONS AGAINST STRIKES, BOYCOTTS, AND OTHER LABOR COMBINATIONS.—This matter might well be regulated by statute, and it has to a slight extent been so treated in United States laws, but the only statute yet passed concerning injunctions or equity process in labor cases, that of Kansas, applies generally to all injunctions. (See Chapter I, Art. E, above.)

SEC. 6. RIOTS.—The matter of riots is usually covered by ordinary criminal statutes, and the militia laws; but the States of Indiana, Ohio,

---

enter into any combination in relation to entering into or remaining in the employment of any person, persons or corporation, or in relation to the amount of wages or compensation to be paid for labor, or for the purpose of regulating the hours of labor, or for the procuring of fair and just treatment from employers, or for the purpose of aiding and protecting their welfare and interests in any other manner not in violation of the constitution of this State or the laws made in pursuance thereof: *Provided*, That this act shall not be so construed as to permit two or more persons, by threats of either bodily or financial injury, or by any display of force, to prevent or intimidate any other person from continuing in such employment as he may see fit, or to boycott or intimidate any employer of labor.

And by a late statute (Col. 1897, 31, 3):

It shall be unlawful for any person . . . society or union to establish . . . or engage in a boycott against any individual or corporation carrying on any kind of trade or business, by agreement not to patronize, trade or do business with such individual etc., or to induce others not to &c., under penalty of misdemeanor.

In Georgia (4498):

If any two or more persons shall associate themselves together in any society or organization whatever, with intent and for the purpose of preventing, in any manner whatever, any person or persons whomsoever from apprenticing himself or themselves to learn and practice any trade, craft, vocation or calling whatsoever, or for the purpose of inducing, by persuasion, threats, fraud, or any other means, any apprentice or apprentices to any such trade, craft, vocation, or calling, to leave the employment of their employer or employers, or for the purpose, by any means whatever, of preventing or deterring any person or persons whomsoever, from learning and practicing any such trade, craft, vocation or calling whatsoever, every such person so associating himself in such society or organization shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished as prescribed in section 4310 of this Code.

In Texas (P. C. 279, 289):

An 'unlawful assembly" is the meeting of three or more persons, with intent to aid each other by violence or in any other manner either to commit an offense or illegally to deprive any person of any right, or to disturb him in the enjoyment thereof.

If the purpose of the unlawful assembly be to prevent any person from pursuing any labor, occupation or employment, or to intimidate any person from following his daily avocation, or to interfere in any manner with the labor or employment of another, the punishment shall be by fine not exceeding five hundred dollars.

In Montana the common law of conspiracy is repealed, and the conspiracy statute, as in Maryland, is expressly declared "not apply to any arrangement, agreement or combination between laborers made with the object of lessening their hours of work or increasing wages, nor to persons engaged in agriculture or horticulture with a view of embracing the price of their products" (Mont. P. C., 325).

Illinois, Minnesota, and others have recently adopted laws so obviously aimed at labor disorders, and so original in their provisions, that I have deemed it worth while to summarize them in a footnote.[1]

---

[1] Indiana (1895, 53):

Whenever there shall be in any city, town or county, any tumult, riot, mob, or any body of men acting together by force, with intent to commit any felony or misdemeanor, or to offer violence to any person or property, or by force and violence to break and resist the laws of this state, or the laws or authorities of the United States, or any such tumult, riot or mob shall be threatened, and the fact be made to appear to the governor or the mayor of any city or any court of record, or judge thereof, or to any sheriff or deputy, the governor may issue his written order directing the senior or other military officers to turn out such portion of his command as may be necessary to quell, suppress or prevent such tumult or threatened tumult, and the officer or member of the militia who shall fail promptly to obey such orders shall be cashiered. Whenever it becomes necessary, in order to sustain the supremacy of the law, that the troops should fire upon a mob, person or persons, the officer in command shall direct when the order to fire shall be given and when the firing is to cease. No such officer shall, under any pretence or in compliance with any order, fire blank cartridges on a mob, under penalty of being cashiered under sentence of court martial. Any person interrupting, molesting, etc., any officer or enlisted man of the militia, etc., may be immediately arrested and kept confined at the discretion of the commanding officer until sunset, or for such reasonable time as may be necessary to procure his arrest by the civil authorities, and such offender may be arrested and punished by a court of competent jurisdiction as for a breach of the peace.

In Illinois (38, 248–256r):

If two or more persons shall meet to do an unlawful act upon a common cause of quarrel, and make advances toward it, they are guilty of riot. If they actually do an unlawful act with force or violence against the person or property of another, with or without a common cause of quarrel, or even do an unlawful act in a violent and tumultuous manner, they are guilty of riot. If they assemble together to do an unlawful act, and separate without doing it, they are guilty of unlawful assembly; and if they do not disperse on being desired or commanded to do so by an officer of the peace, they are liable to a fine. When twelve or more persons, and all of them armed with clubs or dangerous weapons, or thirty or more armed or unarmed, are unlawfully, riotously, or tumultuously assembled * * * , the municipal officers, constables, justice of the peace, sheriff of the county, shall go among them, and command them to disperse, and if they do not obey they shall command assistance from all persons present, and every person refusing to disperse or to assist as aforesaid is deemed one of such unlawful assembly. Any two of the magistrates * * * may require the aid of a sufficient number of persons in arms or otherwise to suppress such assembly, and such armed force shall obey the orders which they receive from the governor, any judge of a court of record, any sheriff or any two magistrates or officers. If in such efforts any persons are killed or wounded said magistrates, officers, and other persons shall be justified in law. If any of said magistrates, officers or persons acting with them are killed or wounded all persons so unlawfully assembled or refusing to give assistance shall be held answerable therefor.

There are also provisions prescribing heavy punishment for such persons so assembled pulling down or beginning to destroy any property, and the city or county is liable to three-fourths of the damages, though the person injured preserves his remedies against the persons actually doing the injury, and the city or county has a lien upon any damages that may be recovered against them. The sheriff may swear any number of deputies or he may make requisition on the adjutant-general of the state for arms, or upon the governor for the militia. The military force are to report to the civil officer so applying for aid, or to such civil officer as the governor shall designate and act under his orders. It is made the duty of the governor in such cases of tumult, etc., to order such military force as he deems necessary to aid the civil authorities. Persons molesting the militia or officers may be put under guard, and turned over to the civil authorities.

The Wisconsion statute (4511–4519) and that of Minnesota (6930–6936), Nebraska, (6677–6681), South Dakota (6677–6684), are substantially similar, except that they leave out the provisions making counties or towns liable for damages.

In Texas (P. C. 295, 304):

TITLE 9.—*Riot.*

ARTICLE 295. If the persons unlawfully assembled together do, or attempt to do, any illegal act, all those engaged in such illegal act are guilty of riot.

ARTICLE 304. If any person, by engaging in a riot, shall prevent any other person

SEC. 7. RESPONSIBILITY OF TOWNS, ETC., FOR RIOTS.—This is not a common-law liability, and must rest upon the statutes, which, how-

---

from pursuing any labor, occupation or employment, or intimidate any other person from following his daily avocation, or interfere in any manner with the labor or employment of another, he shall be punished by confinement in the county jail not less than six months nor more than one year.

And in Ohio (1895, p. 136) and Michigan (1899, 252):

Any collection of individuals, assembled for any unlawful purpose, intending to do damage or injury to anyone or pretending to exercise correctional power over other persons by violence, and without authority of law, shall for the purpose of this act be regarded as a "mob," and any act of violence exercised by them upon the body of any person shall constitute a "lynching."

The term "serious injury," for the purposes of this act, shall include any such injury as shall permanently or temporarily disable the person receiving it from earning a livelihood by manual labor.

Any person who shall be taken from the hands of the officers of justice in any county by a mob, and shall be assaulted by the same with whips, clubs, missiles, or in any other manner, shall be entitled to recover from the county in which such assault shall be made the sum of one thousand dollars as damages, by action as hereinafter provided.

Any person assaulted by a mob and suffering lynching at their hands, shall be entitled to recover of the county in which such assault is made the sum of five hundred dollars; or if the injury received is serious the sum of one thousand dollars; or if it result in permanent disability to earn a livelihood by manual labor, the sum of five thousand dollars.

The legal representative of any person suffering death by lynching at the hands of a mob, in any county of this State, shall be entitled to recover of the county in which such lynching may occur the sum of five thousand dollars damages for such unlawful killing. Said recovery shall be applied first to the maintenance of the family and education of the minor children of the person so lynched, if any be left surviving him, until such minor children shall become of legal age, and then be distributed to the survivors, share and share alike, the widow receiving a child's share. If there be no wife or minor children left surviving such decedent, the said recovery shall be distributed among the next of kin according to the laws for the distribution of the personalty of an intestate. Such recovery shall not be regarded as a part of the estate of the person lynched, nor be subject to any of his liabilities. Any person suffering death or injury at the hands of a mob engaged in an attempt to lynch another person, shall be deemed within the provisions of this act, and he or his legal representatives shall have the same right of action thereunder as one purposely injured or killed by such mob.

Actions for the recoveries provided for in this act may be begun in any court having original jurisdiction of an action for damages for malicious assault, within two years of the time of such lynching.

An order to the commissioners of any county against which such recovery may be made, to include the same with costs of action in the next succeeding tax levy for said county, shall form a part of the judgment in every such case.

Any person entitled to a share in any recovery under this act who shall consent to a release or compromise of such claim in consideration of the payment of any sum less than the full amount of said recovery, shall be liable to indictment for a misdemeanor and punished, at the discretion of the court, as in other misdemeanors.

In case the decedent has left minor children him surviving, the fund shall be turned over to a regularly appointed guardian, who shall apply the same under the direction of the judge of probate, allowing not more than five hundred dollars for counsel fees in the action for such recovery.

The county in which any lynching shall occur shall have a right of action to recover the amount of any judgment rendered against it in favor of the legal representatives of any person killed or seriously injured by a mob, including costs, against any of the parties composing such mob. Any person present at such lynching shall be deemed a member of the mob and shall be liable in such action.

In case a mob shall carry a prisoner into another county or shall come from another county to commit violence on a prisoner brought from such county for safe-keeping, the county in which the lynching was committed may recover the amount of the judgment and costs against the county from which the mob came, unless there was contributory negligence on the part of the officials of said county in failing to protect the prisoner or disperse said mob.

Nothing in this act shall be held to relieve any person concerned in such lynching for (from) prosecution for homicide or assault for engaging therein.

ever, have been passed in several States. See examples in section 6 and note.[1]

[1]Thus, by a new statute of Kentucky (1894, 1, 8):

If, within any city, any church, convent, chapel, dwelling house, or house used or designed for the transaction of lawful business, or ship or shipyard, boat or vessel, or railroad, or property of any kind belonging to any street or other railroad company, or any article of personal property, shall be injured or destroyed, or if any property therein or thereon shall be taken away or injured by any riotous or tumultuous assemblage of people, the full amount or the damages so done shall be recoverable by the person injured by action against the city if the authorities thereof have the ability of themselves or with the aid of their own citizens to prevent such damage; but no such liability shall be incurred by such city unless the authorities thereof shall have had notice or good reason to believe that such riot or tumultuous assemblage was about to take place, or having taken place, shall have had notice of the same in time to prevent said injury or destruction, either by their own force or by the aid of the citizens of such city. No persons shall maintain such action who shall have unlawfully contributed by word or deed toward exciting or inflaming such tumult or riot, or who shall have failed to do what he reasonably could toward preventing, allaying or suppressing it.

In South Carolina (1893, 12):

Sec. 203. In all cases where any dwelling house, building, or any property, real or personal, shall be destroyed in consequence of any mob or riot, it shall be lawful for the person or persons owning or interested in such property to bring suit against the county in which such property was situated and being, for the recovery of such damages as he or they may have sustained by reason of the destruction thereof; and the amount which shall be recovered in said action shall be paid in the manner provided by section 202 of this chapter.

Sec. 204. No person or persons shall be entitled to the recovery of such damages if it shall appear that the destruction of his or their property was caused by his or their illegal conduct, nor unless it shall appear that he or they, upon knowledge had of the intention or attempt to destroy his or their property, or to collect a mob for that purpose, and sufficient time intervening, gave notice thereof to a constable, sheriff or trial justice of the county in which such property was situated and being; and it shall be the duty of such constable, sheriff or trial justice, upon receipt of such notice, to take all legal means necessary for the protection of such property as is attacked, or threatened to be attacked; and if such constable, sheriff or trial justice, upon receipt of such notice, or upon knowledge of such intention or attempt to destroy such property, in any wise received, shall neglect or refuse to perform his duty in the premises, he or they so nelecting or refusing shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office, and on conviction thereof shall forfeit his commission.

Sec. 205. Nothing in the foregoing sections of this chapter shall be construed to prevent the person or persons whose property is so injured or destroyed from having and maintaining his or their action against all and every person and persons engaged or participating in said mob or riot, to recover full damages for any injury sustained: *Provided, however,* That no damages shall be received by the party injured against any of the said rioters for the same injury for which compensation shall be made by the county.

Sec. 206. It shall be lawful for the county supervisor of the county against which damages shall be recovered under the provisions of this chapter to bring suit or suits in the name of the county against any and all persons engaged or in any manner participating in said mob or riot, and against any constable, sheriff, trial justice, or other officer charged with the maintenance of the public peace, who may be liable, by neglect of duty, to the provisions of this chapter, for the recovery of all damages, costs and expenses incurred by said county; and such suits shall not abate or fail by reason of too many or too few parties defendant being named therein.

Sec. 207. Sheriffs, constables, and other officers in the several circuits or counties vested with powers of arresting, imprisoning and bailing offenders against the laws of this State, are hereby specially authorized and required to institute proceedings against all and every person and persons who shall violate the provisions of the preceding sections of this chapter, and cause him and them to be arrested, imprisoned, or bailed, as the case may require, for a trial before such court as shall have jurisdiction of the offense.

Sec. 208. The circuit courts of this State, within their respective circuits, in the

counties of which the circuits are respectively composed, shall have cognizance of all offenses committed against the provisions of Sections 198 to 206, inclusive, of this chapter.

And in Rhode Island (1896, 278):

Sec. 9. Whenever any property of the value of fifty dollars or more shall be destroyed or be injured to that amount by any persons to the number of six or more unlawfully, routously, riotously or tumultuously assembled, the town or city within which said property was situated shall be liable to indemnify the owner thereof to the amount of three-fourths of the property so destroyed or three-fourths of the amount of such injury thereto, to be recovered in an action of the case in any court proper to try the same, provided the owner of such property shall use all reasonable diligence to prevent its destruction or injury by such unlawful assembly and to procure the conviction of the offenders.

Sec. 10. Any town or city which shall pay any sum under the provisions of the preceding section, may recover the same against any or all of the persons who shall have destroyed or injured such property.

Chapter X.

UNIONS OR COMBINATIONS OF EMPLOYERS, TRUSTS, ETC.

Sec. 1. Blacklisting (see also Chap. IX, Art. B, § 3; Chap. I, Art. F).—Most of the States have now adopted statutes against blacklisting. In North Dakota (§ 212) and Utah (Con. 16, 4) the exchange of blacklists by corporations, or in Utah by any persons, is forbidden by the constitution. Many States make it a penal offense willfully to prevent discharged employees,[1] or in some States any persons,[2] from obtaining a situation. In some States the employee must be furnished with the cause of his discharge in writing,[3] but a truthful statement of the reason for such discharge may be furnished other employers.[4] Finally, in New York, Connecticut, Illinois, Iowa, and other States the exchange of blacklists is merely prohibited under that name.[5] Important typical statutes are copied below.[6] False reports, etc., only are prohibited in Missouri and Arkansas.[7]

---

[1] Conn. 1897, 184; Ind. 7076–8; Iowa 1888, 57; Kans. 1897, 144; Mont. Pol. C. 3390–3392; Ga. 1891, p. 183; Colo. 239, 240; Nev. 1895, 75; Va. 1892, 622; Ala. 3763; Okla. 1897, 13, 4; Utah 1896, 6; Fla. 1893, 4207.

[2] Wis. 4466b; Minn. 1895, 174; Mo. 1891, p. 122; N. Dak. P. C. 7041–7042; Wash. 1899, 23.

[3] Ohio (in railways only) 1890, p. 149, 1; Colo., Ind., Kans., Mont., Ga., Fla. This latter part of the statute was declared unconstitutional in Georgia (Wallace *v.* Georgia C. & N. Rwy. Co., 22 S. E., 579).

[4] Ind., Ill. 38, 46; Iowa, Wis., Va., Mont., Ga., Fla.

[5] Ind., Ill. Wis., Minn., Mo. 1891, p. 122; Iowa, Mont., Colo. 239; 1897, 31; Ga. *ib.;* Utah, Okla. *ib.;* N. Dak. P. C. 7041, 7042; Wash.

[6] Thus, in Indiana (7076–7078), Iowa (1888, 57), Montana (Pol. C. 3390–2), Georgia (1891, p. 183), and Florida (1893, 4207):

If any person, agent, company or corporation, after having discharged any employee from his or its service, shall prevent, or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company or corporation, such person, agent or corporation shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars nor less than one hundred dollars, and such person, agent, company or corporation shall be liable in penal damages to such discharged person, to be recovered by civil action; but this section shall not be construed as prohibiting any person or agent of any company or corporation from informing in writing any other person, company or corporation, to whom such discharged person or employee has applied for employment, a truthful statement of the reasons for such discharge.

If any railway company or any other company or partnership or corporation in this State shall authorize, allow or permit any of its or their agents to blacklist any discharged employees, or attempt by words or writing, or any other means whatever, to prevent such discharged employee, or any employee who may have voluntarily left said company's service, from obtaining employment with any other person, or company, said company shall be liable to such employee in such sum as will fully compensate him, to which may be added exemplary damages.

It shall be the duty of any person, agent, company or corporation, after having discharged any employee from his or its service, upon demand of such discharged

SEC. 2. PINKERTON MEN, ETC.—By the constitutions of Utah, Montana, South Carolina, Kentucky, and Wyoming, and law of South

---

employee, to furnish him in writing a full, succinct, and complete statement of the cause or causes of his discharge, and if such person, agent, company or corporation shall refuse so to do within a reasonable time after such demand, it shall ever after be unlawful for such person, agent, company or corporation to furnish any statement of the cause of such discharge to any person or corporation, or in any way to blacklist or to prevent such discharged person from procuring employment elsewhere, subject to the penalties prescribed in * * * this act: *Provided*, That said written cause of discharge, when so made by such person, agent, company or corporation at the request of such discharged employee shall never be used as the cause for an action for slander or libel, either civil or criminal, against the person, agent, company or corporation so furnishing the same.

In Connecticut (1897, 184):

Every employer who shall blacklist an employee with intent to prevent such employee from procuring other employment shall, upon conviction, be fined not more than two hundred dollars.

And in Georgia, also (1891, p. 183, §§ 4–5), and Florida (1893, 4207):

It shall be the duty of any person, company or corporation, who has received any request or notice in writing, sign, word or otherwise, from any other person, company or corporation, preventing or attempting to prevent the employment of any person discharged from the service of either of the latter, on demand of such discharged employee, to furnish to such employee, within ten days after such demand, a true statement of the nature of such request or notice, and if in writing, a copy of the same, and if a sign, the interpretation thereof, with the name of the person, company or corporation furnishing the same, with the place of business of the person or authority furnishing the same, and a violation of this section shall subject the offender to all the penalties, civil and criminal, provided by the foregoing sections of this act.

The provisions of this act shall apply to and prevent, under all the penalties aforesaid, railroad companies or corporations, under the same general management and control but having separate divisions, superintendents or master mechanics, master machinists or similar officers for separate or different lines, their officers, agents and employers from preventing or attempting to prevent, the employment of any such discharged person by any other separate division, or officer, or agent or employer of any such separate railroad line or lines.

The Georgia act No. 779 (1891, p. 183), imposing $500 penalty, etc., was held unconstitutional.

In Wisconsin (§ 4466b as amended by chapter 240, acts of 1895) and substantially in Minnesota (1895, 174):

1. It shall be unlawful for any two or more employers of labor, whether it be person, partnership, company or corporation, to combine or agree to combine, for the purpose of preventing any person or persons seeking employment from obtaining the same, or for the purpose of procuring and causing the discharge of any employee or employees, either by threats, promises, or by circulating blacklists, or causing the same to be circulated. 2. If any person, partnership, company or corporation, after having discharged any employee from his or its service shall prevent or attempt to prevent such discharged employee from obtaining employment with any other person, partnership, company or corporation, either by threats, promises, or by blacklisting such discharged employee, and circulating said blacklist, such person, partnership, company or corporation shall be deemed guilty of a misdemeanor. 3. If any person, partnership, company or corporation shall authorize, permit or allow any of its or their agents to blacklist any discharged employee or employees, or any employee or employees who may have voluntarily left the service of such person, partnership, company or corporation, and to circulate the same, to prevent such employee or employees from obtaining employment from any other person, partnership, company or corporation, such person, partnership, company or corporation shall be deemed guilty of a misdemeanor. 4. Any, person, partnership, company or corporation who shall hereafter coerce or compel any person or persons to enter into an agreement not to join or become a member of any labor organization as a condition of such person or persons securing employment, or continuing in the employment of any such person, partnership, company or corporation, shall be deemed guilty of a misdemeanor. 5. Any person, partnership, company or corporation violating any of the provisions of the preceding sections [subsections] shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one

Dakota, no armed police force or detective agency, armed body or unarmed body of men, shall ever be brought into the State for the

---

hundred dollars or more than five hundred dollars; and all fines so collected shall be paid into the treasury of the State of Wisconsin for the use of the common school fund. 6. Nothing in this act [section] shall be construed as prohibiting any person, partnership, company or corporation from giving any other person, company or corporation to whom such discharged employee has applied for employment, or to any bondsman or surety, a truthful statement of the reasons for such discharge, when requested to do so by such employee or person to whom he has applied for employment, or by such bondsman or surety, but it shall be unlawful to give such information with the intent to blacklist, hinder or prevent such employee from obtaining employment; nor shall anything in this act be construed as prohibiting any person, partnership, company or corporation from keeping for his or its own information and protection a record showing the habits, character and competency of his or its employees, and the cause of the discharge or voluntarily quitting of any employee of such employer.

In Missouri (1891, p. 122, § 1):

Every person who shall, in this State, send or deliver, or shall make or cause to be made, for the purpose of being delivered or sent, or shall part with the possession of any paper, letter or writing, with or without a name signed thereto, or signed with a fictitious name, or with any letter, mark or other designation, or shall publish or cause to be published any false statement for the purpose of preventing such other person from obtaining employment in this State or elsewhere, and every person who shall "blacklist" or cause to be "blacklisted" any person or persons, by writing, printing, publishing, or causing the same to be done, the name or any mark or designation representing the name of any person in any paper, pamphlet, circular or book, together with any false statement concerning said persons so named, or shall publish that any one is a member of any secret organization, for the purpose of preventing such other person from securing employment, or any person who shall do any of the things mentioned in this section for the purpose of causing the discharge of any person employed by any railroad or other company, corporation, individuals or individual, shall, on conviction, be adjudged guilty of a misdemeanor and punished by a fine not exceeding one thousand dollars, or imprisonment in the county jail, or by both such fine and imprisonment.

In North Dakota (P. C., 7041, 7042):

Every person, corporation, or agent thereof, who maliciously interferes or hinders, in any way, any citizen of this State from obtaining employment or enjoying employment, already obtained, from any other person or corporation, is guilty of a misdemeanor.

Every corporation, officer, agent or employee thereof, and every person of any corporation, on behalf of such corporation, who exchanges with or furnishes or delivers to any other corporation or any officer, agent, employee or person thereof, any "blacklist," is guilty of a misdemeanor.

In Kansas (1897, 144):

SECTION 1. Any employer of labor in this State, after having discharged any person from his service, shall not prevent or attempt to prevent by word, sign or writing of any kind whatsoever, any such discharged employee from obtaining employment from any other person, company or corporation except by furnishing, in writing, on request, the cause of such discharge.

SEC. 2. Any employer of labor in this State shall, upon the request of a discharged employee, furnish, in writing, the true cause or reason for such discharge.

SEC. 3. Any employer of labor, his agent or employee who shall violate the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction, be fined for each offense the sum of one hundred dollars and thirty days' imprisonment in the county jail.

SEC. 4. Any person, firm, or corporation, found guilty of the violation of sections one and two of this act, shall be liable to the party injured to an amount equal to three times the sum he may be injured, and such employers of labor shall also be liable for a reasonable attorney fee which shall be taxed as part of the costs in the case.

In Colorado (§§ 239, 240):

No corporation, company or individual shall blacklist or publish, or cause to be blacklisted or published, any employee, mechanic or laborer, discharged by such corporation, company or individual, with the intent and for the purpose of preventing

suppression of domestic violence, except upon the application of the legislature, or executive when the legislature can not be convened[1]. It may be queried if this provision is consistent with the national con-

---

such employee, mechanic or laborer from engaging in or securing similar or other employment from any other corporation, company or individual.

If any officer, or agent of any corporation, company or individual, or other person, shall blacklist, or publish, or cause to be blacklisted or published, any employee, mechanic, or laborer, discharged by such corporation, company or individual, with the intent and for the purpose of preventing such employee, mechanic or laborer from engaging in or securing similar or other employment, from any other corporation, company or individual, or shall in any manner conspire or contrive by correspondence, or otherwise, to prevent such discharged employee from securing employment, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty (50), nor more than two hundred and fifty (250) dollars, or be imprisoned in the county jail not less than thirty, nor more than ninety days, or both.

In Florida (1893, 4144):

SEC. 1. If two or more persons shall agree, conspire, combine, or confederate together for the purpose of preventing any persons from procuring work in any firm or corporation, or to cause the discharge of any person or persons from work in such firm or corporation, or if any person or persons shall verbally or by a written or printed communication, threaten any injury to the life, property or business of any person, for the purpose of procuring the discharge of any workman in any firm or corporation, or to prevent any person or persons from procuring work in such firm or corporation, such person or persons so combining shall be deemed guilty of a misdemeanor and upon conviction [thereof] shall be punished by fine not exceeding five hundred dollars each, or by imprisonment not exceeding one year.

[7] Mo. (1891, p. 127); Ark. (1897, 21):

SEC. 3789a (added by act approved April 18, 1891, page 127, acts of 1891). Every person who shall by any letter, mark, sign or designation whatever, or by any verbal statement, falsely report to any railroad, or any other company or corporation, or to any corporation, individual or individuals, or to any of the offices [officers], servants, agents or employees of any such corporation, individual or individuals, that any conductor, brakeman, engineer, fireman, station agent or other employees of any such railroad company, corporation or individual, have received any money for the transportation of persons or property, or shall falsely report by any of the means aforesaid, that any such conductor, station agent or other employee of any railroad company, persons or corporation neglected, failed or refused to collect any property charges for the transportation of persons or property, when it was their duty to do so, shall, on conviction, be adjudged guilty of a misdemeanor.

[1] Thus, in Kentucky (Const., 225), Montana (Const., 3, 31), Wyoming (Const., 19, 1), South Dakota (1893, 17):

SEC. 225. No armed person or bodies of men shall be brought into this State for the preservation of the peace or the suppression of domestic violence, except upon the application of the General Assembly, or of the governor when the General Assembly may not be in session.

In South Carolina (Const., 8):

No armed police force or representatives of a detective agency shall ever be brought into this State for the suppression of domestic violence; nor shall any other armed or unarmed body of men be brought in for that purpose, except upon the application of the general assembly or of the executive of this State (when the general assembly is not in session), as provided in the Constitution of the United States. The general assembly shall provide proper penalties for the enforcement of the provisions of this section.

In Utah (Const., 12, 16):

No corporation or association shall bring any armed person or bodies of men into this State for the preservation of the peace, or the suppression of domestic troubles without authority of law.

And in the District of Columbia (U. S. 1893, 208):

Hereafter no employee of the Pinkerton Detective Agency, or similar agency, shall be employed in any Government service or by any officer of the District.

stitution. In Missouri, Nebraska, and Wyoming,[2] also, there is a new statute on the subject.

But Massachusetts, New York, Pennsylvania, Illinois, Minnesota, Arkansas, Texas, and New Mexico have laws against the employment by sheriffs, mayors, etc., of deputy sheriffs, etc., from beyond the State, or even from beyond the county in New York, Illinois, and Arkansas[3] (Mass. 1892, 413; N. Y. P. C. 119; Pa. Dig., p. 1697; Ill. 1893, p. 2; Minn. 6958; Ark. 1829; Tex. 1893, 104; N. Mex. 1891, 60).

---

[2] Mo. 3772–3775; Nebr. 6967–9; Wyo. 1891, 10:

It is unlawful for any person or persons, company, association, or corporation to bring or import into this State any person or persons, or association of persons, for the purpose of discharging the duties devolving upon the police officers, sheriffs, or constables, in the protection or preservation of public or private property.

Hereafter no sheriff in this State shall appoint any under sheriff or deputy sheriff, except the person so appointed shall be, at the time of his appointment, a *bona fide* resident of the State.

The mayor, chief of police, and members of the board of police commissioners of any city in this State shall be governed by the same restrictions and subject to the same penalties as a sheriff of any county, under the provisions of this article.

Any person or persons violating any of these provisions shall be punished by imprisonment in the penitentiary for not less than two years nor more than five years; and if any company, association, or corporation shall be guilty of violating this article, said company, association, or corporation shall be punished by a fine of not less than one thousand dollars.

[3] Massachusetts (1892, 413):

Sec. 1. Whenever in case of emergency special officers are appointed, whether under the name of police officers or any other name, to act in the capacity of police officers for quelling a riot or disturbance, or for protecting property, no person shall be so appointed who is not a resident of this Commonwealth. But this section shall not prevent the appointment of a person not a resident of this Commonwealth to act in the capacity of a police officer for protecting the property of a person or corporation of whom or of which he is a regular employee.

Sec. 2. Any person or corporation may at any time, in case of danger to his or its property, call upon the regularly constituted police authorities in this Commonwealth for assistance in the protection of the same, and nothing in this chapter shall in any way limit or diminish such right. But no private individual or corporation shall request or authorize any person or body of persons nonresidents of this Commonwealth, other than regular employees, to assist such corporation with arms in the defense of its property, and no such request or authorization shall operate as a justification of any assault or attack made by a nonresident with arms upon any person in this Commonwealth. If a private corporation or an individual who is an employer of labor, requests or authorizes persons to render assistance in violation of this section, such corporation or individual and each and every person rendering such assistance with arms shall be severally liable to each individual injured in person or property by any act of such nonresident for the damages resulting from such injury, to be recovered in an action of tort.

In Minnesota (6960):

It shall also be unlawful to institute or keep any private detective office for the purpose of keeping or letting out any armed force for hire. And it shall be unlawful for any person or persons, company or corporation, to keep or let any armed force for hire; but all armed forces shall be subject to the police authorities created by law, and under the control of the State or municipality. No person shall be appointed as a detective, spy or secret agent by any municipal authority until he has become a legal voter of the State of Minnesota and been a continuous resident of the State for four months next preceding such appointment. But nothing herein contained shall prevent the employment of any detective resident or nonresident, by any person or corporation, municipal or otherwise, to obtain information as to the commission of any crime, and to report upon the same, but without any authority to make arrests or bear arms.

In West Virginia (1893, 42):

Section 1. It shall be unlawful for any officer in this State, to knowingly engage or employ any person not a *bone* [*bona*] *fide* resident of West Virginia, at the time of

In Wisconsin (1893, 163) and Arkansas[4] the use or employment of bodies of armed men to act as militiamen, policemen, or police officers, who are not duly authorized so to act under the State law, is declared unlawful, and no person or corporation may employ such body of armed men to act in such capacity for the protection of person or property or the suppression of strikes, whether they be employees of detective agencies or otherwise. Violation of the provisions of this act is made a felony. Such persons are also civilly liable in Arkansas.

In Oregon there is an extraordinary statute which makes it unlawful for any person to employ an armed body of men *in the State* for police or guard duty, or to maintain an armed or uniform patrol system not under the direct control and appointed by the proper municipal departments, under penalty of misdemeanor (Oreg. 1899, p. 96).

---

such employment, to do or perform police duty of any sort therein, or in any way to aid or assist in the execution of the laws of this State.

SEC. 2. It shall be unlawful for any corporation, company, firm or persons, under any circumstances, to knowingly engage or employ any person not a *bona fide* resident of this State, at the time of such employment, to do or perform police duty of any sort therein, or in any way to aid or assist in the execution of the laws of this State.

SEC. 3. It shall be unlawful for any person, not a *bona fide* resident of this State, as aforesaid, to do or perform, or to attempt to do or perform, any sort of police duty in this State, or, in any way, to aid or assist, or attempt to aid or assist, in the execution of the laws thereof. Any officer, corporation, company, firm or person, violating any of the provisions of this, or either of the two preceding sections, shall be guilty of a misdemeanor, and upon conviction thereof, be fined not less than five hundred nor more than five thousand dollars, and may at the discretion of the court be imprisoned in the county jail of the county in which the offense is committed not exceeding twelve months.

SEC. 4. All persons violating any of the provisions of sections two and three of this act shall be taken and deemed to be rioters, and shall be proceeded against in all respects as such, as provided in chapter one hundred and forty-eight of the Code of West Virginia. And all the provisions of sections one, two, three, four, five and six of said chapter, shall be applicable to said proceedings. If any person be killed by one or more rioters engaged with him at the time of such riot, such rioter or rioters shall be guilty of murder and punished as provided by law in other cases of murder: *Provided*, That nothing in this act contained shall be so construed as to interfere with the right and duty of the governor to call upon the President of the United States for aid in the enforcement of the laws, in cases provided for in the constitution.

In North Carolina (1893, 191):

SECTION 1. No body of men composed of more than three persons calling themselves detectives or claiming to be in the employ of any detective agency or known and designated as detectives shall go armed in this State.

SEC. 2. Any person or persons offending against this act shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned in the discretion of the court.

In Texas (1893, 104) and, substantially, in Kentucky (1376):

SEC. 1. No person, corporation, or firm shall be permitted to employ any armed force of detectives, or other persons not residents of this State, in the State of Texas.

SEC. 2. Any person, firm, or corporation employing such forces contrary to the provisions of this act shall be liable to pay to the State of Texas, as a penalty, not less than twenty-five nor more than one thousand dollars, to be recovered before any court of competent jurisdiction in this State: *Provided*, That nothing herein shall be construed to deprive any person, firm, or corporation of the right of self-defense, or in defense of the property of said person, firm, or corporation by such lawful means as may be necessary to such defense.

[4] Arkansas (1831–1833):

If any person or persons shall, within this State, unlawfully exercise or attempt to exercise the functions of, or hold himself or themselves out to any one as a deputy sheriff, special or deputy constable, special or deputy marshal, policeman or other peace officer or as any person acting as an officer of the law, or as the authorized or unauthorized agent or representative of another, or of any association, corporation or

SEC. 3. TRUSTS.—The great combination by employers is, of course, the trust, as that by employees is the trade union. The trust is now commonly organized as a corporation under the charter of some State, usually New Jersey, Delaware, or West Virginia. The trade union, as has been said, is rarely incorporated at all. The matter of trusts having been referred by the Industrial Commission to Professor Jenks, of Cornell University, it is sufficient here to refer to his able and exhaustive report. It should be noted, however, that several of the States make express exception of agricultural combinations or associations of laboring men or farmers from all trust statutes. These are Michigan, Wisconsin, Nebraska, Montana, North Carolina (1899, 551), and Texas.[1] The Texas law (1895, 3, 12) has been held unconstitutional in a Federal court (In re Grice, 79 Fed., 627).

---

company, or who shall bring into the State or cause to be brought, or aid in bringing into the State any armed or unarmed police force or detective agency or force, or armed or unarmed body of men for the suppression or pretended suppression of domestic violence or disturbance, such person or persons shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a period of not less than two years nor more than five years. *Provided*, The legislature when in session or the governor when the legislature is not in session may call upon the lawfully constituted authorities of the United States for protection against invasion and domestic violence as provided in section four, article four of the Constitution of the United States.

Any person, officer, company, association or organization who shall knowingly bring or cause to be brought or aid in bringing into this State any armed or unarmed police, or detective force or other armed or unarmed body of men for the suppression or pretended suppression of any domestic violence, riot or disturbance except called upon by the lawful authority of this State as provided in section 1831, shall be liable in a civil action to any person or their legal representatives for any injury, for any and all damages to such person or to the property of any such individual through the action of or as the result of the coming or bringing into the State of such individuals or body of men or of any of them, whether acting together or separately, in carrying out, or attempting to carry out, the purpose or purposes for which they came or were brought into the State.

This act shall not be construed so as to prohibit the employment by the proper authorities or by any person or persons of individual detectives to aid in the detection of crime or the arrest of criminals.

[1]Thus, in Michigan (1889, 225, 6):

The provisions of this act shall not apply * * * to the services of laborers or artisans who are formed into societies or organizations for the benefit and protection of their members.

In Wisconsin (1893, 219, 9):

This act shall not be construed to affect, or in any manner refer to or interfere with labor unions, or any other associations of laborers organized for the purpose of promoting the welfare of labor, nor shall it interfere with or suppress associations or organizations intended to legitimately promote the interests of trade, commerce or manufacturing in this State.

In Nebraska (5343):

Nothing herein contained shall prevent any assemblies or associations of laboring men from passing and adopting such regulations as they may think proper, in reference to wages and the compensation of labor, and such assemblies and associations shall retain, and there is hereby reserved to them all the rights and privileges now accorded to them by law, anything herein contained to the contrary notwithstanding.

In Montana (P. C. 325):

The provisions of this chapter do not apply to any arrangement, agreement or combination between laborers, made with the object of lessening the number of hours of labor or increasing wages, nor to persons engaged in horticulture or agriculture, with a view of enhancing the price of their products.

In Texas (1895, 83, 12):

Provided, this act shall not be held to apply to live stock and agricultural products in the hands of the producer or raiser, nor shall it be understood or construed to prevent the organization of laborers for the purpose of maintaining any standard of wages.

Chapter XI.

ARBITRATION AND CONCILIATION.

ART. A. BOARDS OF ARBITRATION, ETC.

Sec. 1. Created by the State.—State boards of arbitration have been provided in nearly half the States, up to the time of this writing, for the adjustment of grievances and disputes between employers and employees by conciliation or arbitration.[1] There are also Federal statutes (see U. S. Laws, 1888, Ch. 1063; 1898, 370) applying, however, to railroad and transportation companies only. It was under this first statute (§ 6) that President Cleveland appointed the commissioners to investigate the Chicago riots of 1894.

There are three general types of these statutes providing for arbitration of labor disputes by a State board (for private or local boards, see § 2, below). The prevailing type, judging by the number of States adopting it, is that of the New York law, though the Massachusetts statute, which is embodied principally in the Ohio, Illinois, Wisconsin, Minnesota, Montana, Californa, Idaho, and Louisiana laws, seems to work better in practice. The Pennsylvania method is more peculiar, and is followed only in Iowa and Kansas. The Indiana and Texas methods are also anomalous.

The State board is, in all the States, appointed by the governor, and (except in California, Colorado, Utah, and Wisconsin) confirmed by the senate, or, in Massachusetts, the council. In all these States, with the exception of Indiana and Louisiana, the board consists of three persons. In New York and Connecticut one must be selected from each of the two parties casting the greatest number of votes at the last election for governor, and a third from a *bona fide* labor organization. But in Massachusetts, Ohio, Colorado, Wisconsin, Minnesota, California, Idaho, Utah, and Montana no reference is made to politics; but one must be an employer selected from some association representing employers, and one from some labor organization, not an employer, and the third to be appointed upon recommendation of the other two, or, if they fail to agree, by the governor. The Louisiana law is the same, except that there are five arbitrators; and in Indiana, two, with the judge of the circuit court of the county where the trouble occurs; to these three

---

[1] Mass. 1886, 263; 1887, 269; 1888, 261; 1890, 385; Conn. 1895, 239; N. Y. G. L. 32, Art. 10; N. J. 1892, 137, 6; Pa. Dig., pp. 133, 134; Ohio 1893, p. 83; Ind. 1897, 88, 1899, 228; Mich. 1889, 238; Ill. 1895, Special Session, 1899, p. 75; Iowa 1886, 20, 1; Wis. 1895, 364, 1897, 258; Minn. 1895, 170; Kans. 1886, 28, G. S. 1889, 5a; Md. Code, Art. 7; Mo. 6354–6358; Tex. 1895, 61; Cal. 1891, 51; Idaho Con., Art. 13, 7, 1897, p. 141, 1899, p. 430; Wyo. Con. 19, 1; Colo. 307; 1897, 2; Mont. Pol. C. 3330–8; Utah 1896, 62, Const. XVI 2; La. 1894, 139.

may be added two others if the parties so agree, one to be named by the employer and one by the employees. In Indiana, Illinois, and Utah only one must be an employer, and only one other a member of a labor organization, and not more than two of the same political party; and in Indiana neither one of the same party. In Michigan the governor may appoint any "competent" persons; in New Jersey one must belong to a labor organization. In Pennsylvania the boards of arbitration are practically local—that is, the presiding judges of the court of common pleas may issue a license for the establishment of such boards within their respective districts; and this is followed in Iowa and Kansas. So, in Missouri, they are appointed for each case by the State labor commissioner.

The board holds office for three years.[2] They may appoint a secretary, who shall keep full records of their proceedings and all documents and testimony forwarded by the local boards of arbitration.[3] Such board or secretary has the power to issue subpœnas, administer oaths, call for and examine books and papers ("as far as is possessed by courts of record"—N. J., Ohio, Mich.);[4] the arbitrators and clerk must take and subscribe an oath of office.[5] In other States they appoint one of their own number chairman and one secretary.[6] In Colorado the third member is secretary. They must generally establish rules of procedure;[7] and in some States such rules must be approved by the governor and attorney-general or council.[8]

But in a few States the functions of the State board of arbitration are filled only by the labor commissioner,[9] and in others there is permission only for private or local arbitration (§ 2).

The usual provision for setting the machinery of the State board of arbitration in motion may be thus set forth:

(1) Whenever any controversy * * * not the subject of litigation * * * exists between any employer * * * and his employees, if at the time he employs not less than twenty-five persons in the same line of business in any one city or town * * * said board shall, upon application of either party, proceed as soon as practicable to visit the locality, hear all interested parties, advise them as to an adjustment and make written report (Mass., Ohio, Ill., Wis., Minn., Idaho, Mont., Utah, La.).

So in other States, but the dispute need not be one which is not litigable (N. J., Colo.).

In others it must be a difference "which would involve a strike or lockout" (Cal.).

Such "application" by the parties is made, or, in other States, the parties may, in the first case, apply to the State board, by formal statements in writing, and they must (except in Indiana) agree to continue in business or at work without strike or lockout until a decision

---

[2] N. Y., Mich., Mass., Ohio, Ill. One year: Cal. Two years: Conn., Ind., Colo., Mont., Wis. Four years: Utah, La. Five years: N. J. Six years: Idaho.

[3] Mass. 1888, 261; N. Y., N. J., Conn., Mich., Ill., Mont., Ind., Utah.

[4] Mass., Conn., N. Y., Ohio, Mich., N. J., Colo., Ind., Ill., Wis., Minn., Idaho, Utah, La.

[5] Mass., N. Y., Conn., Ohio, Wis., N. J., Colo., Ind., Ill., Mont., Utah, La.

[6] Ohio, La., Wis., Idaho, Utah, Minn.

[7] Mass., Ohio, Ill., Mont., La., Wis., Idaho, Ind., Minn., Cal., Utah.

[8] Mass., Ohio, Mont., Wis., Idaho. But in Indiana, though informal, they must be in general accordance with the practice in civil causes in the circuit courts.

[9] Mo. 6354; Colo. 1887, 62; N. Dak. 1890, 46.

is rendered, if within ten days after completion of the investigation (Conn., N. Y., N. J., Ohio, Mich , Colo., Minn., Ind.), or three or four weeks after the application (Mass., Ill., Wis., Cal., Idaho, Mont., Utah), or (in La.) ten days.

(2) Whenever it comes to the knowledge of the State board by notice from a mayor, etc., or otherwise, that a strike or lockout is threatened or has occurred, involving such employer of twenty-five operatives, etc., they must communicate with the parties and attempt to mediate or induce arbitration, investigate and report upon the same (Mass., Conn., N. Y., N. J., Ohio, Ind., Ill., Mich., Wis., Minn., Colo., Idaho, Utah, La.).

The decision of the board is made public and recorded, and is binding upon the parties for six months, or until either party has given the other sixty days' notice (Mass., Ill., Wis., Minn., Cal., Idaho, Mont.), or until ninety days' notice (Utah).

In other States it is "final and conclusive"; but this phrase seems meaningless when the judgment can not be enforced (N. Y.).

But in some the law provides that the finding, if so stipulated beforehand, may be enforced as a judgment or statutory award (Ohio, Idaho), and in others it may be enforced by contempt process (Ind., Ill.).

Sec. 2. Statutes for Arbitration by Private Boards.—In some States the only machinery for arbitration is by a private—i. e., special or local—board of arbitrators. These are Pennsylvania, Iowa, Kansas, Maryland, Missouri, and Texas. In others, special boards are authorized by statute, by consent of the parties to the dispute, sometimes with appeal to the State board. These are Massachusetts, New York, Ohio, Wisconsin, Idaho, Minnesota, Colorado, and Montana.

Such special boards consist—

(1) Of a board mutually agreed upon, or one composed of one member appointed by each party, the two to choose a third (Mass., N. Y., Ohio, Wis., Minn., Colo., Idaho, Mont.).

(2) Of five persons, two appointed by each party, the four to choose a fifth (N. J., Tex.).

(3) Of three or more persons appointed by the court of common pleas (Pa., Iowa, Kans., Md.).

The decision of such special board is final, unless within ten days an appeal is taken to the State board (N. Y., N. J.).

It has "whatever binding effect may have been agreed upon" (Wis., Minn., Colo., Idaho, Mont.).

Important specimen statutes as to both public and private boards are given in full below:

Massachusetts (1886, 263 as amended):

Sec. 1 (as amended by chapter 269, acts of 1887, and by chapter 261, acts of 1888). The governor, with the advice and consent of the council, shall, on or before the first day of July in the year eighteen hundred and eighty-six, appoint three competent persons to serve as a state board of arbitration and conciliation in the manner hereinafter provided. One of them shall be an employer or selected from some association representing employers of labor, one of them shall be selected from some labor organization and not an employer of labor, the third shall be appointed upon the recommendation of the other two: *Provided, however,* That if the two appointed do not agree on the third man at the expiration of thirty days, he shall then be appointed by the governor. They shall hold office for one year or until their successors are appointed. On the first day of July in the year eighteen hundred and eighty-seven the governor, with the advice and consent of the council, shall appoint three members of said board in the manner above provided, one to serve for three years, one for two years and one for one year, or until their respective successors are appointed; and on the first day of July in each year thereafter the governor shall in

the same manner appoint one member of said board to succeed the member whose term then expires, and to serve for the term of three years or until his successor is appointed. If a vacancy occurs at any time, the governor shall in the same manner appoint some one to serve out the unexpired term; and he may in like manner remove any member of said board. Each member of said board shall, before entering upon the duties of his office, be sworn to a faithful discharge thereof. They shall at once organize by the choice of one of their number as chairman. Said board may appoint and remove a clerk of the board who shall receive such salary as may be allowed by the board, but not exceeding twelve hundred dollars a year.

SEC. 2. The board shall, as soon as possible after its organization, establish such rules of procedure as shall be approved by the governor and council.

SEC. 3 (as amended by chapter 269, acts of 1887). Whenever any controversy or difference, not involving questions which may be the subject of a suit at law or bill in equity, exists between an employer, whether an individual, copartnership or corporation, and his employees, if at the time he employs not less than twenty-five persons in the same general line of business in any city or town in this Commonwealth, the board shall, upon application as hereinafter provided, and as soon as practicable thereafter, visit the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either or both to adjust said dispute, and make a written decision thereof. This decision shall at once be made public, shall be recorded upon proper books of record to be kept by the secretary of said board, and a short statement thereof published in the annual report hereinafter provided for, and the said board shall cause a copy thereof to be filed with the clerk of the city or town where said business is carried on.

SEC. 4 (as amended by chapter 269, acts of 1887, and chapter 385, acts of 1890). Said application shall be signed by said employer, or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent or by both parties, and shall contain a concise statement of the grievances complained of, and a promise to continue on in business or at work without any lockout or strike until the decision of said board, if it shall be made within three weeks of the date of filing said application. When an application is signed by an agent claiming to represent a majority of such employees, the board shall satisfy itself that such agent is duly authorized in writing to represent such employees, but the names of the employees giving such authority shall be kept secret by said board. As soon as may be after the receipt of said application the secretary of said board shall cause public notice to be given of the time and place for the hearing thereon; but public notice need not be given when both parties to the controversy join in the application and present therewith a written request that no public notice be given. When such request is made, notice shall be given to the parties interested in such manner as the board may order, and the board may, at any stage of the proceedings, cause public notice to be given, notwithstanding such request. When notice has been given as aforesaid, each of the parties to the controversy, the employer on the one side, and the employees interested on the other side, may in writing nominate, and the board may appoint, one person to act in the case as expert assistant to the board. The two persons so appointed shall be skilled in and conversant with the business or trade concerning which the dispute has arisen. It shall be their duty under the direction of the board to obtain and report to the board information concerning the wages paid and the methods and grades of work prevailing in manufacturing establishments within the Commonwealth of a character similar to that in which the matters in dispute may have arisen. Said expert assistants shall be sworn to the faithful discharge of their duty; such oath to be administered by any member of the board, and a record thereof shall be preserved with the record of the proceedings in the case. They shall be entitled to receive from the treasury of the Commonwealth such compensation as shall be allowed and certified by the board, together with all necessary traveling expenses. Nothing in this act shall be construed to prevent the board from appointing such other additional expert assistant or assistants as it may deem necessary. Should the petitioner or petitioners fail to perform the promise made in said application, the board shall proceed no further thereupon without the written consent of the adverse party. The board shall have power to summon as witness any operative in the departments of business affected and any person who keeps the records of wages earned in those departments, and to examine them under oath, and to require the production of books containing the record of wages paid. Summonses may be signed and oaths administered by any member of the board.

SEC. 5. Upon the receipt of such application and after such notice, the board shall proceed as before provided and render a written decision, which shall be open to public inspection, shall be recorded upon the records of the board and published at

the discretion of the same, in an annual report to be made to the general court on or before the first day of February in each year.

SEC. 6. Said decision shall be binding upon the parties who join in said application for six months, or until either party has given the other notice in writing of his intention not to be bound by the same at the expiration of sixty days therefrom. Said notice may be given to said employees by posting the same in three conspicuous places in the shop or factory where they work.

SEC. 7 (as amended by chapter 269, acts of 1887). The parties to any controversy or difference as described in section three of this act may submit the matters in dispute, in writing, to a local board of arbitration and conciliation; such board may either be mutually agreed upon, or the employer may designate one of the arbitrators, the employees or their duly authorized agent another, and the two arbitrators so designated may choose a third, who shall be chairman of the board. Such board shall, in respect to the matters referred to it, have and exercise all the powers which the state board might have and exercise, and its decision shall have whatever binding effect may be agreed by the parties to the controversy in the written submission. The jurisdiction of such board shall be exclusive in respect to the matters submitted to it, but it may ask and receive the advice and assistance of the state board. The decision of such board shall be rendered within ten days of the close of any hearing held by it; such decision shall at once be filed with the clerk of the city or town in which the controversy or difference arose, and a copy thereof shall be forwarded to the state board. Each of such arbitrators shall be entitled to receive from the treasury of the city or town in which the controversy or difference that is the subject of the arbitration exists, if such payment is approved in writing by the mayor of such city or the board of selectmen of such town, the sum of three dollars for each day of actual service, not exceeding ten days for any one arbitration. Whenever it is made to appear to the mayor of a city or the board of selectmen of a town that a strike or lockout such as described in section eight of this act is seriously threatened or actually occurs, the mayor of such city or the board of selectmen of such town shall at once notify the state board of the facts.

SECTION 8 (as amended by chapter 269, acts of 1887). Whenever it shall come to the knowledge of the state board, either by notice from the mayor of a city or the board of selectmen of a town, as provided in the preceding section or otherwise, that a strike or lockout is seriously threatened, or has actually occurred in any city or town of the commonwealth, involving an employer and his present or past employees, if at the time he is employing, or up to the occurrence of the strike or lockout was employing not less than twenty-five persons in the same general line of business in any city or town in the commonwealth, it shall be the duty of the state board to put itself in communication as soon as may be with such employer and employees, and endeavor by mediation to effect an amicable settlement between them, or to endeavor to persuade them, provided that a strike or lockout has not actually occurred or is not then continuing, to submit the matters in dispute to a local board of arbitration and conciliation, as above provided, or to the state board; and said state board may, if it deems it advisable, investigate the cause or causes of such controversy and ascertain which party thereto is mainly responsible or blameworthy for the existence or continuance of the same, and may make and publish a report finding such cause or causes and assigning such responsibility or blame. The board shall have the same powers for the foregoing purposes as are given it by section three of this act.

SECTION 9. Witnesses summoned by the State board shall be allowed the sum of fifty cents for each attendance, and the further sum of twenty-five cents for each hour of attendance in excess of two hours, and shall be allowed five cents a mile for travel each way from their respective places of employment or business to the place where the board is in session. Each witness shall certify in writing the amount of his travel and attendance, the amount due him shall be paid forthwith by the board, and for such purpose the board shall be entitled to draw from the treasury of the commonwealth as provided for in chapter one hundred and seventy-nine of the acts of the year eighteen hundred and eighty-four.

And also (1892, 382):

SEC. 1. In all controversies oetween an employer and his employees in which application is made to the state board of arbitration and conciliation, as provided by section four of chapter two hundred and sixty-three of the acts of the year eighteen hundred and eighty-six as amended by section three of chapter two hundred and sixty-nine of the acts of the year eighteen hundred and eighty-seven, and by section one of chapter three hundred and eighty-five of the acts of the year eighteen hundred and ninety, said board shall appoint a fit person to act in the case as expert assistant to the board. Said expert assistants shall attend the sessions of said board when required, and no conclusion shall be announced as a decision of said board, in

any case where such assistants have acted, until after notice given to them, by mail or otherwise, appointing a time and place for a final conference between said board and expert assistant on the matters included in the proposed decision. Said expert assistants shall be privileged to submit to the board, at any time before a final decision shall be determined upon and published, any facts, advice, arguments or suggestions which they may deem applicable to the case. They shall be sworn to the faithful discharge of their duties by any member of said board, and a record thereof shall be preserved with the record of the proceedings in the case. They shall be entitled to receive for their services from the treasury of the Commonwealth the sum of seven dollars for each day of actual service, together with all their necessary traveling expenses.

New York (1897, G. L. 32):

ARTICLE X.—*State board of mediation and arbitration.*

SECTION 140. Organization of board.—There shall continue to be a State board of mediation and arbitration, consisting of three competent persons to be known as arbitrators, appointed by the governor, by and with the advice and consent of the senate, each of whom shall hold his office for the term of three years, and receive an annual salary of three thousand dollars. The term of office of the successors of the members of such board in office when this chapter takes effect, shall be abridged so as to expire on the thirty-first day of December preceding the time when each such term would otherwise expire, and thereafter each term shall begin on the first day of January.

One member of such board shall belong to the political party casting the highest, and one to the party casting the next highest number of votes for governor at the last preceding gubernatorial election. The third shall be a member of an incorporated labor organization of this State.

Two members of such board shall constitute a quorum for the transaction of business, and may hold meetings at any time or place within the State. Examinations or investigations ordered by the board may be held and taken by and before any of their number, if so directed, but a decision rendered in such a case shall not be deemed conclusive until approved by the board.

SEC. 141. Secretary and his duties.—The board shall appoint a secretary, whose term of office shall be three years. He shall keep a full and faithful record of the proceedings of the board, and all documents and testimony forwarded by the local boards of arbitration, and shall perform such other duties as the board may prescribe. He may, under the direction of the board, issue subpœnas and administer oaths in all cases before the board, and call for and examine books, papers and documents of any parties to the controversy.

He shall receive an annual salary of two thousand dollars, payable in the same manner as that of the members of the board.

SEC. 142. Arbitration by the board.—A grievance or dispute between an employer and his employees may be submitted to the board of arbitration and mediation for their determination and settlement. Such submission shall be in writing, and contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide the determination of the board, and during the investigation to continue in business or at work, without a lockout or strike.

Upon such submission, the board shall examine the matter in controversy. For the purpose of such inquiry they may subpœna witnesses, compel their attendance and take and hear testimony. Witnesses shall be allowed the same fees as in courts of record. The decision of the board must be rendered within ten days after the completion of the investigation.

SEC. 143. Mediation in case of strike or lockout.—Whenever a strike or lockout occurs or is seriously threatened, the board shall proceed as soon as practicable to the locality thereof, and endeavor by mediation to effect an amicable settlement of the controversy. It may inquire into the cause thereof, and for that purpose has the same power as in the case of a controversy submitted to it for arbitration.

SEC. 144. Decisions of board.—Within ten days after the completion of every examination or investigation authorized by this article, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the points disposed of by them, and make a written report of their findings of fact and of their recommendations to each party to the controversy.

Every decision and report shall be filed in the office of the board and a copy thereof served upon each party to the controversy, and in case of a submission to arbitration, a copy shall be filed in the office of the clerk of the county or counties where the controversy arose.

SEC. 145. Annual report.—The board shall make an annual report to the legislature, and shall include therein such statements and explanations as will disclose the

actual work of the board, the facts relating to each controversy considered by them and the decision thereon together with such suggestions as to legislation as may seem to them conducive to harmony in the relations of employers and employees.

SEC. 146. Submission of controversies to local arbitrators.—A grievance or dispute between an employer and his employees may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. When the employees concerned are members in good standing of a labor organization, which is represented by one or more delegates in a central body, one arbitrator may be appointed by such central body and one by the employer. The two so designated shall appoint a third, who shall be chairman of the board.

If the employees concerned in such grievance or dispute are members of good standing of a labor organization which is not represented in a central body, the organization of which they are members may select and designate one arbitrator. If such employees are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate one arbitrator for such board.

SEC. 147. Consent; oath; powers of arbitrators.—Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be filed in the clerk's office of the county or counties where the controversy arose. When such board is ready for the transaction of business, it shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy.

The board may, through its chairman subpœna witnesses, compel their attendance and take and hear testimony.

The board may make and enforce rules for its government and the transaction of the business before it, and fix its sessions and adjournments.

SEC. 148. Decision of arbitrators.—The board shall, within ten days after the close of the hearing, render a written decision signed by them giving such details as clearly show the nature of the controversy and the questions decided by them. Such decision shall be a settlement of the matter submitted to such arbitrators, unless within ten days thereafter an appeal is taken therefrom to the State board of mediation and arbitration.

One copy of the decision shall be filed in the office of the clerk of the county or counties where the controversy arose and one copy shall be transmitted to the secretary of the State board of mediation and arbitration.

SEC. 149. Appeals.—The State board of mediation and arbitration shall hear, consider and investigate every appeal to it from any such board of local arbitrators and its decisions shall be in writing and a copy thereof filed in the clerk's office of the county or counties where the controversy arose and duplicate copies served upon each party to the controversy. Such decision shall be final and conclusive upon all parties to the arbitration.

New Jersey (1892, 137):

SEC. 1. Whenever any grievance or dispute of any nature growing out of the relation of employer and employee shall arise or exist between employer and employees, it shall be lawful to submit all matters respecting such grievance or dispute, in writing, to a board of arbitrators, to hear, adjudicate and determine the same; said board shall consist of five persons; when the employees concerned in any such grievance or dispute as aforesaid are members in good standing of any labor organization, which is represented by one or more delegates in a central body, the said central body shall have power to designate two of said arbitrators; and the employer shall have the power to designate two others of said arbitrators, and the said four arbitrators shall designate a fifth person, as arbitrator, who shall be chairman of the board; in case the employees concerned in any such grievance or dispute as aforesaid are members in good standing of a labor organization which is not represented in a central body, then the organization of which they are members shall have the power to select and designate two arbitrators for said board, and said board shall be organized as hereinbefore provided; and in case the employees concerned in any such grievance or dispute as aforesaid are not members of any labor organization, then a majority of said employees, at a meeting duly held for that purpose, shall designate two arbitrators for said board, and the said board shall be organized as hereinbefore provided.

SEC. 2. Any board as aforesaid selected may present a petition to the county judge of the county where such grievances or disputes to be arbitrated may arise, signed by at least a majority of said board, setting forth in brief terms the nature of the grievance or dispute between the parties to said arbitration, and praying the license or order of such judge establishing and approving said board of arbitration; upon the presentation of said petition it shall be the duty of the said judge

to make an order establishing such board of arbitration and referring the matters in dispute to it for hearing, adjudication and determination; the said petition and order or a copy thereof shall be filed in the office of the clerk of the county in which the said judge resides.

SEC. 3. The arbitrators so selected shall sign a consent to act as such, and shall take and subscribe an oath before an officer authorized to administer oaths, to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be immediately filed in the office of the clerk of the county wherein such arbitrators are to act; when the said board is ready for the transaction of business it shall select one of its members to act as secretary, and the parties to the dispute shall receive notice of a time and place of hearing; the chairman shall have power to administer oaths and to issue subpœnas for the production of books and papers, and for the attendance of witnesses, to the same extent that such power is possessed by the courts of record or the judges thereof in this State; the board may make and enforce the rules for its government and transaction of the business before it and fix its sessions and adjournments, and shall hear and examine such witnesses as may be brought before the board, and such other proof as may be given relative to the matters in dispute.

SEC. 4. After the matter has been fully heard, the said board or a majority of its members shall within ten days render a decision thereon, in writing, signed by them, giving such details as will clearly show the nature of the decision and the matters adjudicated and determined; such adjudication and determination shall be a settlement of the matter referred to said arbitrators, unless an appeal is taken therefrom as hereinafter provided; the adjudication and determination shall be in duplicate, one copy of which shall be filed in the office of the clerk of the county, and the other transmitted to the secretary of the state board of arbitration hereinafter mentioned, together with the testimony taken before said board.

SEC. 5. When the said board shall have rendered its adjudication and determination its power shall cease, unless there may be in existence at the time other similar grievances or disputes between the same classes of persons mentioned in section one, and in such case such persons may submit their differences to the said board, which shall have power to act and adjudicate and determine the same as fully as if said board was originally created for the settlement of such other difference or differences.

SEC. 6. Within thirty days after the passage of this act the governor shall appoint a state board of arbitration, to consist of three competent persons, each of whom shall hold his office for the term of five years; one of said persons shall be selected from a bona fide labor organization of this State; if any vacancy happens by resignation or otherwise the governor shall, in the same manner, appoint an arbitrator for the residue of the term; said board shall have a secretary who shall be appointed by and hold office during the pleasure of the board and whose duty it shall be to keep a full and faithful record of the proceedings of the board and also possession of all documents and testimony forwarded by the local boards of arbitration, and perform such other duties as the said board may prescribe; he shall have power, under the direction of the board, to issue subpœnas, to administer oaths in all cases before said board, to call for and examine books, papers and documents of any parties to the controversy, with the same authority to enforce their production as is possessed by the courts of records, or the judges thereof, in this State; said arbitrators of said state board and the clerk thereof shall take and subscribe the constitutional oath of office, and be sworn to the due and faithful performance of the duties of their respective offices before entering upon the discharge of the same; an office shall be set apart in the capitol by the person having charge thereof, for the proper and convenient transaction of the business of said board.

SEC. 7. An appeal may be taken from the decision of any local board of arbitration within ten days after the filing of its adjudication and determination of any case; it shall be the duty of the said state board of arbitration to hear and consider appeals from the decisions of local boards and promptly proceed to the investigation of such cases, and the adjudication and determination of said board thereon shall be final and conclusive in the premises upon all parties to the arbitration; such adjudications and determinations shall be in writing, and a copy thereof shall be furnished to each party; any two of the state board of arbitrators shall constitute a quorum for the transaction of business and may hold meetings at any time or place within the State; examinations or investigations ordered by the state board may be held and taken by and before any one of their number if so directed; but the proceedings and decision of any single arbitrator shall not be deemed conclusive until approved by the board or a majority thereof; each arbitrator shall have power to administer oaths.

SEC. 8. Whenever any grievance or dispute of any nature shall arise between an employer and his employees, it shall be lawful for the parties to submit the same

directly to said state board in the first instance, in case such parties elect to do so, and shall jointly notify said board or its clerk, in writing, of such election; whenever such notification to said board or its clerk is given, it shall be the duty of said board to proceed, with as little delay as possible, to the locality of such grievance or dispute, and inquire into the cause or causes of grievance or dispute; the parties to the grievances or dispute shall thereupon submit to said board, in writing, succinctly, clearly and in detail, their grievances and complaints, and the cause or causes thereof, and severally agree, in writing, to submit to the decision of said board as to matters so submitted, and a promise or agreement to continue on in business or at work, without a lockout or strike until the decision of said board, provided it shall be rendered within ten days after the completion of the investigation; the board shall thereupon proceed to fully investigate and inquire into the matters in controversy, and to take testimony under oath in relation thereto, and shall have power by its chairman or clerk, to administer oaths, to issue subpœnas for the attendance of witnesses, the production of books and papers, to the same extent as such power is possessed by courts of record or the judges thereof, in this State.

Sec. 9. After the matter has been fully heard, the said board, or a majority of its members, shall within ten days render a decision thereon in writing, signed by them or a majority of them, stating such details as will clearly show the nature of the decision and the points disposed of by them; the decision shall be in triplicate, one copy of which shall be filed by the clerk of the board in the clerk's office of the county where the controversy arose, and one copy shall be served on each of the parties to the controversy.

Sec 10. Whenever a strike or lockout shall occur, or is seriously threatened in any part of the State, and shall come to the knowledge of the board, it shall be its duty, and it is hereby directed to proceed, as soon as practicable, to the locality of such strike or lockout and put themselves in communication with the parties to the controversy, and endeavor by mediation to effect an amicable settlement of such controversy; and if in their judgment it is deemed best, to inquire into the cause or causes of the controversy, and to that end the board is hereby authorized to subpœna witnesses, compel their attendance, and send for persons and papers, in like manner and with the same powers as it is authorized to do by section eight of this act.

Sec. 11. The fees of witnesses of aforesaid state board shall be fifty cents for each day's attendance and four cents per mile traveled by the nearest route in getting to or returning from the place where attendance is required by the board; all subpœnas shall be signed by the secretary of the board and may be served by any person of full age authorized by the board to serve the same.

Sec. 12. Said board shall annually report to the legislature, and shall include in their report such statements, facts and explanations as will disclose the actual working of the board, and such suggestions with regard to legislation as may seem to them conducive to harmonizing the relations of, and disputes between employers and employees and the improvement of the present system of production by labor.

Sec. 13. Each arbitrator of the state board and the secretary thereof shall receive ten dollars for each and every day actually employed in the performance of their duty herein and actual expenses incurred, including such rates of mileage as are now provided by law, payable by the state treasurer on duly approved vouchers.

Sec. 14. Whenever the term "employer" or "employers" is used in this act it shall be held to include "firm," "joint stock association," "company," "corporation," or "individual and individuals" as fully as if each of said terms was expressed in each place.

Kansas (1889, 5a):

Tribunals of voluntary arbitration.

Paragraph 332. The district court of each county, or a judge thereof in vacation, shall have the power, and upon the presentation of a petition as hereinafter provided it shall be the duty, of said court or judge to issue a license or authority for the establishment within and for any county within the jurisdiction of said court, of a tribunal for voluntary arbitration and settlements of disputes between employers and employed in the manufacturing, mechanical, mining and other industries.

Paragraph 333. The said petition shall be substantially in the form hereinafter given, and the petition shall be signed by at least five persons employed as workmen, or by two or more separate firms, individuals, or corporations within the county who are employers within the county: * * *

Section 3. If the said petition shall be signed by the requisite number of either employers or workmen, and be in proper form, the judge shall forthwith cause to be issued a license, authorizing the existence of such a tribunal and containing the names of four persons to compose the tribunal, two of whom shall be workmen and two

employers, all residents of said county, and fixing the time and place of the first meeting thereof: * * *

PARAGRAPH 335. Said tribunal shall continue in existence for one year from the date of the license creating it, and may take jurisdiction of any dispute between employers and workmen in any mechanical, manufacturing, mining, or other industry, who may submit their disputes in writing to such tribunal for decision. * * * Said court at the time of the issuance of said license shall appoint an umpire for said tribunal, who shall be sworn to impartially decide all questions that may be submitted to him during his term of office. The umpire shall be called upon to act after disagreement is manifested in the tribunal by failure to agree during three meetings held and full discussion had. His award shall be final and conclusive upon such matters only as are submitted to him in writing and signed by the whole of the members of the tribunal, or by parties submitting the same. And the award of said tribunal shall be final and conclusive upon the questions so submitted to it: *Provided*, That said award may be impeached for fraud, accident, or mistake.

PARAGRAPH 336. The said tribunal when convened shall be organized by the selection of one of their number as chairman, and one as secretary, who shall be chosen by a majority of the members.

PARAGRAPH 337. The members of the tribunal and the umpire shall each receive as compensation for their services, out of the treasury of the county in which said dispute shall arise, two dollars for each day of actual service. The sessions of said tribunal shall be held at the county seat of the county where the petition for the same was presented, and a suitable room for the use of said tribunal shall be provided by the county commissioners.

PARAGRAPH 338. All submissions of matters in dispute shall be made to the chairman of said tribunal, who shall file the same. The chairman of the tribunal shall have power to administer oaths to all witnesses who may be produced, and a majority of said tribunal may provide for the examination and investigation of books, documents and accounts necessary, material and pertaining to the matters in hearing before the tribunal, and belonging to either party to the dispute. The umpire shall have power when necessary to administer oaths and examine witnesses, and examine and investigate books, documents and accounts pertaining to the matters submitted to him for decision.

PARAGRAPH 339. The said tribunal shall have power to make, ordain and enforce rules for the government of the body when in session, to enable the business to be proceeded with in order, and to fix its sessions and adjournments, but such rules shall not conflict with this statute nor with any of the provisions of the constitution and laws of the State: *Provided*, That the chairman of said tribunal may convene said tribunal in extra session at the earliest day possible, in cases of emergency.

PARAGRAPH 340. Before the umpire shall proceed to act, the question or questions in dispute shall be plainly defined in writing and signed by the members of the tribunal or a majority thereof, or by the parties submitting the same; and such writing shall contain the submission of the decision thereof to the umpire by name, and shall provide that his decision thereon after hearing shall be final; and said umpire must make his award within five days from the time the question or questions in dispute are submitted to him. Said award shall be made to the tribunal; and if the award is for a specific sum of money, said award of money or the award of the tribunal, when it shall be for a specific sum, may be made a matter of record by filing a copy thereof in the district court of the county wherein the tribunal is in session. When so entered of record it shall be final and conclusive, and the proper court may on motion of anyone interested, enter judgment thereon; and when the award is for a specific sum of money may issue final and other process to enforce the same: * * *

PARAGRAPH 341. The form of the petition * * * shall be as follows: "To the District Court of ——— County [or a judge thereof, * * *]: The subscribers hereto being the number and having the qualifications required in this proceeding, being desirous of establishing a tribunal of voluntary arbitration for the settlement of disputes in the manufacturing, mechanical, mining and other industries, pray that a license for a tribunal of voluntary arbitration may be issued, to be composed of four persons and an umpire, as provided by law."

Maryland (P. G. L., Art. 7):

Arbitration of labor disputes.

SECTION 1. Whenever any controversy shall arise between any corporation incorporated by this State in which this State may be interested as a stockholder or creditor, and any persons in the employment or service of such corporation, which, in the opinion of the board of public works, shall tend to impair the usefulness or prosperity of such corporation, the said board of public works shall have power to

demand and receive a statement of the grounds of said controversy from the parties to the same; and if, in their judgment, there shall be occasion so to do, they shall have the right to propose to the parties to said controversy, or to any of them, that the same shall be settled by arbitration; and if the opposing parties to said controversy shall consent and agree to said arbitration, it shall be the duty of the said board of public works to provide in due form for the submission of the said controversy to arbitration, in such manner that the same may be finally settled and determined; but if the said corporation, or the said person in its employment or service, so engaged in controversy with the said corporation, shall refuse to submit to such arbitration, it shall be the duty of the said board of public works to examine into and ascertain the cause of said controversy, and to report the same to the next general assembly.

SEC. 2. All subjects of dispute arising between corporations, and any person in their employment or service, and all subjects of dispute between employers and employees in any trade or manufacture, may be settled and adjusted in the manner hereafter mentioned.

SEC. 3. Whenever such subjects of dispute shall arise as aforesaid, it shall be lawful for either party to the same to demand and have an arbitration or reference thereof in manner following, that is to say, where the party complaining and the party complained of shall come before, or agree by any writing under their hands, to abide by the determination of any judge or justice of the peace, it shall and may be lawful for such judge or justice of the peace to hear and finally determine in a summary manner the matter in dispute between such parties; but if such parties shall not come before, or so agree to abide by the determination of such judge or justice of the peace, but shall agree to submit their said cause of dispute to arbitrators, appointed under the provisions of this article, then it shall be lawful for any such judge or justice of the peace, and such judge or justice of the peace is hereby required, on complaint made before him, and proof that such agreement for arbitration had been entered into, to appoint arbitrators for settling the matters in dispute; and such judge or justice of the peace shall then and there propose not less than two nor more than four persons, one-half of whom shall be employers and the other half employees, acceptable to the parties to the dispute, respectively, who, together with said judge or justice of the peace, shall have full power finally to hear and determine such dispute.

SEC. 4. In all such cases of dispute as aforesaid, as in all other cases, if the parties mutually agree that the matter in dispute shall be arbitrated and determined in a mode different from the one hereby described, such agreement shall be valid, and the award and determination thereon by either mode of arbitration shall be final and conclusive between the parties.

SEC. 5. It shall be lawful in all cases for any employer or employee, by writing under his hand, to authorize any person to act for him in submitting to arbitration and attending the same.

SEC. 6. Every determination of dispute by any judge or justice of the peace shall be given as a judgment of the court over which said judge presides, and of the justice of the peace determining the same; and the said judge or justice of the peace shall award execution thereon as upon verdict, confession or nonsuit; and every award made by arbitrators appointed by any judge or justice of the peace under the provisions of this article, shall be returned by said arbitrators to the judge or justice of the peace by whom they were appointed; and said judge or justice of the peace shall enter the same as an amicable action between the parties to the same in the court presided over by said judge or justice of the peace, with the same effect as if said action had been regularly commenced in said court by due process of law, and shall thereupon become a judgment of said court, and execution thereon shall be awarded as upon verdict, confession or nonsuit; and in all proceedings under this article, whether before a judge or justice of the peace, or arbitrators, costs shall be taxed as are now allowed by law in similar proceedings, and the same shall be paid equally by the parties to the dispute; such award thall remain four days in court during its sitting, after the return thereof, before any judgment shall be entered thereon; and if it shall appear to the court within that time that the same was obtained by fraud or malpractice in or by surprise, imposition or deception of the arbitrators, or without due notice to the parties or their attorneys, the court may set aside such award and refuse to give judgment thereon.

Texas (1895, 61):

Boards of arbitration.

SECTION 1. Whenever any grievance or dispute of any nature, growing out of the relation of employer and employees, shall arise or exist between employer and employees, it shall be lawful, upon mutual consent of all parties, to submit all mat-

ters respecting such grievance or dispute in writing to a board of arbitrators to hear, adjudicate, and determine the same. Said board shall consist of five (5) persons. When the employees concerned in such grievance or dispute as the aforesaid are members in good standing of any labor organization which is represented by one or more delegates in a central body, the said central body shall have power to designate two (2) of said arbitrators, and the employer shall have the power to designate two (2) others of said arbitrators, and the said four arbitrators shall designate a fifth person as arbitrator, who shall be chairman of the board. In case the employees concerned in any such grievance or dispute as aforesaid are members in good standing of a labor organization which is not represented in a central body, then the organization of which they are members shall designate two members of said board, and said board shall be organized as hereinbefore provided; and in case the employees concerned in any such grievance or dispute as aforesaid are not members of any labor organization, then a majority of said employees, at a meeting duly held for that purpose, shall designate two arbitrators for said board, and said board shall be organized as hereinbefore provided: *Provided,* That when the two arbitrators selected by the respective parties to the controversy, the district judge of the district having jurisdiction of the subject-matter shall, upon notice from either of said arbitrators that they have failed to agree upon the fifth arbitrator, appoint said fifth arbitrator.

SEC. 2. Any board as aforesaid selected may present a petition in writing to the district judge of the county where such grievance or dispute to be arbitrated may arise, signed by a majority of said board, setting forth in brief terms the facts showing their due and regular appointment, and the nature of the grievance or dispute between the parties to said arbitration, and praying the license or order of such judge establishing and approving of said board of arbitration. Upon the presentation of said petition it shall be the duty of said judge, if it appear that all requirements of this act have been complied with, to make an order establishing such board of arbitration and referring the matters in dispute to it for hearing, adjudication and determination. The said petition and order, or a copy thereof, shall be filed in the office of the district clerk of the county in which the arbitration is sought.

SEC. 3. When a controversy involves and affects the interests of two or more classes or grades of employees belonging to different labor organizations, or of individuals who are not members of a labor organization, then the two arbitrators selected by the employees shall be agreed upon and selected by the concurrent action of all such labor organizations, and a majority of such individuals who are not members of a labor organization.

SEC. 4. The submission shall be in writing, shall be signed by the employer or receiver and the labor organization representing the employees, or any laborer or laborers to be affected by such arbitration who may not belong to any labor organization, shall state the question to be decided, and shall contain appropriate provisions by which the respective parties shall stipulate as follows:

1. That pending the arbitration the existing status prior to any disagreement or strike shall not be changed.

2. That the award shall be filed in the office of the clerk of the district court of the county in which said board of arbitration is held, and shall be final and conclusive upon both parties, unless set aside for error of law, apparent on the record.

3. That the respective parties to the award will each faithfully execute the same, and that the same may be specifically enforced in equity so far as the powers of a court of equity permit.

4. That the employees dissatisfied with the award shall not by reason of such dissatisfaction quit the service of said employer or receiver before the expiration of thirty days, nor without giving said employer or receiver thirty days written notice of their intention so to quit.

5. That said award shall continue in force as between the parties thereto for the period of one year after the same shall go into practical operation, and no new arbitration upon the same subject between the same parties shall be had until the expiration of said one year.

SEC. 5. The arbitrators so selected shall sign a consent to act as such and shall take and subscribe an oath before some officer authorized to administer the same to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be immediately filed in the office of the clerk of the district court wherein such arbitrators are to act. When said board is ready for the transaction of business it shall select one of its members to act as secretary and the parties to the dispute shall receive notice of a time and place of hearing, which shall be not more than ten days after such agreement to arbitrate has been filed.

SEC. 6. The chairman shall have power to administer oaths and to issue subpœnas for the production of books and papers and for the attendance of witnesses to the

same extent that such power is possessed by the court of record or the judge thereof in this State. The board may make and enforce the rules for its government and transaction of the business before it and fix its sessions and adjournment, and shall herein examine such witnesses as may be brought before the board, and such other proof as may be given relative to the matter in dispute.

SEC. 7. When said board shall have rendered its adjudication and determination its powers shall cease, unless there may be at the time in existence other similar grievances or disputes between the same class of persons mentioned in section 1, and in such case such persons may submit their differences to said board, which shall have power to act and adjudicate and determine the same as fully as if said board was originally created for the settlement of such difference or differences.

SEC. 8. During the pendency of arbitration under this act it shall not be lawful for the employer or receiver party to such arbitration, nor his agent, to discharge the employees parties thereto, except for inefficiency, violation of law, or neglect of duty, or where reduction of force is necessary, nor for the organization representing such employees to order, nor for the employees to unite in, aid or abet strikes or boycots against such employer or receiver.

SEC. 9. Each of the said board of arbitrators shall receive three dollars per day for every day in actual service, not to exceed ten (10) days, and traveling expenses not to exceed five cents per mile actually traveled in getting to or returning from the place where the board is in session. The fees of witnesses of aforesaid board shall be fifty cents for each day's attendance and five cents per mile traveled by the nearest route to and returning from the place where attendance is required by the board. All subpœnas shall be signed by the secretary of the board and may be served by any person of full age authorized by the board to serve the same. The fees and mileage of witnesses and the per diem and traveling expenses of said arbitrators shall be taxed as costs against either or all of the parties to said arbitration, as the board of arbitrators may deem just, and shall constitute part of their award, and each of the parties to said arbitration shall, before the arbitration [arbitrators] proceed to consider the matters submitted to them, give a bond, with two or more good and sufficient sureties in an amount to be fixed by the board of arbitration, conditioned for the payment of all the expenses connected with the said arbitration.

SEC. 10. The award shall be made in triplicate. One copy shall be filed in the district clerk's office, one copy shall be given to the employer or receiver, and one copy to the employees or their duly authorized representative. The award being filed in the clerk's office of the district court, as hereinbefore provided, shall go into practical operation and judgment shall be entered thereon accordingly at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent on the record, in which case said award shall go into practical operation and judgment rendered accordingly when such exceptions shall have been fully disposed of by either said district court or an appeal therefrom.

SEC. 11. At the expiration of ten days from the decision of the district court upon exceptions taken to said award as aforesaid, judgment shall be entered in accordance with said decision, unless during the said ten days either party shall appeal therefrom to the court of civil appeals holding jurisdiction thereof. In such case only such portion of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said exceptions and to be decided. The determination of said court of civil appeals upon said questions shall be final, and being certified by the clerk of said court of civil appeals, judgment pursuant thereto shall thereupon be entered by said district court. If exceptions to an award are finally sustained, judgment shall be entered setting aside the award; but in such case the parties may agree upon a judgment to be entered disposing of the subject-matter of the controversy, which judgment, when entered, shall have the same force and effect as judgment entered upon an award.

CHAPTER XII.

PROFIT SHARING, STATE AID, PUBLIC EMPLOYMENT BUREAUS, ETC.

ART. A. COOPERATION AND PROFIT SHARING.

SEC. 1. COOPERATIVE ASSOCIATIONS.—About a dozen States have statutes, usually of not very recent date, providing for cooperative associations in manufacturing or distributive industries[1] (only distributive in Ohio and Michigan). They have rarely been taken advantage of, and there seems to be little general interest in such laws at the present time. The Wyoming constitution (10, 10) declares that "the legislature shall provide by suitable legislation for their organization;" but few new statutes are being enacted.

[1] They are: Massachusetts (106, 9, 72, 73), Connecticut (1895–1904), New York (R. S., p. 1626), Pennsylvania (Dig., p. 389), New Jersey (Sup., p. 138), Ohio (3837), Michigan (3935, 3938, 3940), Illinois (32, 103–127), Wisconsin (1786b), Minnesota (2903–2912), Kansas (1456–1458), Maryland (23, 14, 15), California (Civ. C., p. 53, 1895, 183), Montana (Civ. C. 870–880).

Thus in Massachusetts:

For the purpose of coöperation in carrying on any business authorized in the two preceding sections [any mechanical, mining or manufacturing business except that of distilling or manufacturing intoxicating liquors, cutting, storing and selling ice, carrying on any agricultural, horticultural or quarrying business, printing and publishing newspapers, periodicals, books or engravings] and of coöperative trade, seven or more persons may associate themselves, with a capital of not less than one thousand nor more than one hundred thousand dollars.

Every corporation organized for the purposes set forth in section nine shall distribute its profits or earnings among its workmen, purchasers, and stockholders, at such times and in such manner as shall be prescribed by its by-laws, and as often at least as once in twelve months; but no distribution shall be made until at least ten per cent of the net profits has been appropriated for a contingent or sinking fund, until there has accumulated a sum equal to thirty per cent in excess of its capital stock.

No person shall hold shares in any coöperative association to an amount exceeding one thousand dollars at their par value, nor shall any stockholder be entitled to more than one vote upon any subject.

In New York:

SECTION 1. Any number of persons, not less than three, may associate and form an incorporation or company for the purpose of uniting their labor, capital and patronage, in any business or occupation upon the co-operative plan, upon filing in the office of the secretary of state a declaration, signed by the corporators, expressing their intention to form such a company, together with a copy of the charter proposed to be adopted by them.

SECTION 2. * * * no company shall be organized under this act with a capital of less than one thousand dollars, * * * .

SECTION 5. Companies organized under this act shall have the word "co-operative," as a part of their corporate or business name wherever used, either in advertising or transacting their business.

SEC. 2. PROFIT SHARING.—Besides cooperative associations, a law of Connecticut provides for the sharing of profits with employees by ordinary corporations.[1] The authority of directors to do so would seem to require no legislation; and the practice is not uncommon. Some corporations also facilitate the purchase by their employees of their own stock; and Massachusetts has a statute authorizing "special stock," rarely availed of.[2]

ART. B. LABOR BUREAUS.

SEC. 1. STATE LABOR BUREAUS OR COMMISSIONERS.—These have been created in nearly all States.[2]

In most States their duties are merely to collect statistics, recommend legislation, and inquire into strikes. In Michigan, Wisconsin, Iowa, Minnesota, Nebraska, Missouri, Colorado, and Washington they are also charged with the duties of factory inspectors (see Chap. IV), or (in Ohio, Nebraska, and Montana) labor bureaus of employment (see Art. C., below), or (in Colorado) State boards of arbitration (see Chap. XI), and have usually power to examine witnesses under oath, call for papers, reports, etc., the answers furnished to remain secret, etc.

---

[1] Connecticut (Chap. 119):

SECTION 1935. Any corporation organized after May 31, 1886, under general or special law, may, by its board of directors, distribute to the persons employed in its service, or to any of them, such portion of the profits of the business of the corporation as the board of directors may deem just and proper.

SECTION 1936. Any corporation organized on or prior to May 31, 1886, may give to its board of directors the power to distribute to the persons employed in its service, or to any of them, such portion of the profits of the business of the corporation as said board may deem just and proper: *Provided,* such power is given by a major vote of all the shareholders, at a meeting warned for the purpose.

Massachusetts (1886, 209):

[2] *Corporations—Special stock for employees.*

SECTION 1. Every corporation created under the provisions of chapter one hundred and six of the public statutes, by a vote of its general stockholders at a meeting duly called for the purpose, may issue special stock to be held only by the employees of such corporation. The par value of the shares of such special stock shall be ten dollars, and the purchasers thereof may pay for the same in monthly instalments of one dollar upon each share. Such special stock shall not exceed two-fifths of the actual capital of the corporation.

SECTION 2. Whenever a dividend is paid by such corporation to its stockholders, the holders of such special stock shall receive upon each share, which has been paid for in full in time to be entitled to a dividend, a sum which shall bear such proportion to the sum paid as a dividend upon each share of the general stock of such corporation as the par value of the shares of such special stock bears to the par value of the shares of such general stock.

SECTION 3. The shares of such special stock shall not be sold or transferred except to an employee of such corporations or to the corporation itself. Any corporation issuing such special stock may provide by its by-laws as to the number of shares which may be held by any one employee, the methods of transfer and the redemption of such stock in case any person holding the same shall cease to be an employee of the corporation.

[1]N. H. 48, 1–6; Mass. 31, 13, 1884, 4, 1895, 290; N. Y. G. L. 32, 30–32; Me. 1887, 69; R. I. 70, 1; Conn. 2944–2949; N. J. Sup. 407; Pa. Dig., p. 1907; Ohio, 307; Ind. 7758; Ill. 17a, 1, 2; Mich. 1883, 156, 1895, 184; Wis. 46a; Iowa, 1884, 132, 1896, 86; Minn. 469; Kans. 5961–2; Nebr. Chap. 39b, 1897, 39; Va. 1898, 863; W. Va. 1889, 15; Md. Art. 89; Ky. Chap. 4; Tenn. 294–299, 1891, 157; Mo. 8215–8226; N. C. 1899, 373; Cal., Vol. IV, p. 602; Colo. 299–304; Wash. 1895, 85, 1897, 29; N. Dak. Pol. C. 123; Idaho Con. 13, 1; Mont. Pol. C. 760, 1897, 110; Utah, 1892, 46.

SEC. 2. EMPLOYMENT OFFICES (STATE).—Several States have passed statutes for public employment bureaus. The most recent, as well as the most elaborate, is that of Illinois (1899, p. 268), printed in full in the note.[1] The other States are New York (G. L. 32, 40–43), Ohio (307–310), Montana (Pol. C., 765), Missouri (1899, p. 272).

---

[1] Illinois:

Free public employment offices, and licensing, etc., of private employment agencies.

SECTION 1. Free employment offices are hereby created as follows: One in each city of not less than fifty thousand population, and three in each city containing a population of one million or over, for the purpose of receiving applications of persons seeking employment, and applications of persons seeking to employ labor. Such offices shall be designated and known as Illinois Free Employment Offices.

SEC. 2. Within sixty days after this act shall have been in force, the State board of commissioners of labor shall recommend, and the governor, with the advice and consent of the senate, shall appoint a superintendent and assistant superintendent and a clerk for each of the offices created by section 1 of this act and who shall devote their entire time to the duties of their respective offices. The assistant superintendent or the clerk shall in each case be a woman. The tenure of such appointment shall be two years, unless sooner removed for cause. The salary of each such superintendent shall be $1,200 per annum, the salary of such assistant superintendent shall be $900 per annum. The salary of such clerks shall be $800 per annum, which sums, together with proper amounts for defraying the necessary costs of equipping and maintaining the respective offices, shall be paid out of any funds in the State treasury not otherwise appropriated.

SEC. 3. The superintendent of each such free employment office shall, within sixty days after appointment, open an office in such locality as shall have been agreed upon between such superintendent and the secretary of the bureau of labor statistics as being most appropriate for the purpose intended; such office to be provided with a sufficient number of rooms or apartments to enable him to provide, and he shall so provide, a separate room or apartment for the use of women registering for situations or help. Upon the outside of each such office, in position and manner to secure the fullest public attention, shall be placed a sign which shall read in the English language Illinois Free Employment Office, and the same shall appear either upon the outside windows or upon signs in such other languages as the location of each such office shall render advisable. The superintendent of each such free employment office shall receive and record in books kept for that purpose names of all persons applying for employment or help, designating opposite the name and address of each applicant the character of employment or help desired. Separate registers for applicants for employment shall be kept, showing the age, sex, nativity, trade or occupation of each applicant, the cause and duration of unemployment, whether married or single, the number of dependent children, together with such other facts as may be required by the bureau of labor statistics to be used by said bureau: *Provided*, That no such special register shall be open to public inspection at any time, and that such statistical and sociological data as the bureau of labor may require shall be held in confidence by said bureau, and so published as not to reveal the identity of anyone: *And provided, further*, That any applicant who shall decline to furnish answers to the questions contained in special register shall not thereby forfeit any rights to any employment the office might secure.

SEC. 4. Each such superintendent shall report on Thursday of each week to the State bureau of labor statistics the number of applications for positions and for help received during the preceding week, also those unfilled applications remaining on the books at the beginning of the week. Such lists shall not contain the names or addresses of any applicant, but shall show the number of situations desired and the number of persons wanted at each specified trade or occupation. It shall also show the number and character of the positions secured during the preceding week. Upon receipt of these lists and not later than Saturday of each week, the secretary of the said bureau of labor statistics shall cause to be printed a sheet showing separately and in combination the lists received from all such free employment offices; and he shall cause a sufficient number of such sheets to be printed to enable him to mail, and he shall so mail on Saturday of each week, two of said sheets to each superintendent of a free employment office, one to be filed by said superintendent, and one to be conspicuously posted in each such office. A copy of such sheet shall also be mailed on each Saturday by the secretary of the State bureau of labor statistics to each State inspector of factories and each State inspector of mines. And it is hereby

SEC. 3. INTELLIGENCE OFFICES AND EMPLOYMENT AGENCIES.—So far as there is a legal distinction between the meaning of these two terms, it would appear that the former was limited to domestic service,

---

made the duty of said factory inspectors and coal mine inspectors to do all they reasonably can to assist in securing situations for such applicants for work, and describe the character of work and cause of the scarcity of workmen, and to secure for the free employment offices the cooperation of the employers of labor in factories and mines. It shall be the duty of such factory inspectors and coal mine inspectors to immediately notify the superintendent of free employment offices of any and all vacancies, or opportunities for employment that shall come to their notice.

SEC. 5. It shall be the duty of each such superintendent of a free employment office to immediately put himself in communication with the principal manufacturers, merchants and other employers of labor, and to use all diligence in securing the cooperation of the said employers of labor, with the purposes and objects of said employment offices. To this end it shall be competent for such superintendents to advertise in the columns of daily newspapers for such situations as he has applicants to fill, and he may advertise in a general way for the cooperation of large contractors and employers in such trade journals or special publications as reach such employers, whether such trade or special journals are published within the State of Illinois or not: *Provided*, That not more than four hundred dollars, or as much thereof as shall be necessary, shall be expended by the superintendent of any one such office for advertising any one year.

SEC. 6. It shall be the duty of each such superintendent to make report to the State bureau of labor statistics annually, not later than December first of each year concerning the work of his office for the year ending October first of same year, together with a statement of the expenses of the same, including the charges of an interpreter when necessary, and such reports shall be published by the said bureau of labor statistics annually with its coal report. Each such superintendent shall also perform such other duties in the collection of statistics of labor as the secretary of the bureau of labor statistics may require.

SEC. 7. No fee or compensation shall be charged or received, directly or indirectly, from persons applying for employment or help through said free employment offices; and any superintendent, assistant superintendent or clerk, who shall accept, directly or indirectly, any fee or compensation from any applicant, or from his or her representative, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five nor more than fifty dollars and imprisoned in the county jail not more than thirty days.

SEC. 8. In no case shall the superintendent of any free employment office created by this act, furnish, or cause to be furnished, workmen or other employees to any applicant for help whose employees are at that time on strike, or locked out; nor shall any list of names and addresses of applicants for employment be shown to any employee [employer] whose employers [employees] are on strike or lockout; nor shall such list be exposed where it can be copied or used by an employer whose employees are on strike or locked out.

SEC. 9. The term "applicant for employment" as used in this act shall be construed to mean any person seeking work of any lawful character, and "applicant for help" shall mean any person or persons seeking help in any legitimate enterprise; and nothing in this act shall be construed to limit the meaning of the term work to manual occupation, but it shall include professional service, and any and all other legitimate services.

SEC. 10. No person, firm or corporation in the cities designated in section 1 of this act shall open, operate or maintain a private employment agency for hire, or where a fee is charged to either applicants for employment or for help, without first having obtained a license from the secretary of state, which license shall be two hundred dollars per annum, and who shall be required to give a bond to the people of the State of Illinois in the penal sum of one thousand dollars for the faithful performance of the duties of private employment agent, and no such private agent shall print, publish or paint on any sign, window or newspaper publication, a name similar to that of the Illinois free employment offices. And any person, firm or corporation violating the provisions of this act, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than one hundred dollars.

SEC. 11. Whenever, in the opinion of the board of commissioners of labor, the superintendent of any free employment office is not duly diligent or energetic in the performance of his duties, they may summon such superintendent to appear before

the latter to general employment. There is provision in a few States for the regulation and licensing of employment agencies and intelligence offices, usually in cities only.[1]

---

them and show cause why he should not be recommended to the governor for removal, and unless such cause is clearly shown the said board may so recommend. In the consideration of such case any unexplained low percentage of positions secured to applicants for situations and help registered, lack of intelligent interest and application to the work, or a general inaptitude or inefficiency, shall be considered by said board a sufficient ground upon which to recommend a removal. And if, in the opinion of the governor, such lack of efficiency can not be remedied by reproval and discipline, he shall remove as recommended by said board: *Provided*, That the governor may at any time remove any superintendent, assistant superintendent or clerk for cause.

SEC. 12. All such printing, blanks, blank books, stationery and postage as may be necessary for the proper conduct or [of] the business of the offices herein created shall be furnished by the secretary of the state upon requisition for the same made by the secretary of the bureau of labor statistics.

[1] Mass. 1894, 180; Me. R. S., 1883, Ch. 35, 6; N. J. 1893, 41; N. Y. 1888, 410; Pa. Dig. p. 1062 Minn. 1455–8, 1899, 42; Mo. 3583; Colo. 1891, p. 188; La. 1894, 58; R. I. 40, 18.

DIGEST OF EXISTING STATUTES OF THE STATES AND TERRITORIES RELATING TO

CONVICT LABOR,

PREPARED UNDER THE DIRECTION OF THE INDUSTRIAL COMMISSION

BY

VICTOR H. OLMSTED and WILLIAM M. STEUART.

PREFACE.

In preparing this digest of the laws relating to the employment of convicts effort has been made to render it as succinct as possible, consistently with the inclusion of the salient features necessary to be presented. To this end, statutes of a special or a local application, or temporary in their operation, are not included, except in cases where reference to them is essential in order to clearly indicate the policy of a State in regard to the labor of its convicts; and only such references to statutes are made, in any case, as are deemed necessary to afford sufficient basis for the statements of the features of the laws to which they relate. Cumulative references and repetitions have been avoided, as far as practicable. The information is presented as follows:

First. A brief description is given of each of the various systems of convict labor authorized by statute in the United States, followed by synopses of the laws of each State authorizing the employment of convicts under each system (pp. 174–197). Since the same State frequently has provisions authorizing the use of several different systems, it is necessary to compare the entries under the different heads to ascertain the law in any given State.

Second. A summary is given of the statutes of each State regulating the hours of convict labor (pp. 198–201).

Third. A brief statement is presented showing the kinds of industry or employment named in the statutes of each State for the utilization of convict labor (pp. 202–204).

Fourth. A summary is given of the laws of each State regulating the sale of convict-made goods so far as such regulations tend to establish or limit prices or to prescribe rules governing the business of dealing therein, and laws tending to diminish competition between convict and free labor (pp. 205–213).

CHAPTER I.

SYSTEMS OF CONVICT LABOR.

INTRODUCTION—DEFINITIONS.

The various systems authorized by statutes in force in the United States in 1899 for the employment of convicts may be grouped under two generic classes, as follows:

First. Systems under which the product or profit of the convicts' labor is shared by the State with private individuals, firms, or corporations.

Second. Systems under which convicts are worked wholly for the benefit of the State, or its political subdivisions, or public institutions.

Under the first class three distinct systems are authorized, known respectively as the "contract system," the "piece-price system," and the "lease system."

Under the second class three systems also are authorized, which may be denominated the "public-account system," the "state-use system" and the "public-works-and-ways system."

1. THE CONTRACT SYSTEM.—Under this system contracts are made with persons, firms, or corporations in accordance with which convicts are employed in manufacturing industries at certain agreed prices for their labor for fixed periods of time, the prisoners working under the immediate direction of the contractor or his agents, but remaining under the general supervision and control of the prison authorities. The contractors are frequently furnished with the power and even the machinery necessary for carrying on the work by the penal or reformatory institutions in which the convicts are incarcerated.

2. THE PIECE-PRICE SYSTEM.—Under this system contracts are made with persons, firms, or corporations under which the prison is furnished by them with materials in proper shape for working; the materials thus furnished are converted by the labor of the convicts into finished products, which are delivered to the contractors at agreed prices per piece, the work of manufacturing being conducted wholly under the supervision of the prison officials.

3. THE LEASE SYSTEM.—Under this system convicts are leased to contractors for specified sums and for fixed periods of time, the lessees usually undertaking to clothe, feed, care for, and maintain proper discipline among the prisoners while they perform such labor as may have been determined by the terms of the lease. The labor is generally performed outside the prison walls, and is rarely employed in manufacturing industries, but usually in such industries as mining, or railroad building, or in agricultural pursuits.

4. THE PUBLIC-ACCOUNT SYSTEM.—Under this system penal or reformatory institutions carry on the business of manufacturing, or other industries, like private individuals or firms, buying raw materials and converting them into manufactured products, or producing agricultural crops, which are sold in the best available market, the entire proceeds and profits accruing to the State, its political subdivisions or institutions.

5. THE STATE-USE SYSTEM.—This system is similar to the public-account system in all respects except that the products of the convicts' labor, manufactured from raw materials purchased by the institutions and under the sole direction of prison officials, or produced in agricultural or other employments, are used in penal, reformatory, or other public institutions, instead of being sold to the general public.

6. THE PUBLIC-WORKS-AND-WAYS SYSTEM.—Under this system the labor of convicts is utilized in the construction or repair of public roads, bridges, buildings, and other public works and ways.

ART. A. THE CONTRACT SYSTEM.

The following statement gives synopses of the laws of each State authorizing the employment of convicts under the CONTRACT SYSTEM. (For definition, see p. 171).

ALABAMA.—Code of 1896, secs. 4463, 4498, authorize the hiring or employment of State convicts at such labor, in such places, and under such regulations as may be prescribed by the proper authorities, having in view the end of making the system self-sustaining; and the making of contracts "for the hire of the labor" of State convicts by the day, month, year, or terms of years, the State in such cases controlling and supporting the convicts.

ARKANSAS.—Digest of 1894, secs. 5499 (as amended by Act No. 20, extra session of 1897), 5502, 5504, and 5509, authorize the employment of State convicts under the contract system, either inside or outside the prison walls, the State to retain the control, management, and discipline of the convicts, and "to direct how, at any and all times and under all circumstances, its convicts shall be lodged, fed, clothed, guarded, worked, and treated;" but no contract shall be made for any such convict labor if equally remunerative employment can be furnished by the State, so as to work the convicts on State account.

COLORADO.—Mill's Annotated Statutes, secs. 3425, 3435, and 3436, and Acts of 1897, chap. 5, provide that penitentiary convicts are to be worked to the best advantage of the people of the State; that their labor may be hired out, to be worked under the superintendence of the warden, and, if outside the prison walls, under the custody of a guard or overseer of the penitentiary; but no labor shall be performed by the convicts off the grounds belonging to the penitentiary, except such as may be incident to the business and management thereof.

CONNECTICUT.—General Statutes of 1888, sec. 3355, prescribes regulations under which fifty or more State convicts may be employed, "by contract or otherwise, at any trade or occupation."

IOWA.—Code of 1897, sec. 5702, authorizes the making of contracts for the labor of convicts confined in the State penitentiary at Fort Madison for terms of not longer than ten years.

KANSAS.—Acts of 1891, chap. 152, secs. 34, 35, and 39, authorize the making of contracts for the hiring out of the labor of State convicts

for terms not exceeding six years, to the highest bidder, at not less than 45 cents per day per convict, the State retaining full control over them, and no labor to be performed outside the prison grounds.

KENTUCKY.—Acts of 1898, chap. 4, secs. 13, 15, and 17, provide for the making of contracts for the labor of penitentiary convicts with one or more contractors, the hiring to be per capita, for a term of not more than four years, with privilege of renewal; the contractor shall be entitled to the use of the various shops, and the power therein, belonging to the State; the prisoners hired shall remain under prison police and government; the contractor may be permitted to introduce such machinery as may be necessary to the conduct of his business or manufacturing in the prison.

LOUISIANA.—Constitution of 1898, art. 196, prohibits the leasing of convicts to work anywhere except on public works, or on convict farms, or in manufactories owned or controlled by the State. This provision, which is to go into effect after existing leases expire, implies the contract system as at least permissible.

MAINE.—Revised Statutes of 1883, chap. 80, sec. 29, authorizes the making of "necessary and proper contracts for the carrying on of manufacturing or other industry" in county jails in behalf of the county.

MARYLAND.—Public General Laws, sec. 406, authorizes the directors of the State penitentiary to enter into such contracts as they may deem proper for the employment of the convicts therein.

MASSACHUSETTS.—Acts of 1897, chap. 412, sec. 3, authorizes the employment of convicts under the contract system, or under the piece-price system, in the industry of cane seating and in the manufacture of umbrellas. (The contract system had previously been abolished by Acts of 1887, chap. 447, sec. 1.)

MICHIGAN.—Acts of 1893, No. 118, makes provision for the employment of convicts in the State prisons and State house of correction and reformatory, superseding previous laws that provided for the contract system, and in effect doing away with such system, but providing that existing contracts made under prior laws shall not be affected. Inasmuch as contracts for convict labor were authorized by prior law for periods of ten years, and may have been made just prior to the adoption of the act of 1893, the contract system may be still in operation in the institutions named.

MISSOURI.—Revised Statutes of 1889, sec. 7238, authorizes the making of contracts for the employment of penitentiary convicts for periods not exceeding ten years, under such terms and conditions as may be deemed for the State's best interests, the labor to be performed within the prison walls. Such contracts are to be made after advertisement calling for bids for the unemployed convict labor; but contracts already in existence may be renewed without advertising. Other sections provide that the discipline and maintenance of the convicts are to be under the direction of the State.

NEBRASKA.—Acts of 1897, chap. 75, sec. 16, provides that the labor of such penitentiary convicts as can not be utilized to advantage in the manufacture of articles for use in the prison and other State institutions shall be "let out" by contract for a term not exceeding three years at any one time or for any one contract, the convicts to remain in the custody, control, discipline, and safe-keeping of the prison authorities and to be provided with board and clothing thereby.

Compiled Statutes of 1895, secs. 7260 and 7261, direct that contracts shall be made for the employment in a profitable manner of convicts in county jails, under such regulations and provisions as shall be prescribed by county authorities, who shall provide for their safe custody while employed under such contracts and pay for their board and other expenses incident to their labor out of the proceeds thereof.

NEVADA.—Acts of 1893, chap. 91, sec. 1, authorizes the renting or hiring out of any or all the labor of the convicts in the State prison.

NEW HAMPSHIRE.—Public Statutes of 1891, chap. 285, sec. 5, paragraph VI, authorizes the governor, with the advice of the council, to make contracts for the support and employment of State-prison convicts.

NEW JERSEY.—General Statutes of 1896, pp. 3167–8, secs. 15 and 18, authorize the hiring out by contract of the labor of prisoners in the State reformatory to the best bidder after public advertisement.

NEW MEXICO.—Compiled Laws of 1897, sec. 3518, provides that the labor of penitentiary convicts may be hired out, to be worked under the control of the superintendent of the penitentiary.

OREGON.—Act of February 23, 1895 (Acts of 1895, p. 40), authorizes the making of contracts with any person, firm, or corporation for the labor of penitentiary convicts, at a compensation of not less than 35 cents per day per convict, for any period of time not exceeding ten years, the labor to be performed within the penitentiary, or the inclosure thereof, under the general charge and custody of the prison officials.

RHODE ISLAND.—General Laws of 1896, chap. 285, sec. 39, and chap. 289, sec. 14, authorize the employment of prisoners in jail or in the State prison for the benefit of the State, "in such manner, *under such contract*, and subject to such rules, regulations and, discipline" as the board of State charities and corrections may make.

General Laws of 1896, chap. 291, sec. 10, authorize the State board of charities and corrections to make such contracts as they may deem proper respecting the labor of inmates of the penal and reformatory institutions of the State.

SOUTH CAROLINA.—Revised Statutes of 1893, Part V, sec. 574, authorizes the authorities of the State penitentiary "to make contracts for the performance of specific work, such work to be done entirely under the direction and control of the officers of the penitentiary."

SOUTH DAKOTA.—Compiled Laws of 1887, secs. 7714–7720, authorize the contracting of the labor of penitentiary convicts, together with shoproom, machinery, and power, after due advertisement, for periods not exceeding five years at any one time, subject to cancellation after six months' notice to the contractor, the convicts to be worked under the general supervision and government of the prison authorities.

TENNESSEE.—Acts of 1897, chap. 39, authorizes the making of contracts for the labor of penitentiary convicts not otherwise employed with any persons, firms, companies, or corporations desiring to carry on a manufacturing or other business within the penitentiary walls. Contracts are to be made so as to yield the greatest possible revenue to the State, and convicts employed thereunder are to be at all times under the care and supervision of the prison authorities.

Acts of 1897, chap. 125, sec. 31, provides for the employment under contract of "able-bodied shorter-time convicts" at branch prisons outside of the penitentiary walls.

TEXAS.—Revised Statutes of 1895, arts. 3654, 3655, and 3709, authorize the establishment of the contract system in the State penitentiaries, the convicts employed thereunder to remain under the control, discipline, and management of the prison authorities.

VERMONT.—Statutes of 1894, sec. 5188, provides that the directors of the State prison and house of correction may contract, for not exceeding five years, to any person the labor of all or part of the convicts in said institutions, in such manner and on such terms as they shall judge best for the State; but such contracts shall not interfere with the management and discipline of the convicts.

VIRGINIA.—Code of 1887, sec. 4130, authorizes the employment of penitentiary convicts in "executing work under contract with individuals or companies."

WEST VIRGINIA.—Acts of 1893, chap. 46, secs. 28 et seq., authorize the making of contracts for the labor of penitentiary convicts, together with the necessary steam power for operating machinery which contractors are required to supply. The contracts are to be made with the highest and best bidders, after due advertisement, for periods not exceeding five years, at a specified price per day per convict, and for the manufacture of the particular articles specified by the bidders. Convicts not hired under general contract may be temporarily hired until "their labor is required on any contract."

WISCONSIN.—Annotated Statutes of 1889, secs. 4938 to 4943, authorize the making of contracts for the labor of State-prison convicts, together with such shoproom, machinery, and power as may be necessary for their proper employment. Contracts must not be made for periods exceeding five years at any one time, and the convicts are to remain under the supervision of the prison authorities. Before making such contracts sealed proposals therefor are to be invited by public advertisement.

WYOMING.—Acts of 1890–91, chap. 37, sec. 5, authorizes the providing for the care, maintenance, and employment of inmates of penal or reformatory institutions by contract.

ART. B. THE PIECE-PRICE SYSTEM.

The following statement gives synopses of the laws of each State authorizing the employment of convicts under the PIECE-PRICE SYSTEM. (For description see p. 171.)

MASSACHUSETTS.—Acts of 1897, chap. 412, sec. 3, authorizes the employment of convicts under the piece-price system in the industry of cane seating and in the manufacture of umbrellas.

MINNESOTA.—Acts of 1895 chap. 154, sec. 4, authorizes the manufacture of articles in the State prison or State reformatory "by the piece, under what is known as the 'piece-price system,' by contracts with persons who furnish the materials used in such manufacture."

NEW JERSEY.—Genera Statutes of 1896, pp 3161–2, secs. 54 and 56, authorize the employmen of convicts not employed in the production of goods for use in State institutions in any prison, penitentiary, jail, or public reformatory institution ' on what is commonly known as the piece-price plan." Before any agreemer is made under this system advertisements must be published calling for bids, "so that there shall be a proper and just competition" foı the labor of the convicts.

General Statutes of 1896, p. 3169, sec. 20, authorizes the employment of inmates of the State reformatory under the "piece-price plan."

OHIO.—Act of March 31, 1892 (89 Laws of Ohio, p. 192), authorizes the establishment of the piece-price system in the State penitentiary, contracts thereunder to be made, after due advertisement, with the best and most satisfactory bidders. The labor is to be performed under the direction and control of the prison officials. No contracts for the product of convicts' labor on the "piece or process plan" shall bind the State for a period exceeding five years, and no arrangement shall be made for a period of more than one year that will produce less than 70 cents per day per capita for the labor of able-bodied convicts, except in certain specified cases.

SOUTH CAROLINA.—Revised Statutes of 1893, Part V, sec. 574, authorize the authorities of the State penitentiary "to make contracts for the performance of specific work, such work to be done entirely under the direction and control of the officers of the penitentiary."

WEST VIRGINIA.—Acts of 1893, chap. 46, sec. 44, provides that, if deemed advisable, penitentiary convicts not employed under the contract system "may be employed or let to contract on the piece-price system."

ART. C. THE LEASE SYSTEM.

The following statement gives synopses of the laws of each State authorizing the employment of convicts under the LEASE SYSTEM. (For description see p. 171.)

ALABAMA.—Code of 1896, secs. 4476, 4477, and 4478, provide for the leasing of State convicts and requires that all hiring of them must be per capita; that not less than 50 such convicts shall be hired to one person or kept at one prison, except that less than 50 may be worked in the county where they were convicted; that such convicts must be classed or tasked if hired to work in mines, and that no such convict must be worked at a different place or occupation than that expressed in the contract, or be rehired or placed in the keeping or control of any other person than the contractor, without authorization by proper State officials.

Secs. 4521, 4527, 4529, and 4534 authorize the hiring of county convicts to labor anywhere within the State, the place and kind of labor to be restricted to that expressed in the contract of hiring, and such convicts must not be sublet or rehired unless authorized by proper county authorities.

ARIZONA.—Acts of 1895, No. 19, provides that the labor of the inmates of the Territorial prison and reform school may be leased, on contract with a responsible person or persons, without obligating the Territory "to furnish tools, machinery, or money, or make other expenditure other than the labor of the inmates properly clothed and fed, and the proper guards for the same, together with the use of the property, buildings, and lands," and that no contract or lease shall be made for a longer period than ten years. The labor of the inmates may be performed either inside or outside the prison or reformatory confines. It is also provided that the buildings and property connected with the insane asylum, prison, and reform school may be leased for the purpose of furnishing employment for the inmates of the prison and reform school.

It is provided that the labor of the inmates of the institutions named shall not be leased when it is required upon the buildings or properties thereof.

ARKANSAS.—Digest of 1894, sec. 888, authorizes the leasing of houses of correction and the farms attached thereto and the labor of the inmates for terms not exceeding two years, the lessees to pay all expenses of maintenance and care of the institutions and the inmates thereof.

Secs. 910 (as amended by Act No. 16 of 1895) and 913 to 931 provide that contracts shall be made for the maintenance, safe-keeping, and working of prisoners in county jails, the contractor to keep, feed, and clothe the prisoners.

COLORADO.—Mill's Annotated Statutes of 1891, secs. 1446 and 1447, authorize the working of county convicts in quarries or mines; and when so working they shall be in the legal care and custody of the person or persons by whom they shall be employed, subject to such regulations as the keepers shall prescribe.

DELAWARE.—Acts of 1881, chap. 550, sec. 7 (chap. 54, Revised Code of 1893), authorizes the hiring out of convicts "upon the most favorable terms for their county."

FLORIDA.—Revised Statutes of 1892, secs. 3065 et seq., provide for the making of contracts with any person or persons for the labor, maintenance, custody, and discipline of State convicts for a term of years not exceeding four years. In case no application is received for the hire of the prisoners, the State may pay "to any person or persons such sums of money for taking such prisoners on such conditions as may be deemed advantageous to the interests of the State."

Sec. 3032, idem, and Acts of 1895, chap. 4323, authorize the hiring out or otherwise contracting for the labor of county convicts upon such terms and conditions as may be deemed advisable.

GEORGIA.—Acts of 1897, No. 340, sec. 10, authorizes the leasing of "any number" of State convicts to counties or to municipal corporations, for not less than $36 per convict per year, to be utilized upon the public roads or works.

Secs. 11 and 13 authorize the leasing to private companies or persons, for terms not longer than five years, of all State convicts not employed by the State or leased to counties or municipalities, the hirer to furnish transportation, maintenance, medicine, clothing, and all other necessaries, and buildings. The convicts must be leased to the bidder or bidders offering the highest price per annum per capita. The hirer has the right to sublet the labor of the convicts leased by him.

IDAHO.—Act of March 6, 1893 (Acts of 1893, p. 155), authorizes the State prison commissioners to contract with responsible persons for the care, maintenance, and employment of all State convicts, such employment to be within the prison limits.

KENTUCKY.—Statutes of 1894, secs. 4870 and 4871, provide that county workhouses and the labor of the inmates thereof may be leased for a period of not more than one year, the lessee to have the same power and discharge the same duties as if he were manager of the workhouse; or inmates of workhouses may be hired out to individuals for all or any part of their terms, the lessee to provide maintenance for the prisoners in addition to the agreed price of hire.

LOUISIANA.—Revised Laws of 1870, edition of 1897, secs. 2855 and 2865, and Acts No. 114 of 1890 and No. 134 of 1894, authorize the leas-

ing of State convicts, to be employed in such manufacturing, mechanical, or other labor as the lessees may deem proper. The convicts may be employed by the lessees in working on levees, railroads, or other works of public improvement; or, if such employment for them can not be obtained, they may be employed on plantation or farm work or any other employment. The subleasing of convicts is forbidden.

Act 29 of 1894 provides that the services of parish convicts may be hired or leased for the purpose of working them within the parish.

Constitution of 1898, art. 196, prohibits the leasing of convicts, after existing leases expire, for work anywhere except on public works, on convict farms, or in manufactories owned or controlled by the State.

MAINE.—Revised Statutes of 1883, chap. 140, sec. 19, authorizes the making of such contracts for "the letting to hire of such of the convicts (in the State prison) as the inspectors may deem expedient."

MARYLAND.—Public General Laws, art. 27, sec. 315, provides that inmates of the house of correction shall be kept at some useful employment, and that they may be "hired out for such useful employment as may be best suited to his or her age and most profitable to the institution."

Sec. 319 authorizes the hiring of convicts in the house of correction to a canal company, the convicts to be clothed, fed, and guarded by the managers of the institution.

Acts of 1890, chap. 529, authorizes the hiring out for some useful employment of all persons sentenced to the Dorchester County jail.

MASSACHUSETTS.—Public Statutes of 1882, chap. 219, sec. 23, provides that contracts may be made for the employment at domestic service of female inmates of a jail, house of correction, or female reformatory, for such terms and upon such conditions as may be deemed fit, such hiring to be made with the consent of the women hired.

MISSISSIPPI.—Acts of 1894, chap. 76, and Acts of 1896, chap. 133, authorize the leasing of convicts in county jails, either by public auction to the highest bidder or in a body to a convict contractor, for a term not exceeding four years. The convicts in either case are to be controlled, directed, and maintained by the lessee. All female convicts in county jails, except incorrigibles, must be hired out individually, and not to a convict contractor, and must not be worked with male convicts or upon public works or ways.

MISSOURI.—Revised Statutes of 1889, sec. 3437, appears to authorize the leasing of misdemeanor prisoners committed for nonpayment of fines in county jails, by providing that the amount "received for the services of such person so hired shall be applied upon the judgment against him."

NEVADA.—General Statutes of 1885, sec. 1406, authorizes the hiring of State-prison convicts for labor upon any private work or employment.

NEW HAMPSHIRE.—Public Statutes of 1891, chap. 285, sec. 5, paragraph VI, authorizes the governor, with the advice of the council, to make contracts for the support and employment of State-prison convicts.

NEW JERSEY.—Acts of 1898, chap. 239, secs. 9, 10, and 11, provide that persons committed for disorderly conduct, or as tramps, in any county, city, township, borough, or district may be bound out to labor in the service of any suitable person or corporation for the term of their commitment.

NEW MEXICO.—Compiled Laws of 1897, sec. 3528, authorizes the hiring out of the labor of penitentiary convicts, but convicts so hired shall not "be allowed to go out to labor without being under the custody of a guard or an overseer of the penitentiary."

NORTH CAROLINA.—Constitution, art. XI, sec. 1; Acts of 1897, chap. 219, sec. 5; Acts of 1889, chap. 314, sec. 5, and Code of 1883, secs. 3433, 3449, and 3450, authorize the "farming out" of convicts, the making of "contracts at remunerative terms with persons or corporations in order to employ and support as many of the able-bodied (penitentiary) convicts on public works as the interests of the State and constitution will permit;" that "in any scheme to make the penitentiary self-sustaining, preference shall be given to contracts for able-bodied convicts in larger bodies, hired to the best advantage;" and general authority is given for the hiring out of penitentiary convicts.

Code of 1883, sec. 3448, provides that inmates of county, city, or town jails may be hired out "to labor for individuals or corporations."

PENNSYLVANIA.—Digest of 1894, p. 996, sec. 16, appears to authorize the lease system as to inmates of houses of correction by providing that they may be detailed to do work outside the grounds of the institution "for such other person (than any of the departments or institutions of the city) as may be approved by the board of managers."

SOUTH CAROLINA.—Revised Statutes of 1893, Part V, secs. 565–567; Act 314 of 1893, sec. 3, and Act 528 of 1894, provide that convicts in the State penitentiary, except those sentenced for certain heinous crimes, may be leased or hired out to the highest responsible bidder, such convicts to be boarded, clothed, and safely kept by the lessee. As far as practicable, the convicts shall be hired to work on farms in healthy localities.

TENNESSEE.—Acts of 1895, extra session, chap. 7, sec. 19, and Acts of 1897, chap. 125, sec. 31, authorize the leasing, for the best interests of the State, of such penitentiary convicts as are not otherwise employed, and the continuance of an existing lease under which such convicts are worked in certain ore mines.

Acts of 1891, chap. 123, sec. 19, provides that any county convict held for nonpayment of fines and costs may, with his consent, be "bailed out," and be under the care, custody, and direction of the bailee until the amount due by him shall have been paid by the bailee in monthly installments.

TEXAS.—Revised Statutes of 1895, arts. 3744, 3745, and 3746, authorize the hiring out of county convicts either by private contract or at public auction, or by general contract, for any specified time, at some fixed rate per day, week, or month, the hirer to give bond for the humane treatment and proper care and support of convicts in his employ.

VIRGINIA.—Code of 1887, secs. 4136–4138, as amended by Acts of 1893–94, chap. 795, authorize the leasing of penitentiary convicts not otherwise employed to railroad companies, to be fed, clothed, guarded, and sheltered by the lessees.

ART. D. THE PUBLIC-ACCOUNT SYSTEM.

The following statement gives synopses of the laws of each State authorizing the employment of convicts under the PUBLIC-ACCOUNT SYSTEM. (For description, see p. 172.)

ALABAMA.—Code of 1896, secs. 4514 and 4516, authorize the employment of State convicts at farming or other labor on any land owned by the State, and provide that any part of the net income derived from State convict labor may be applied to manufacturing, "looking to the more permanent employment" of the convicts.

ARKANSAS.—Digest of 1894, secs. 5499 (as amended by Act No. 20, extra session of 1897), 5500, 5502, 5504, and 5506, authorize the employment of State convicts under either the public-account or the contract system, or under both systems at the same time, either inside or outside the prison walls, but provide that no contract shall be let for any such convict labor if equally remunerative employment can be furnished by the State, so as to work the convicts on State account.

Secs. 883, 885, and 886 provide that inmates of houses of correction may be employed in cultivating the farms and gardens connected therewith, or in mechanical pursuits; and the products of their labor shall be applied to paying the expenses of the institution, and the surplus arising from the sale of such products shall be paid into the county treasury.

CALIFORNIA.—Acts of 1889, chap. 264, authorizes the employment of State convicts in manufacturing or other work, and for the sale of such manufactured articles as are not required for use by the State.

COLORADO.—Mill's Annotated Statutes of 1891, sec. 3425, and Acts of 1897, chap. 5, authorize the erection of workshops at the State penitentiary, and the employment of able-bodied convicts at such labor as may be of the most advantage to the penitentiary and the people of the State.

Mill's Annotated Statutes of 1891, sec. 4163, authorizes the employment of convicts in the State reformatory in manufacturing and mechanical industries, the products of their labor to be sold or disposed of for the benefit of the State.

CONNECTICUT.—General Statutes of 1888, secs. 3394 and 3396, direct that inmates of workhouses be employed "at such labor as they shall be able to perform," be furnished with materials for their work, and be directed by authorized officials in the kind, manner, and place of their employment.

Acts of 1895, chap. 317, provides that inmates of the reformatory shall be employed in such manner as to provide, so far as possible, for their support, reformation, and the formation of the ability and disposition to support themselves and families.

DELAWARE.—Revised Code of 1893, chaps. 54 and 133, provide that inmates of county jails designated as workhouses, and of workhouses, shall be provided with tools and materials for their use and work, and that prisoners under conviction of felony, or under sentence exceeding three months for misdemeanor, may be compelled to work, the proceeds or profits of their labor to belong to the county.

DISTRICT OF COLUMBIA.—Webb's Digest, p. 24, authorizes the purchase of raw materials, tools, implements, and machinery for the purpose of carrying into effect the principle that employment must be provided for all inmates of the Washington asylum and workhouse capable of any species of labor, and the sale of manufactured articles and agricultural products produced by the inmates of said institution.

Compiled Statutes of the District of Columbia, chap. 33, sec. 6, provides that prisoners in the jail may be employed at such labor as may be prescribed by the proper authorities, the proceeds thereof to be applied to defraying the expenses of their trial and conviction.

Acts of 1884-5, chap. 145 (U. S. S., vol. 23, p. 314), authorizes the production of commodities for sale by the inmates of the Reform School, by providing that the revenue derived from the labor of the inmates and from the products of the farm shall be paid into the United States Treasury.

GEORGIA.—Acts of 1897, No. 340, secs. 1, 6, and 8, create a prison commission, which is given full control of State convicts and general supervision of misdemeanor convicts, and which is authorized to establish a State convict farm and to provide for the employment of convicts thereon by the purchase of machinery, utensils, implements, live stock, and other necessary equipments. The surplus products of the labor of the convicts may be sold to the best advantage.

IDAHO.—Act of March 6, 1893 (Acts of 1893, p. 155), authorizes the State-prison officials to provide for the employment of State convicts, within the confines of the penitentiary, "by direct expenditure."

ILLINOIS.—Annotated Statutes of 1896, chap. 108, sec. 19, authorizes the employment of penitentiary convicts in manufacturing, under the direction of the warden, the articles manufactured to be sold for the benefit of the State.

Chap. 67, sec. 13, indirectly authorizes the remunerative employment of inmates of houses of correction, by making provision for the expenses of maintaining such institutions "over and above all receipts for the labor of the persons confined therein."

INDIANA.—Acts of 1897, chap. 187, sec. 1, requires that inmates of State penal and reformatory institutions be placed at employment for the account of the State, and directs the establishment of the public-account system.

IOWA.—Code of 1897, sec. 5691, authorizes the carrying on of branches of labor and manufactures in the penitentiaries under the superintendence of overseers having suitable knowledge and skill, who may be employed for the purpose of such superintendence, the management, superintendence, and guarding of the convicts to be in accordance with prescribed rules and regulations or under the direction of the warden.

Sec. 5707 provides that the surplus stone produced by convict labor in the State stone quarries not used by the State shall be made into macadam, and disposed of in such manner as may be for the best interests of the State.

Secs. 5654 and 5655 provide that county, city, or town prisoners may be furnished with tools and materials to work with, their earnings to belong to the county, city, or town at whose expense they were so supplied.

KANSAS.—Acts of 1891, chap. 152, sec. 8, provides that the warden of the penitentiary shall use proper means to furnish employment to State convicts most beneficial to the public, and shall superintend any manufacturing, mining, or other business carried on in or about the penitentiary, and shall sell or dispose of any articles produced by the convicts for the benefit of the State.

Secs. 40 and 41, idem, and Acts of 1897, chap. 163, sec. 2, authorize the employment of penitentiary convicts, not otherwise employed, in mining coal, the surplus of such coal not required for use in State institutions to be sold to the general public.

General Statutes of 1889, sec. 5427, authorizes the sale of broken stone produced by the labor of county convicts.

KENTUCKY.—Acts of 1898, chap. 4, secs. 3, 5, and 16, provide that State convicts not employed under the contract system shall be employed at such useful labor as can be profitably conducted within the prison walls. The wardens are directed to purchase necessary materials and supplies for the employment of the convicts, and to make report "of all articles of manufacture, and other things made or fabricated in the penitentiary, by the labor of the prisoners, when the same are sold from time to time."

Acts of 1898, chap. 35, provides that inmates of houses of reform shall be employed in useful labor, the proceeds thereof to be used in reducing the expenses of the institutions.

MAINE.—Revised Statutes of 1883, secs. 8, 19, and 29, provide that reports of "the amount of manufactures of each kind, and of all other articles, sold from the (State) prison," shall be annually made to the legislature; that "all sales of limestone, granite, and other articles from the prison" shall be made by the warden, and that persons having suitable knowledge and skill in the branches of labor and manufactures carried on in the prison shall, when practicable, be employed as super intendents.

MARYLAND.—Public General Laws, secs. 406 and 425, provide that State-penitentiary convicts shall be put to hard labor at such employment as will be most advantageous, and authorize the making of contracts for the sale of the products of their labor.

MASSACHUSETTS.—Acts of 1887, chap. 447, and Acts of 1888, chap. 403, sec. 3, provide for the purchase of tools, implements, and machinery to be used in employing prisoners in penal and reformatory institutions, the manufactured articles to be sold for the public benefit.

MICHIGAN.—Acts of 1893, No. 118, secs. 9 and 31, authorize the wardens of the State prisons and the State house of correction and reformatory to superintend manufacturing and mechanical business carried on therein, and to sell the products of the convicts' labor for the benefit of the State.

MINNESOTA.—Acts of 1895, chap. 154, provides that inmates of the State prison or reformatory shall be regularly employed, and compelled to perform a reasonable amount of labor in some industrial employment; that necessary tools, implements, and machines shall be purchased for carrying on the industries of the institutions, and that the products of the convicts' labor may be sold in any market that can oe found.

General Statutes of 1894, sec. 3598, provides that prisoners in the State reformatory may be employed in quarrying, manufacturing, and cutting granite either for sale or for public use.

Sec. 7426 provides for the purchase of tools and materials to be used in the employment of prisoners in county jails, within the jail yard, whenever and however it may be deemed practicable by the county commissioners, such labor to be compulsory for convicts, but optional with prisoners held for trial.

MISSISSIPPI.—Constitution, sec. 225; Code of 1892, sec. 3201, and Acts of 1894, chap. 75, authorize the carrying on of farming occupations with the labor of penitentiary convicts, or of manufacturing, under the sole management and control of State officials, or the work ing of such convicts in the penitentiary under State control and dis cipline.

Acts of 1894, chap. 76, sec. 2, and Acts of 1896, chap. 133, sec. 2

authorize the employment of county convicts in farming under the direction of county authorities.

MISSOURI.—Revised Statutes of 1889, sec. 7235, provide for the employment of penitentiary convicts in manufacturing and for the sale of the manufactured products "in such manner as may be for the best interests of the State."

MONTANA.—Penal Code, secs. 2960 and 2981, authorize the board of State prison commissioners to employ the State-prison convicts in such manner as in its opinion will best subserve the interests of the State and the welfare of the prisoners, and provide that such prisoners may be employed in manufacturing and mechanical industries with tools and materials purchased by the commissioners, the manufactured articles to be sold and the money therefor collected by said commissioners.

NEBRASKA.—Acts of 1897, chap. 75, sec. 16, provides that "as rapidly as it may be profitably done, the State shall provide for the labor of the (penitentiary) convicts on its own account, to the end that the State may eventually provide means for the employment of all prisoners without the intervention of contractors; and the warden shall be charged with the duty of making the State prison as nearly self-sustaining as possible."

NEVADA.—Acts of 1887, chap. 91, sec. 1, and General Statutes of 1885, sec. 1405, authorize the employment of State-prison convicts in manufacturing or mechanical pursuits, the materials and appliances necessary therefor to be purchased by the State and the products thereof to be sold for the benefit of the State.

NEW HAMPSHIRE.—Public Statutes of 1891, chap. 285, sec. 5, paragraph V, authorizes the employment of State-prison convicts in the manufacture of commodities for sale, by providing for "the sale of articles manufactured in the prison or not necessary for the use thereof."

Chap. 283, sec. 3, provides that the county commissioners and selectmen "shall direct as to the manner and kind of labor to be performed by the inmates of houses of correction in their respective counties and towns, and the place of its performance, and shall furnish materials therefor."

NEW JERSEY.—General Statutes of 1896, pp. 3161–2, secs. 54 and 56, authorize the employment of convicts in any prison, penitentiary, jail, or public reformatory institution not engaged in the production of goods for use in State institutions, "under what is known as the public-account system," and authorize the selling of the goods produced under such system.

Act of March 25, 1895, secs. 15, 18, and 20, and General Statutes of 1896, pp. 3167–3169, authorize the employment of inmates of the State reformatory in the production of goods to be sold for the benefit of the State "under the public-account system."

General Statutes of 1896, p. 1838, sec. 51, authorizes the procurement of "suitable articles, materials and things" for the "labor, work, and employment" of inmates of workhouses.

NEW MEXICO.—Compiled Laws of 1897, secs. 3501, 3518, and 3649, provide that male penitentiary convicts shall perform labor under such rules and regulations as may be prescribed by the proper authorities; that convicts not working on public buildings and improvements shall be employed "as may be most advantageous," and that the "products of convict labor shall be sold to the highest bidder, for cash."

Sec. 841 provides that able-bodied convicts in county jails shall be compelled to labor at some useful employment during the terms of their conviction.

NEW YORK.—Constitution, art. 3, sec. 29, provides that no person in any prison, penitentiary, jail, or reformatory shall be required or allowed to work, while under sentence thereto, at any trade, industry, or occupation wherein or whereby his work or the product or profit of his work shall be given or sold to any person, firm, association, or corporation, other than State institutions. But it was decided by the New York court of appeals on October 11, 1898, in the case of People *v.* Hawkins (51 N. E. Reporter, p. 257), that this constitutional inhibition does not forbid the sale of convict-made goods to the general public, the word "product," according to the court, having the same sense as the word "profit," so that the constitution merely prohibits the contract system. This decision, however, was in a case relating solely to the labeling of convict-made goods offered for sale. Moreover the statutes of New York enacted since the adoption of the constitution of 1894 appear to be explicit in requiring the products of the labor of all prisoners in the State to be disposed of exclusively to State or other public institutions. (Birdseye's Statutes and Codes, p. 2363, secs. 98 et seq.)

Birdseye's Statutes and Codes of 1896, secs. 20 and 21, p. 881, and sec. 1, p. 878, provide that persons convicted by city or county authorities as disorderly persons shall be confined in the county jail or city prison at hard labor, and the product of such labor sold, half the proceeds going to the county or city and half to the prisoner on his discharge; but this older provision is probably inoperative in view of the other sections.

NORTH CAROLINA.—Constitution, art. XI, sec. 1, authorizes the employment of convicts, punished by imprisonment with hard labor, at "other labor for the public benefit" than the "farming out" of such ocnvicts, or their employment on public ways and works.

Acts of 1897, chap. 219, sec. 5, provides for the employment of penitentiary convicts within the penitentiary, or on farms owned or leased by the institution, and for the sale of "all articles manufactured or products produced by the convicts not deemed necessary for their use and comfort for the next ensuing year."

NORTH DAKOTA.—Revised Code of 1895, secs. 8571 and 8574, and Acts of 1897, chap. 108, authorize the carrying on of farming operations and the manufacture of brick by convict labor, the proceeds of such enterprises to be disposed of by the State.

Revised Code of 1895, sec. 8622, provides that prisoners in common jails sentenced to hard labor shall be furnished, in the discretion of the sheriff, with suitable tools and materials for their profitable employment for the benefit of the county.

OHIO.—Revised Statutes of 1890, sec. 6801, provides that prisoners in county jails shall perform labor anywhere within the county, the proceeds of which shall be paid into the county treasury.

Secs. 2100, 2107-3, 2107-21, and 6856-3 provide that inmates of workhouses shall be kept at hard labor either within the institution or elsewhere in the limits of the corporation, and that certain convicts therein "shall be employed at useful labor, and earn their own living," and authorize the working of inmates of workhouses under the public-account system, by making provision for the costs of maintaining

such institutions "over and above the proceeds arising from the sale of the products thereof."

OKLAHOMA.—Statutes of 1893, sec. 5436, provides that convicts in jails sentenced to hard labor shall be furnished with suitable tools and materials to work with, if in the opinion of the sheriff they can be profitably employed, and that the county shall be entitled to the earnings of such convicts.

PENNSYLVANIA.—Digest of 1894, p. 1661, secs. 13 and 17, direct that inmates of penal and reformatory institutions be employed for and in behalf of the State, the institutions, or the counties, and prescribes regulations governing the sale of their products to the general public.

Sec. 4, p. 1077, authorizes the furnishing of suitable articles and materials for the employment of able-bodied inmates of county jails, workhouses, and houses of correction at labor and manufacturing, the products of their labor to be disposed of as the county commissioners may direct.

Sec. 20, p. 1080, directs that articles manufactured by convict labor in the Philadelphia county prison "shall be sold."

RHODE ISLAND.—General Laws of 1896, chap. 291, sec. 10, authorizes the State board of charities and correction, in their discretion, to sell the products of the State farm and of other penal and reformatory institutions under their charge.

SOUTH CAROLINA.—Revised Statutes of 1893, Part V, sec. 551, authorizes the purchase of materials necessary for employing the prisoners in the State penitentiary and the sale of such articles produced therein "as are proper to be sold."

SOUTH DAKOTA.—Acts of 1893, chap. 131, provides for the purchasing, erection, and maintenance of the necessary machinery and appliances for the manufacture in the State penitentiary of binding twine from hemp or flax fiber, and for the sale thereof.

Compiled Laws of 1887, sec. 7705, authorizes the employment of penitentiary convicts in quarrying stone.

Sec. 7813 provides that inmates of county jails shall be furnished with suitable tools and materials to work with, within the jail confines, in the discretion of the sheriff.

TENNESSEE.—Acts of 1897, chap. 125, secs. 11 and 12, authorize the employment of penitentiary convicts at farming, coal mining, and coke making, and the sale of the products of their labor while so employed.

TEXAS.—Revised Statutes of 1895, arts. 3654, 3655, 3701, and 3709, authorize the establishment in State penitentiaries of manufacturing industries, particularly those of cotton goods and cotton and jute bagging, and the carrying on of farming operations, and provide for the sale of the products of the convicts' labor; and it is required that "all convicts shall be placed within the prison walls, or on State farms, and work on State account as soon and speedily as possible."

Arts. 3727 and 3730 authorize the utilizing of the labor of county convicts on farms or in the county workhouses.

UTAH.—Acts of 1896, chap. 81, secs. 9 and 32, provide for the carrying on in the State prison of manufacturing and mechanical industries and for the sale of the products of the convicts' labor for the benefit of the State.

VERMONT.—Statutes of 1894, sec. 5188, provides that the directors of the State prison and house of correction may "purchase material

required for employing the prisoners, and sell articles belonging to either institution proper to be sold."

VIRGINIA.—Code of 1887, sec. 4130, and Acts of 1893–4, chap. 62, direct the purchase or leasing of farming lands, to be improved and cultivated by penitentiary convicts, the products thereof not used in the penitentiary to be sold.

WASHINGTON.—General Statutes of 1891, secs. 1158 and 1170; Acts of 1893, chap. 86, and Acts of 1895, chap. 132, authorize the manufacture of such articles as are sanctioned by law, including jute and other fabrics and brick, by the penitentiary convicts, and for the sale of such products of the convicts' labor as are sanctioned by law and not needed by the State.

WEST VIRGINIA.—Acts of 1893, chap. 46, secs. 8 and 44, provide that penitentiary convicts not employed under contract may be employed in manufacturing, the warden to receive and take charge of the goods manufactured and sell and dispose of the same for the benefit of the State.

WISCONSIN.—Annotated Statutes of 1889, sec. 567d, provide for the establishment of "the business of manufacturing" in the State prison and the sale or disposition of the goods, wares, and merchandise produced "to the best interest of the State."

Secs. 4726 and 4727 authorize the employment of prisoners in county jails at such labor as shall be appropriate to their sex and physical condition, which may be required to be performed at any suitable place within the county under the direction of county authorities—the avails of their labor to be paid into the county treasury.

Acts of 1895, chap. 290, provide for the employment of inmates of county workhouses at hard manual labor and the sale of the products of such labor for the benefit of the county.

Acts of 1897, chap. 346, sec. 8, provide that prisoners at the State reformatory may be employed at agricultural or mechanical labor as means for their support.

WYOMING.—Revised Statutes of 1887, sec. 3375, authorize the employment by the Territory (State) of inmates of penal and reformatory institutions "upon its own account."

Acts of 1890–91, chap. 37, sec. 5, authorize the employment of inmates of penal or reformatory institutions by "direct expenditure."

ART. E. THE STATE-USE SYSTEM.

The following statement gives synopses of the laws of each State authorizing the employment of convicts under the STATE-USE SYSTEM. (For description see p. 172.)

ARKANSAS.—Digest of 1894, secs. 5501, 5502, and 5506, authorize the carrying on of manufacturing and other industries, either inside or outside the prison walls, by State convict labor, the products of such labor to be used in State institutions.

CALIFORNIA.—Acts of 1889, chap. 264, authorizes the employment of State convicts "in the manufacture of any article or articles for the State."

DELAWARE.—Acts of 1891, chap. 278, and Acts of 1893, chap. 670, (Revised Code of 1893, chap. 54), authorize the employment of convicts, in Newcastle County, in quarrying stone suitable for being broken

into macadam, and in the conversion of stone into macadam for use in improving the public roads of the county.

Georgia.—Acts of 1897, No. 340, sec. 8, authorizes the use of surplus products of the penitentiary by State institutions.

Penal Code of 1895, secs. 1144 and 1145, authorize the employment of county convicts in quarrying or gathering rock or gravel or other material for use in the improvement of county or municipal roads or streets.

Illinois.—Annotated Statutes of 1896, chap. 108, sec. 61, authorizes the employment of penitentiary convicts in quarrying stone for the use of the State.

Indiana.—Acts of 1897, chap. 187, provides for the employment of the inmates of State penal and reformatory institutions at such trades and vocations as the convicts are adapted to and as will supply said institutions, as nearly as possible, with all necessary articles of prison consumption. Surplus products are to be sold to other State institutions needing the same.

Annotated Statutes of 1894, sec. 8221, provides that materials for building and repairing the State prison shall be manufactured in the penitentiary.

Sec. 8235 authorizes the employment of convicts in the State prison in Clark County in chopping wood or timber for the use of the prison, making brick, or at other labor on State land near the prison, and in the cultivation of any fields or grounds that may be leased for the purpose of raising vegetable products for the use of the prison.

Sec. 8250 provides that convicts in the southern State prison may be employed in manufacturing arms, implements, goods, and munitions of war needed in defense of the State or for the use of State troops.

Iowa.—Code of 1897, secs. 5707 and 5708, authorize the employment of State convicts in the State stone quarries, and in breaking with hammers stone not used by the State for building purposes, for use in improving and macadamizing streets and highways; such broken stone to be furnished free of charge, except for transportation, to any county, township, town, city, or road district needing it.

Kansas.—Acts of 1891, chap. 152, sec. 41, provides that coal mined by State convicts in the State coal mines shall be used by the penitentiary, statehouse, insane asylum, and other State institutions.

General Statutes of 1889, secs. 5426 and 5427, provide for the employment of county convicts in breaking stone to be used in macadamizing streets and roads, and for the use of such broken stone as can not be sold "for the improvement of some designated road or street."

Maine.—Revised Statutes of 1883, chap. 78, sec. 13, as amended by Acts of 1889, chap. 288, provides that suitable materials and implements shall be furnished sufficient to keep inmates of jails at work, and that convicted tramps shall be put to labor at breaking stone for use in building and repairing highways.

Maryland.—Acts of 1892, chap. 624, provides for the employment of persons convicted of assault, drunkenness, disorderly conduct, or vagrancy, in Carroll County, in the breaking of stone to be used on public thoroughfares.

Massachusetts.—Acts of 1887, chap. 447, sec. 13, and Acts of 1898, chap. 334, require that, as far as possible, the products of convict labor shall be articles and materials used in the public institutions of the State and of the counties thereof, to be sold to such institutions.

Acts of 1898, chap. 365, authorizes the employment of prisoners in any jail or house of correction in the preparation of materials for road making, to be sold to county, city, or town officers having the care of public roads.

Acts of 1898, chap. 393, provides that inmates of jails and reformatories may be employed in reclaiming and improving waste and unused land belonging to the State, and in preparing by hand labor material for road building, to be sold to State, county, city, or town authorities.

MICHIGAN.—Acts of 1893, No. 118, sec. 35, requires the employment of "so many prisoners in either prison (including the State prisons, reformatory, and house of correction) as are necessary in making all articles for the various State institutions, as far as practicable," the institutions using such articles to pay the institution making the same therefor.

Howell's Annotated Statutes, sec. 9710, authorizes the employment of convicts in the State prison "in quarrying stone, or other labor useful in the erection or repair of the building or walls of the prison."

MINNESOTA.—Acts of 1895, chap. 154, provides that inmates of the State prison or reformatory shall be regularly employed and compelled to perform a reasonable amount of labor in some industrial employment; that necessary tools, implements, and machines shall be purchased for carrying on the industries of the institutions, and that so far as possible such articles shall be manufactured as are in common use in the various State institutions, to be sold to or exchanged between such institutions.

MISSISSIPPI.—Acts of 1894, chap. 75, sec. 4, authorizes the employment of State convicts in making articles and implements necessary for use on the farms upon which convicts are employed, and in making shoes, clothing, and other articles for the convicts.

MISSOURI.—Revised Statutes of 1889, secs. 7235 and 7251, authorize the employment of penitentiary convicts in manufacturing commodities for State use.

Secs. 3438 and 3439, and Act of February 18, 1899, authorize the employment of county, city, town, and village convicts at breaking stone for macadamizing purposes.

NEBRASKA.—Acts of 1897, chap. 75, sec. 16, authorizes the use of the labor of penitentiary convicts in manufacturing articles for use in the prison and in all other State institutions.

NEVADA.—Acts of 1887, chap. 91, provides that State-prison convicts engaged in the manufacture of boots and shoes shall make all the boots and shoes required for the use by the inmates of the prison and by wards of the State and other institutions, to be paid for by such institutions.

Acts of 1889, chap. 60, Acts of 1891, chap. 78, and Acts of 1897, chap. 132, require the employment of State convicts in preparing stone and other materials for use in the construction of public buildings.

NEW HAMPSHIRE.—Public Statutes of 1891, chap. 285, sec. 5, paragraph V, authorizes the employment of State prison convicts in the manufacture of commodities for State use by providing for "the sale of articles manufactured in the prison or not necessary for the use thereof."

NEW JERSEY.—General Statutes of 1896, p. 3161, sec. 54, provides that prisoners in any prison, penitentiary, jail, or public reformatory institution shall be employed, as far as practicable, in the manufacture of or at work upon goods used in the State institutions.

Acts of 1898, chap. 239, sec. 10, provides that persons convicted as tramps or disorderly persons by county, city, township, borough, or district authorities may be required to work on the county farm in producing food, presumably for use in public institutions.

New Mexico.—Compiled Laws of 1897, secs. 3477 and 3548, authorize the employment of penitentiary convicts in the production of brick, lime, and stone for use in the capitol building, and in quarrying and hauling stone for use on public improvements.

New York.—Constitution, art. 3, sec. 29, and Birdseye's Statutes and Codes of 1896, pp. 2363–64, secs. 98 et seq., require the employment of convicts in State prisons, penitentiaries, jails, and reformatories in the production of commodities for use by the State and its subdivisions in the State, to be paid for by the institutions or departments using them.

Birdseye's Statutes and Codes of 1896, p. 760, sec. 93, authorizes the employment of prisoners in county jails in preparing materials for highway purposes, to be sold to and used in their respective counties or the towns, cities, and villages therein.

North Carolina.—Acts of 1897, chap. 219, sec. 5, authorizes the production of commodities by convict labor for use in the penitentiary, by providing for the sale of all manufactured articles and products of the labor of penitentiary convicts "not necessary for their use and comfort for the next ensuing year."

North Dakota.—Acts of 1897, chap. 108, and Revised Codes of 1895, sec. 8571, authorize the disposal of products of convict labor "to the State or any political division thereof," or to any public institution in the State, and the manufacture of brick for State use by convict labor.

Ohio.—Act of April 17, 1896 (92 Laws of Ohio, p. 184), provides that all articles of food, raiment, or use produced by the inmates of any penal reformatory or benevolent institution that can be used in the support or maintenance of any other such institution shall be supplied by the institution growing, making, manufacturing, or producing the same to such other institution, of which accounts shall be kept and bills rendered.

Act of March 31, 1892 (89 Laws of Ohio, p. 192), requires the managers of the State penitentiary to employ the prisoners, as far as practicable, in making all articles for the various State institutions, to be paid for by such institutions.

Revised Statutes of 1890, sec. 7424, authorizes the employment of a portion of the penitentiary convicts in manufacturing articles used in carrying on the penitentiary.

Oregon.—Hill's Annotated Laws, p. 1817, sec. 4, authorizes the use of materials produced by the labor of penitentiary convicts in the construction and establishment of the State reform school.

Pennsylvania.—Digest of 1894, p. 996, sec. 16, authorizes the employment of inmates of houses of correction in manufacturing "such articles as may be needed for the prison, almshouse, (or) other public institution of the State or city."

South Dakota.—Acts of 1890, chap. 11, authorizes the purchase of necessary machinery and appliances to enable the State convicts to work in developing stone quarries belonging to the State, the stone to be used in erecting a wall around the penitentiary and other improvements.

Compiled Laws of 1887, sec. 7705, authorizes the employment of penitentiary convicts in "cultivating the prison farm or in doing any work necessary to be done in the prosecution of the regular business of the institution."

TENNESSEE.—Acts of 1897, chap. 125, sec. 30, provides that all coal and coke needed for use by State institutions shall be furnished by the board of prison commissioners, and that such institutions shall be required to use only coal and coke furnished by State mines and produced by the labor of penitentiary convicts.

UTAH.—Acts of 1896, chap. 81, secs. 29, 32, and 33, provide that State prison convicts are to be employed in manufacturing and mechanical industries and on the prison farm, and in producing "all articles for the various State institutions, as far as practicable."

VIRGINIA.—Code of 1887, secs. 4110 and 4130, as amended by Acts of 1893–4, chap. 795, and Acts of 1893–4, chap. 62, authorizes the employment of penitentiary convicts in farming operations for the use and benefit of the institution.

WASHINGTON.—General Statutes of 1891, sec. 1158, authorizes the employment of penitentiary convicts in "the manufacture of any article or articles for the State."

WEST VIRGINIA.—Acts of 1893, chap. 46, sec. 44, provides that a portion of the penitentiary convicts may be employed in the repair or manufacture of articles used by the State in carrying on the penitentiary or other State institutions.

WISCONSIN.—Annotated Statutes of 1889, sec. 608, provides that all public institutions maintained in whole or in part by the State shall obtain all goods required by them from the State prison or other institution manufacturing the same; and the officers of said prison or other institution shall cause to be made and delivered all such articles or goods so required as can be made or furnished by them.

Sec. 4927 provides that State prison convicts may be employed outside of the prison walls in cultivating the prison farm, or in quarrying or getting stone therefrom, or in doing any work necessary to be done in the prosecution of the regular business of the institution.

UNITED STATES.—Acts of 1894–95, chap. 189 (28 U. S. S., p. 957), provides that convicts in the United States penitentiary at Fort Leavenworth, Kans., shall be employed exclusively in the manufacture and production of articles and supplies for the penitentiary and for the Government, the convicts not to be worked outside of the Fort Leavenworth military reservation.

Acts of 1890–91, chap. 529 (26 U. S. S., p. 839), authorizes the construction of three United States prisons, and provide that convicts therein shall be employed exclusively within the prison enclosures in the manufacture of supplies for the Government.

ART. F. THE PUBLIC-WORKS-AND-WAYS SYSTEM.

The following statement gives synopses of the laws of each State authorizing the employment of convicts under THE PUBLIC-WORKS-AND-WAYS SYSTEM. (For description, see p. 172.)

ALABAMA.—Code of 1896, secs. 4521, 4522, 4528, 4529, and 4530, authorize the employment of county convicts on public roads, bridges, or other public works in the county where convicted, it being provided that no female shall be required to labor upon any public highway.

ARIZONA.—Acts of 1895, No. 19, authorizes the employment of the inmates of the Territorial prison and reform school upon public works by stipulating that the labor of the inmates of the institutions named shall not be leased when it is required upon the buildings or properties thereof.

Revised Statutes of 1887, sec. 2459, provides that prisoners in the county jail may be required to perform labor on the public works and ways of the county.

ARKANSAS.—Acts No. 33 and 38, extra session of 1897, authorize the employment of State convicts in repairing roads leading to the various convict camps and in constructing State railroad and telegraph lines.

Digest of 1894, sec. 5543, provides that penitentiary convicts may be worked on public improvements, buildings, and grounds in the city of Little Rock.

Secs. 896, 911, and 932 provide that convicts in the county jails may be worked on the public bridges, highways, levees, and other county improvements.

CALIFORNIA.—Acts of 1897, chap. 8, authorizes the employment of State convicts in the construction and repair of public roads.

Acts of 1891, chap. 216, authorizes the employment of prisoners in county jails "upon the public grounds, roads, streets, alleys, highways, public buildings, or in such other places as may be deemed advisable for the benefit of the county."

COLORADO.—Mill's Annotated Statutes of 1891, sec. 1446, authorizes the employment of prisoners in county jails on any of the public avenues, streets, highways, or other works in the county where confined or in adjoining counties.

Secs. 2483 and 3425 authorize the employment of State convicts in constructing ditches, canals, reservoirs, and feeders for irrigation and domestic purposes and in making improvements in the penitentiary buildings.

DELAWARE.—Acts of 1881, chap. 550, sec. 7 (Revised Code of 1893, chap. 54), authorizes the employment of convicts "upon the roads or any public works" in case contracts can not be made for their custody and maintenance in other States.

FLORIDA.—Revised Statutes of 1892, sec. 3032, authorizes the employment of county convicts "at labor upon the streets of incorporated cities or towns, or upon the roads, bridges, and public works in the several counties where they are so imprisoned."

GEORGIA.—Acts of 1897, No. 340, secs. 9, 10, and 13, authorize the employment of convicts leased under prior laws, the control of whom has been resumed by the State, in erecting buildings, stockades, and appurtenances on the convict farm, or in such other labor as may be deemed profitable, and the hiring of State convicts to counties or municipal corporations to be employed on their public roads or works.

Penal Code of 1895, secs. 1039, 1137–1139, and 1143, provide for the working of misdemeanor convicts on public works or roads, and for the hiring of county convicts from other counties, to be so worked.

IDAHO.—Constitution, art. 13, sec. 3, authorizes the employment of State convicts "on public works, under the direct control of the State," and act of February 3, 1891 (Acts of 1891, p. 22), sec. 7, authorizes the employment of such convicts in and upon the buildings and grounds of the penitentiary in making improvements and repairs.

Act of March 9, 1895 (Acts of 1895, p. 100), provides that male prisoners over eighteen years of age in county jails shall be required to labor in and about the county jail and court-house for the "betterment, improvement, cleanliness or maintenance" of said buildings or their grounds.

ILLINOIS.—Annotated Statutes of 1896, chap. 108, secs. 27 and 54, authorize the use of the labor of State convicts upon the penitentiary buildings and grounds or other public works, so far as the labor can be advantageously performed at the penitentiary.

INDIANA.—Annotated Statutes of 1894, secs. 1935 and 4194, provide that male inmates of county, town, and city jails may be put at hard labor on the public wharves, streets, alleys, or other thoroughfares, or upon public roads or highways, or any other work or improvement within the county for the public good or benefit.

Sec. 8334 provides that inmates of workhouses shall be kept at hard labor, as far as may be consistent with their age, sex, and ability, in such manner as may be deemed most advantageous, in or about the workhouse, or upon any public wharf, street, alley, highway, thoroughfare, or other work of public improvement within the county, or at such work and in such manner as may be deemed best.

IOWA.—Code of 1897, secs. 5653 and 5660, authorizes the employment of county or city convicts upon the streets, roads, public buildings, and grounds of the county or city where confined.

Sec. 5707 authorizes the employment of State convict labor, when not otherwise employed, in the improvement and macadamizing of streets and highways.

KANSAS.—Acts of 1891, chap. 152, sec. 43, authorizes the use of such State convict labor as may be necessary in keeping in repair the road from the penitentiary to the limits of the city of Leavenworth.

General Statutes of 1889, sec. 5428, authorizes the employment of such county convicts as may so desire, in work upon the public highways of the county.

KENTUCKY.—Constitution, sec. 253, authorizes the legislature to provide for the employment of convicts upon public works.

Statutes of 1894, secs. 1379 and 4322, provide for the employment of inmates of county jails and workhouses upon public highways in their respective counties, or upon public works of the county or of any city or town therein.

LOUISIANA.—Act No. 38 of 1878 and constitution of 1898, art. 292, provides that convicts sentenced to imprisonment at hard labor may be made to labor on the public works, roads, or streets of the city or parish in which the crime was committed.

Acts No. 121 of 1888 and No. 29 of 1894 provide for the working of parish convicts on roads, levees, or any other public work or farm, under the direction of the parish authorities.

MARYLAND.—The laws of this State contain several special statutes that authorize the employment of prisoners in county jails upon public roads, streets, and alleys in particular counties.

MASSACHUSETTS.—Acts of 1898, chap. 307, provides that prisoners in the reformatory for males may be employed upon any lands or buildings owned by the State.

Acts of 1885, chap. 94, provides that prisoners in the reformatory prison for women may be employed upon any land appurtenant to the prison or in any buildings thereon.

Public Statutes of 1882, chap. 220, sec. 4, provides that convicts in jails may be employed upon the public lands and buildings belonging to the counties.

MICHIGAN.—Acts of 1893, No. 118, sec. 31, authorizes the employment of inmates of the State prisons, reformatory, and house of correction in the erection or repair of the buildings or walls of said institutions.

Howell's Annotated Statutes, sec. 9643, authorizes the employment of inmates of county jails "on any of the public avenues, streets, or highways, or other works in the county where such prisoner is confined, or in any of the adjoining counties."

MINNESOTA.—Acts of 1897, chap. 127, provides that able-bodied male prisoners in county or village jails may be required to labor upon the public streets or highways, or in or about any public buildings or grounds, or at other public places in the counties in which they are confined.

MISSISSIPPI.—Constitution, sec. 224, and Code of 1892, sec. 3202, authorize the employment of penitentiary convicts on public roads or works, or on public levees, when such working will not interfere with their employment at farming, the work to be under official discipline and management.

Acts of 1894, chap. 76, sec. 2, and Acts of 1896, chap. 133, sec. 2, authorize the employment, under official direction and management, of county convicts on public roads or works, but female convicts must not be so employed.

MISSOURI.—Revised Statutes of 1899, sec. 7238, authorizes the employment of convicts in the penitentiary in making improvements connected therewith, or on other State improvement, or in erecting buildings for the State, or in labor for the preservation and security of property for the State, and in collecting and providing materials therefor, or in improving any public grounds belonging to the State.

Secs. 3438 and 3439, and Act of February 18, 1891 (Acts of 1891, p. 63), authorize the employment of county, city, town, and village convicts on the public roads, highways, streets, alleys, turnpikes, or other public works or buildings of the county, city, town, or village.

MONTANA.—Penal Code, sec. 2961, authorizes the employment of any portion of the prisoners in the State prison in the improvement of public buildings or grounds or otherwise where they may be profitably employed, either within or without the walls or inclosures of the prison.

NEBRASKA.—Compiled Statutes of 1895, secs. 1099, 1281, 1315, and 7260, provide that county convicts may be employed on roads or other places, as may be designated by the county commissioners; and that prisoners sentenced for violation of city ordinances or committed for nonpayment of fines and costs "shall be put to work for the benefit of the city" for the term of imprisonment or until the fine and costs are worked out at $1.50 per day. It is presumed that the intention of these provisions is to utilize the labor of the prisoners upon public works and ways.

NEVADA.—General Statutes 1885, sec. 1406, provides that State-prison convicts may be employed in the improvement of public buildings and grounds, either within or without the walls or inclosures of the prison, whenever in the opinion of the prison authorities it will be to the advantage of the State to so employ them.

Secs. 2148 and 2151 provide that convicts in county, city, or town jails shall be put to labor upon the construction, repair, or cleaning of public ways and works in their respective counties, cities, and towns.

NEW JERSEY.—Acts of 1898, chap. 237, sec. 167, provides that convicts in county jails or penitentiaries may be required to perform reasonable labor, such as cooking, cleaning, gardening, mechanical, or other service necessary to be performed within the bounds of the court-house or county property.

Acts of 1898, chap. 239, sec. 10, provides that tramps or disorderly persons convicted by county, city, township, borough, or district authorities may be required to perform labor upon any county farm, or upon the streets, roads, and highways.

NEW MEXICO.—Compiled Laws of 1897, sec. 3744, requires that all the labor of penitentiary convicts possible be used in the reconstruction of the Territory's capitol building.

Secs. 3518 and 3649 authorize the use of the labor of convicts in the erection or extension of the prison buildings, walls, workshops, or other improvements.

Sec. 3548 provides that penitentiary convicts not otherwise occupied may be employed in and about any work, labor, or improvement on the capitol building or grounds, or upon thoroughfares or bridges in or near Santa Fe, or in quarrying or hauling stone, or at work for preventing the banks of the Santa Fe River from overflow and destruction.

Sec. 3631 directs that any number of penitentiary convicts, not exceeding fifty, be surrendered to any contractor for the construction of certain public buildings and improvements, to be worked thereon, such convicts to be under the care, custody, and control of and to be maintained by the contractor, who is not to be required to pay anything for their services.

NEW YORK.—Birdseye's Statutes and Codes of 1896, p. 2363, sec. 103, provides that labor of convicts in State prisons and reformatories, after the manufacture of needed supplies, shall be primarily devoted to the State and the public buildings and institutions thereof, and that the labor of convicts in penitentiaries after the manufacture of needed supplies shall be primarily devoted to the respective counties in which said penitentiaries are located and the towns, cities, and villages therein. This provision is construed as authorizing the employment of convicts on public works and ways.

Page 2368, sec. 118, authorizes the employment of State-prison convicts, not to exceed three hundred in each prison, in the improvement of public highways outside of incorporated cities or villages within a radius of thirty miles from the prison.

Page 760, sec. 93, authorizes the employment of prisoners in county jails in repairing penal institutions and in building and repairing the highways in their respective counties.

Acts of 1897, chap. 106, and Acts of 1898, chap. 133, authorize the employment of convicts in the Sing Sing prison in making improvements upon the prison buildings, and those in the prison at Clinton in improving a specified highway.

NORTH CAROLINA.—Constitution, Art. XI, sec. 1, authorizes the employment of convict labor on public works and highways.

Acts of 1889, chap. 314, sec. 5, and chap. 361, sec. 6, and Acts of 1895, chap. 194, make provision for the employment of penitentiary

convicts, by counties, in working their public roads, canals, and turnpikes, the use of female convicts in working on public roads being prohibited. The statutes of this State contain many other laws authorizing similar employment of convicts in particular counties.

Code of 1883, sec. 2508, as amended by Acts of 1885, chap. 70, and Acts of 1887, chap. 74, authorizes the employment of not more than 325 penitentiary convicts in reclaiming State swamp lands and in constructing canals, ditches, roads, and other necessary works of improvement through or in the vicinity of such lands.

Code of 1883, sec. 3448, and Acts of 1889, chap. 361, sec. 5, authorize the employment of prisoners in county, city, or town jails on public thoroughfares.

North Dakota.—Revised Codes of 1895, secs. 8454 and 8573, authorize the employment of penitentiary convicts upon public buildings and in macadamizing or otherwise improving the roads and streets used as approaches to public buildings and institutions.

Sec. 8622 authorizes the employment of prisoners sentenced to hard labor in common jails outside the jails or jail yards at any work for the county, or for any municipality therein, or upon public streets or highways, or otherwise.

Ohio.—Acts of 1891, p. 386, authorizes the employment of convicts in the State reformatory in making improvements and additions to the buildings thereof.

Oklahoma.—Statutes of 1893, sec. 5436, and Acts of 1895, chap. 41, sec. 50, authorize the employment of jail convicts, either for the county or any municipality therein, upon the public streets and highways.

Oregon.—Act of Feb. 23, 1895, sec. 20 (Acts of 1895, p. 54), authorizes the employment of convicts, as far as practicable, in the improvement and construction of roads on and adjoining State lands.

Hill's Annotated Laws, p. 1817, sec. 4, authorizes the use of the labor of penitentiary convicts in the construction of the reform school.

Acts of 1893, p. 131, sec. 32, provides that convicts failing to pay fines for violations of municipal ordinances may be required to labor one day for every two dollars of such fines upon the streets or other public works of the municipality.

Pennsylvania.—Acts of 1895, No. 264, provides that persons sentenced to simple imprisonment in county jails may be required to labor "about the county buildings and upon the grounds and property of the county."

Digest of 1894, p. 1486, sec. 552, and p. 1547, sec. 35, authorize the working of persons convicted of violations of city ordinances at hard labor upon the streets or elsewhere, for the benefit of the city.

Page 996, sec. 16, provides that inmates of the house of correction may be detailed to work "outside of the grounds of the institution for any of the departments or institutions of the city."

South Carolina.—Constitution, art. XII, sec. 6; Act 524 of 1898, Act 113 of 1896, and Revised Statutes of 1893, Part V, sec. 544, authorize the working of convicts upon the public works and ways of the State, counties, and municipalities.

Act 7 of 1899 permits any county to contract with another county for hiring out or exchanging convict labor to be employed on public works.

SOUTH DAKOTA.—Acts of 1890, chap. 11, provides that penitentiary convicts may be employed in erecting the prison wall or in making other improvements to the penitentiary.

Compiled laws of 1887, secs. 7813–7815, authorize the employment of the inmates of county jails and of violators of city ordinances at work on public streets or highways or otherwise for counties or municipalities.

TENNESSEE.—Acts of 1897, chap 125, sec. 31, authorizes the temporary employment of "more able-bodied shorter-time convicts" in the penitentiary in building public roads and pikes under contracts with county or municipal authorities.

Acts of 1891, chap. 123, sec. 5, provides that inmates of county workhouses or county jails declared workhouses shall be worked, when practicable, on the county roads in preference to all other kinds of labor.

TEXAS.—Constitution, art. 16, sec. 24, requires that legislative provision be made for utilizing convict labor in laying out and working public roads and in building bridges.

Revised Statutes of 1895, arts. 3733 and 3744, provide that county convicts shall be put to labor upon the public roads, bridges, or other public works of the county when their labor can not be utilized in the county workhouse or on the county farm. The employment of female convicts on public works and ways is, in effect, prohibited by art. 3736, which provides that females "shall in no case be required to do manual labor, except in the workhouse or when hired out."

UTAH.—Constitution, Art. XVI, sec. 3, requires the enactment of laws prohibiting the labor of convicts outside of prison grounds, except on public works under the direct control of the State.

Acts of 1896, chap. 81, sec. 29, authorizes the employment of State-prison convicts in the erection or repair of the building or walls of the prison.

Acts of 1896, chap. 131, sec. 30, authorizes the employment of prisoners in county jails subject to hard labor, upon the public grounds, roads, streets, alleys, highways, or public buildings for the county.

Compiled Laws of 1889, sec. 1759, as amended by Acts of 1896, chap. 59, provides that violators of city ordinances "shall be required to work for the corporation at such labor as his strength will permit."

VIRGINIA.—Code of 1887, secs. 4110 and 4130–4133, and Acts of 1893–94, chap. 795, provide for the employment of penitentiary convicts in improving, repairing, or working on public buildings, grounds, and property, or for furnishing such convicts to counties, to be worked on county roads.

WASHINGTON.—General Statutes of 1891, sec. 1158, authorizes the employment of penitentiary convicts "in the performance of work for the State," which, it is presumed, is intended to authorize their employment on public works and ways, as their employment in manufacturing articles for State use or for sale is expressly provided for in the same section.

Secs. 290, 1192, and 1193 direct that convicts in county and city jails be employed at labor on the public roads, streets, grounds, and buildings of the city or county, it being provided that county convicts shall not be put to labor at a greater distance than five miles from the jail.

WEST VIRGINIA.—Acts of 1893, chap. 46, secs. 43 and 50, provide that penitentiary convicts not employed under contract may be

employed "in the performance of work for the State," presumably on public works and ways; or able-bodied male convicts may be furnished to any county of the State to work on public roads, free of hire, under specified conditions.

WISCONSIN.—Annotated Statutes of 1889, sec. 1547 d–10, provide that tramps sentenced to hard labor in county jails may be required to work "upon highways or upon other public improvements" in case other work is not provided for them by county authorities.

Acts of 1895, chap. 250, provides that persons convicted in any court in the State, including those convicted for violation of city or village ordinances, for vagrancy, and for other specified offenses, may be required to work upon highways or other public improvements in case other work is not provided for them.

WYOMING.—Acts of 1890–91, chap. 37, sec. 5, provides that inmates of penal and reformatory institutions may be employed to complete or repair the place or the surroundings of the place in which they are confined.

Revised Statutes of 1887, secs. 3371 and 3374, provide that prisoners in county jails may be compelled to work in any way that the county commissioners may direct for the benefit of the county, and that convicts in the jail or prison of any county, city, town, village, or municipality may be employed or put to work upon any public work of improvement, or upon highways, streets, alleys, parks, or public places.

CHAPTER II.

HOURS OF CONVICT LABOR.

The following statement gives synopses of the laws of each State regulating the hours of convict labor.

ARKANSAS.—Digest of 1894, sec. 906, provides that persons hiring county convicts shall not work them for a longer time during any day than other laborers doing the same kind of work are accustomed to labor.

CALIFORNIA.—Acts of 1889, chap. 264, provides that each able-bodied State convict shall be required to perform "as many hours of faithful labor in each and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the prison."

COLORADO.—Mill's Annotated Statutes of 1891, secs. 1445, 4174, and 4435, provide that convicts sentenced to hard labor shall be "kept constantly employed during every day except Sunday;" that inmates of the State reformatory shall be worked on an average of not exceeding ten hours per day, Sundays excepted, and that persons convicted of violating municipal ordinances shall be employed not exceeding ten hours each workday.

DELAWARE.—Revised Code of 1893, chap. 54, provides "that eight hours shall constitute a day's work at hard labor," to be performed between 8 o'clock a. m. and 5 o'clock p. m., for convicts in the jail or workhouse in Newcastle County.

FLORIDA.—Revised Statutes of 1892, secs. 3057 and 3065, provide that State convicts shall labor not less than eight nor more than ten hours per day, and when under contract shall work between sunrise and sunset, and shall not be required to labor on Sunday.

Sec. 3033 provides that county convicts shall not be required to work more than ten hours per day.

GEORGIA.—Acts of 1897, No. 340, sec. 6, provides that the hours of labor of State convicts shall be regulated by the prison commission.

IDAHO.—Act of March 9, 1895 (Acts of 1895, p. 100), provides that male prisoners over 18 years of age in county jails shall be required to labor not to exceed eight hours per day, Sundays and holidays excepted.

ILLINOIS.—Annotated Statutes of 1896, chap. 108, sec. 13, provides that the hours of labor of State convicts shall be determined by the penitentiary commissioners.

INDIANA.—Acts of 1897, chap. 187, provides that the hours of labor in State prisons and reformatories shall not exceed eight hours per day, "subject to temporary changes under necessity, or to fit special cases."

Annotated Statutes of 1894, sec. 3502, provides that persons committed to city workhouses or county jails for certain offenses shall be required to labor not less than six nor more than ten hours per day.

Iowa.—Code of 1897, secs. 5653 and 5660, limit the employment of county and city prisoners upon public works and ways to not exceeding eight hours per day.

Kansas.—Acts of 1891, chap. 152, sec. 39, provides that the hours of labor of State convicts employed under the contract system shall be ten hours per day.

Kentucky.—Statutes of 1894, sec. 1380, provides that prisoners in county jails "shall not be required to labor more than eight hours a day."

Louisiana.—Acts No. 38 of 1878, No. 121 of 1888, and No. 29 of 1894 provide that ten hours shall constitute a day's labor for leased parish convicts or for convicts employed under the direction of parish authorities.

Act No. 134 of 1894 provides that State convicts working under lease at agricultural pursuits shall not be worked beyond the hours of labor usually devoted to farm work.

Maine.—Revised Statutes of 1883, chap. 128, sec. 17, as amended by Acts of 1889, chap. 288, provides that tramps confined at hard labor in county jails shall be required to work ten hours each day.

Michigan.—Acts of 1893, No. 118, sec. 38, directs that able-bodied convicts in the State prisons, house of correction and reformatory "shall, as far as practicable, be kept constantly employed at hard labor at an average of not less than ten hours per day, Sundays excepted."

Howell's Annotated Statutes, sec. 9642, directs that inmates of county jails sentenced to hard labor, for whom "any mode of labor shall be provided," shall be "kept constantly employed during every day except Sunday."

Minnesota.—Acts of 1897, chap. 127, sec. 2, provides that prisoners in county jails shall not be required to labor upon public works and ways exceeding ten hours per day.

General Statutes of 1894, sec. 3598, provides that "no convict shall be obliged to labor at stonecutting and stonework more than eight hours per day."

Mississippi.—Acts of 1896, chap. 133, sec. 6, provides that leased county convicts shall not be worked more than ten hours a day, or from sunrise to sunset.

Missouri.—Revised Statutes of 1889, sec. 7274, provides that eight hours per day from October 15 to April 15 and ten hours per day from April 15 to October 15 shall constitute a day's labor for penitentiary convicts; and that no such convicts shall be required to do any work on Sunday, except necessary work for the State.

Nevada.—General Statutes of 1885, sec. 1417, provides that every able-bodied State-prison convict shall be required to perform "as many hours of faithful labor in each and every day of his imprisonment as shall be prescribed by the rules and regulations of the prison."

Sec. 2151 provides that prisoners in county, city, or town jails employed at labor upon public works or ways shall be kept at such labor, when so required by the proper authorities, "at least six hours a day during six days a week when the weather will so permit."

New Jersey.—General Statutes of 1896, p. 3152, art. 7, sec. 4, requires that State-prison convicts "shall every day, except Sunday, be kept * * * strictly at hard labor of some sort."

Acts of 1898, chap. 239, sec. 16, requires that inmates of workhouses be compelled to work, when able, not less than six hours per day.

New York.—Birdseye's Statutes and Codes of 1896, p. 2362, sec. 98, directs that able-bodied convicts in State penal and reformatory institutions shall be kept at hard labor not to exceed eight hours per day every day except Sundays and holidays.

Page 759, sec. 93, directs that prisoners in county jails shall be constantly employed at hard labor, when practicable, every day except Sunday.

North Dakota.—Revised Codes of 1895, sec. 8546, requires that penitentiary convicts "shall be constantly employed" for the benefit of the State.

Oregon.—Act of Feb. 23, 1895 (Acts of 1895, p. 40), provides that penitentiary convicts employed under the contract system shall not be "compelled to labor for a longer time than ten hours per day."

South Carolina.—Revised Statutes of 1893, Part V, sec. 566, provides that penitentiary convicts leased or hired out "shall not be required to labor more than ten hours a day, or on Sundays or holidays."

South Dakota.—Compiled Laws of 1887, sec. 7696, provides that convicts sentenced to hard labor in the penitentiary "shall be constantly employed" for the benefit of the State.

Tennessee.—Code of 1884, sec. 6366, provides that the work of penitentiary convicts "shall be at an average of ten hours per day, Sundays excepted, through the entire year," and that the number of hours to be worked in the different seasons of the year shall be regulated by the prison authorities.

Texas.—Revised Statutes of 1895, art. 3716, provides that penitentiary convicts sentenced to hard labor "shall be kept at work under such rules and regulations as may be adopted but no labor shall be required of any convict on Sunday except such as is absolutely necessary, and no greater amount of labor shall be required of any convict than a due regard for his physical health and strength may render proper."

Art. 3733 requires that county convicts "shall be required to labor not less than eight nor more than ten hours each day, Sundays excepted."

Art. 3746 requires that persons to whom county convicts are hired shall bind themselves not to work the convicts "at unreasonable hours, or for a longer time during any one day than other laborers doing the same kind of labor are accustomed to work."

Utah.—Acts of 1896, chap. 81, sec. 37, requires that State-prison convicts shall, as far as practicable, be kept constantly employed at hard labor at an average of not less than eight hours a day, Sundays and holidays excepted.

Compiled Laws of 1889, sec. 1759, as amended by Acts of 1896, chap. 59, provides that violators of city ordinances may be required to work for the corporation "not exceeding ten hours for each working day."

Virginia.—Acts of 1893–94, chap. 795, provides, as to convicts leased to railroad companies, that such sum shall be paid for their labor as may be agreed upon "for each day's work of ten hours actually performed."

WASHINGTON.—Acts of 1897, chap. 74, provides that there shall be required of every able-bodied convict in the penitentiary "as many hours of faithful labor in each and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the penitentiary."

General Statutes of 1891, secs. 1192 and 1193, provide that inmates of county and city jails may be compelled to perform eight hours' labor each day of their terms of imprisonment except Sundays.

WEST VIRGINIA.—Acts of 1893, chap. 46, sec. 41, provides that convicts employed under the contract system shall labor "not to exceed nine hours a day during the year, Sundays and national holidays excepted."

WISCONSIN.—Annotated Statutes of 1889, sec. 4918, requires that State-prison convicts sentenced to hard labor shall be "constantly employed."

Acts of 1895, chap. 290, and Acts of 1897, chap. 318, provide that inmates of county jails and workhouses shall be kept at labor not to exceed ten hours per day, Sundays excepted.

Acts of 1891, chap. 206, provides that no person confined in any penal institution "shall be compelled to perform any factory work on any legal holiday."

WYOMING.—Revised Statutes of 1887, sec. 3372, provides that prisoners in county jails shall be required to labor "during the working hours of every week day."

CHAPTER III.

KINDS OF CONVICT LABOR.

The following statement shows the kinds of industry or employment named in the statutes of each State for the utilization of convict labor:

ALABAMA.—Manufacturing; farming, and employment upon public works and ways and in mines.

ARIZONA.—Manufacturing, and employment upon public works and ways.

ARKANSAS.—Manufacturing; agriculture; public works and ways; coal mining; stone quarrying and cutting; clearing and fencing timber land; and building railroad and telegraph lines.

CALIFORNIA.—Manufacture of jute goods; of road metal or crushed stone and of articles for State use; and employment upon public works and ways.

COLORADO.—Manufacturing and mechanical industries; employment in quarries and mines, in the construction of irrigating ditches, canals, and reservoirs, and on public works and ways.

CONNECTICUT.—No specific provision is made as to the kind of labor at which convicts may be employed, it being provided, generally, that they may be employed at "such labor as the directors shall order;" that they shall work "according to their ability," or at "such labor as they shall be able to perform," or "at any trade or occupation."

DELAWARE.—Quarrying and breaking stone into macadam, and upon public works and ways.

DISTRICT OF COLUMBIA.—Manufacturing, and agriculture.

FLORIDA.—Employment upon public works and ways. The kinds of labor at which leased convicts may be employed are not specified.

GEORGIA.—Quarrying and gathering rock and gravel for use on roads and streets; employment upon public works and ways and on the State convict farm. The kinds of labor at which leased convicts may be employed are not specified.

IDAHO.—Employment upon public works. The kinds of labor at which leased convicts may be employed are not specified.

ILLINOIS.—Manufacturing; employment upon public works, and in quarrying stone.

INDIANA.—Manufacturing, including materials for repairing and building State prisons, arms, implements, goods and munitions of war for State use, and brick; chopping wood or timber; farming, and employment upon public works and ways.

IOWA.—Manufacturing; stone quarrying, and breaking stone with hammers; and employment upon public works and ways.

KANSAS.—Manufacturing; agriculture; coal mining; and work on public highways.

KENTUCKY.—Manufacturing, and employment upon public works and ways.

LOUISIANA.—Manufacturing and mechanical industries; employment on railroads, levees, farms and plantations, and on public works and ways.

MAINE.—Manufacturing, including the manufacture and repair of all kinds of wagons, carriages, and sleighs; breaking stone, and quarrying or dressing granite.

MARYLAND.—Manufacturing; breaking stone; upon public works and ways, and in canal construction.

MASSACHUSETTS.—Manufacturing, including the manufacture of cane, rattan, and rush chairs, clothing, shirts, hosiery, harness, mats, shoes, shoe heels, brushes, umbrellas, and trunks; stone cutting; laundry work; domestic service, by women; cane seating; reclaiming and improving waste and unused public lands; preparation of road material, and employment upon public buildings and lands.

MICHIGAN.—Manufacturing and mechanical industries; coal mining; stone quarrying; farming; and on public works and ways.

MINNESOTA.—Manufacturing, including the manufacture of hard-fiber twine; quarrying and cutting granite; and employment upon public works and ways.

MISSISSIPPI.—Manufacturing, including the manufacture of drainage tile, brick, wagons, agricultural implements, gearing, shoes and clothing; farming, and employment upon public works and ways and levees.

MISSOURI.—Manufacturing; agriculture; making brick and macadam; stone quarrying; procuring fuel, ice, water, and other supplies for the penitentiary, and employment upon public works and ways.

MONTANA.—Manufacturing and mechanical industries, and employment upon public works and ways.

NEBRASKA.—Manufacturing; employment on roads and at stone quarries.

NEVADA.—Manufacturing and mechanical industries, including boot and shoe making, and employment upon public works and ways.

NEW HAMPSHIRE.—Manufacturing.

NEW JERSEY.—Manufacturing, mechanical, and agricultural pursuits; cooking, cleaning, gardening, or other service to be performed within the bounds of court-house or county property, and employment upon public ways.

NEW MEXICO.—Manufacturing, including the production of brick, lime, and stone; quarrying and hauling stone, and employment upon public works and ways.

NEW YORK.—Manufacturing, including the making of supplies for State institutions; preparing material for highways, and employment upon public works and ways.

NORTH CAROLINA.—Manufacturing; farming; reclaiming swamp lands; employment in the construction of railroads, canals, and ditches, and upon public works and ways.

NORTH DAKOTA.—Manufacturing, including brick making; farming; and employment upon public works and ways.

OHIO.—Manufacturing and mechanical industries; production of food, raiment, knit and woolen goods; and employment upon public works.

OKLAHOMA.—Mechanical industries, and employment on public ways.

OREGON.—Manufacturing (by implication), and employment on public works and ways.

PENNSYLVANIA.—Manufacturing, including the making of brushes, brooms, hollow ware, mats, and matting; quarrying stone; farming; and employment on public works and ways.

RHODE ISLAND.—Manufacturing (by implication), and farming.

SOUTH CAROLINA.—Manufacturing (by implication); farming; and employment on public works and ways.

SOUTH DAKOTA.—Manufacturing, including the manufacture of binding twine; stone quarrying; farming; and employment on public works and ways.

TENNESSEE.—Manufacturing; coal mining; coke making; clearing land; farming; and employment upon public works and ways.

TEXAS.—Manufacturing, including the manufacture of cotton goods and cotton and jute bagging; farming; and employment upon public works and ways.

UTAH.—Manufacturing; farming; and employment upon public works and ways.

VERMONT.—Manufacturing (by implication).

VIRGINIA.—Manufacturing (by implication); farming; and employment on railroads and on public works and ways.

WASHINGTON.—Manufacturing, including the manufacture of jute and other fabrics and brick, and employment upon public works and ways.

WEST VIRGINIA.—Manufacturing, and employment upon public works and ways.

WISCONSIN.—Manufacturing, including the manufacture of chairs, general furniture, boots, shoes, buggies, carriages, wagons, sleighs, and cutters; farming; stone quarrying, and employment on public works and ways.

WYOMING.—Manufacturing (by implication), and employment upon public works and ways.

UNITED STATES.—Manufacturing.

CHAPTER IV.

SALE OF CONVICT-MADE GOODS, AND COMPETITION WITH FREE LABOR.

The following statement gives synopses of the laws of each State regulating the sale of convict-made goods, so far as such regulations tend to establish or limit prices or to prescribe rules governing the business of dealing therein, and of laws tending to diminish competition between convict and free labor.

ARKANSAS.—Digest of 1894, secs. 5500 and 5559, prohibit the lease system as to State convicts and the hiring out of female State convicts as domestic servants.

CALIFORNIA.—Acts of 1889, chap. 264, Acts of 1893, chap. 42, Acts of 1895, chap. 208, and Acts of 1897, chap. 97, limit the commodities to be manufactured by State convicts for sale, to jute fabrics and crushed rock. The selling price of crushed rock is to be ten per cent above the cost of its production, but such rock shall not be sold for less than thirty cents per ton. The selling price of jute bags shall not be more than one cent per bag in excess of the net cost of production, exclusive of prison labor. Not more than 5,000 grain bags shall be sold during any one year to any one person or firm, except upon the unanimous approval of the board of prison directors, except that after June 15 of each year larger quantities may be sold to actual consumers, upon consent of a majority of the board of prison directors, and orders of farmers for grain bags shall take precedence over all others.

Constitution, art. 10, sec. 6, prohibits the working of convicts under the contract or lease system.

COLORADO.—Mill's Annotated Statutes of 1891, secs. 3448 and 3449, prohibit the bringing into the State to perform labor of any persons convicted of crimes or misdemeanors, except ex-convicts, or the bringing in of any material for use in the repairing or erection of any public building, the labor in preparing which or any part of which has been performed by convicts.

Sec. 4163 provides that convicts in the State reformatory shall, as far as practicable, be engaged in the manufacture of articles not manufactured elsewhere in the State.

Acts of 1897, chap. 5, provides that able-bodied convicts in the State penitentiary shall be employed in work which may least conflict with the free labor of the State.

CONNECTICUT.—General Statutes of 1888, sec. 3355, provides that, when it is proposed to employ fifty or more convicts at any trade or occupation, the directors of the State prison shall advertise the fact in newspapers throughout the State for four weeks before so employing

them; shall inquire into the effect of the proposed employment upon the interests of the State and upon free labor; shall give hearing to all who wish to be heard in the matter; and if it shall appear from such inquiry that the proposed employment will not be for the best interests of the State, or will seriously injure the citizens of any State engaged in the proposed trade or occupation, it shall be prohibited.

Acts of 1895, chap. 153, provides that "no person confined in any penitentiary, or other places for confinement of offenders under control of the State, shall be employed in or about the manufacture or preparation of any drugs, medicines, food or food materials, cigars or tobacco or any preparation thereof, pipes, chewing gum, or any other article or thing used for eating, drinking, chewing, or smoking, or for any other use within or through the mouth of any human being."

GEORGIA.—Acts of 1897, No. 340, sec. 11, provides that leased convicts shall be employed, as far as may be consistent with the best interests of the State, so "that the products of their labor shall come least in competition with that of free labor."

Penal Code of 1895, sec. 1039, stipulates that county authorities are not authorized to employ misdemeanor convicts "in such mechanical pursuits as will bring the products of their labor into competition with the products of free labor."

IDAHO.—Act of March 6, 1893 (Acts of 1893, p. 155), provides that no contract shall be made permitting the use of convict labor in any industry that will "conflict with any existing manufacturing industries in the State."

ILLINOIS.—The fourth amendment to the constitution, adopted November 2, 1886, prohibits the letting, by contract, of the labor of any convict confined in a penitentiary or other reformatory institution in the State to any person, persons, or corporation.

INDIANA.—Acts of 1895, chap. 162, prohibits the sale or exposing for sale of convict-made goods manufactured in other States by any person, persons, or corporation without first obtaining a license to sell such goods, for which $500 per year must be paid. The dealer is required to make a detailed annual report of his transactions in such goods. All such goods before being exposed for sale shall be branded, labeled, or marked with the words "convict made," followed by the year and the name of the institution in which they were made, in plain English lettering of the style known as "great primer roman capitals" upon the outside of and the most conspicuous part of the finished article and its box, crate, or covering.

Acts of 1897, chap. 187, abolishes the contract system in State penal and reformatory institutions and renders it unlawful to hire out, under contract, any of the inmates of such institutions, and directs that all work done by inmates of such institutions shall, as far as practicable, be hand work.

IOWA.—Code of 1897, secs. 5654 and 5707, prohibit the leasing of State or county convicts.

KANSAS.—Acts of 1897, chap. 163, prohibit the making of any contracts for the sale of coal produced in the State coal mines by convict labor not required for use in State institutions, but authorize the sale of such coal as may not be required for the use of such institutions, under the direction of the board of directors of the penitentiary.

KENTUCKY.—Statutes of 1894, secs. 524, 525, and 526, provide that

no goods, wares, or merchandise convict produced by labor outside of Kentucky shall be sold or offered for sale, or knowingly be in the possession of any person for the purpose of sale, without being branded, labeled, or marked with the words "convict made," followed by the year and the name of the institution in which made, in plain English lettering, of the style and size known as great primer roman condensed capitals. Such brand, mark, or label shall be placed upon or attached to the most conspicuous part of the article, or of its covering if impossible to place it upon the article.

Constitution, secs. 253 and 254, prohibit the employment of penitentiary convicts outside the prison walls except upon public ways and works.

LOUISIANA.—Act No. 132, of 1894, declares that convict-made brooms shall not be dealt in or sold unless each broom is stamped or labeled "convict made." Said stamp or label is required to be "not less than four inches long and two and a half inches wide, and the letters thereof not less than one inch in size."

MAINE.—Acts of 1887, chap. 149, secs. 1, 2, and 3, provide that no more than 20 per cent of the male convicts in the State prison shall be employed at one time in any one industry, or in the manufacture of any one kind of goods which are manufactured elsewhere in the State, and that the manufacture and repair of all kinds of wagons, carriages, and sleighs, except the manufacture of infant carriages, shall be considered one industry; also that, "so far as practicable, the industries upon which said convicts shall be employed shall be the manufacture of articles not elsewhere manufactured in the State."

Sec. 4 requires that all articles or goods manufactured at the State prison for sale shall be distinctly labeled or branded with the words "Manufactured at the Maine State prison."

MARYLAND.—Acts of 1890, chap. 590, prohibits the making of any contract for the manufacture with the labor of penitentiary convicts of tin cans for oyster or fruit packing purposes, or iron heating or cooking stoves, or iron castings used for machinery purposes.

MASSACHUSETTS.—Acts of 1897, chap. 412, sec. 3, prohibits the employment of convicts under the contract or the piece-price system, except in the industry of cane seating and the manufacture of umbrellas.

Acts of 1898, chap. 334, sec. 5, provides that the prices of products of convict labor used in public institutions "shall be uniform, and shall conform, as nearly as may be, to the usual market price of like goods manufactured in other places."

Acts of 1898, chaps. 365 and 393, require that only machines operated by foot or hand power shall be used in the preparation of material for road making, and that convicts in camp on certain State lands shall be employed in preparing such material by hand labor.

Acts of 1897, chap. 412, prescribes that no goods produced by convict labor shall be sold, except for use in public institutions, for less than the wholesale market price prevailing at the time of sale for similar goods; also that the number of inmates in all the prisons of the State who may be employed in the production of certain commodities, not for use in public institutions, shall not exceed the numbers below specified in the manufacture of the articles named: Brushes, 80; clothing, other than shirts or hosiery, 375; harness, 50; mats, 20; cane

chairs with wood frames, 80; rattan chairs, 75; rush chairs, 75; shirts, by women only, 80; shoes, 375; shoe heels, 125; trunks, 20; stonecutting, 150; at laundry work, 100.

Acts of 1897, chap. 412, as amended by chap. 480, prescribes that not more than 30 per cent of the number of inmates of any penal institution having more than one hundred inmates shall be employed in any one industry, except in the production of goods for use in State institutions and in the industry of cane seating and in the manufacture of umbrellas.

Acts of 1891, chap. 209, prohibits the employment of any prisoner in any State institution outside of the precincts of any such institution in any mechanical or skilled labor for private parties.

Acts of 1888, chap. 189, prohibits the employment of convicts in the State prison in engraving of any kind.

Acts of 1887, chap. 447, provides that no new machinery to be propelled by other than hand or foot power, shall be used in the State prison, reformatories, and houses of correction, and that articles manufactured therein shall be sold at the wholesale market prices of similar goods.

Resolves of 1898, chap. 81, provides for the erection of shops at the State prison in which convicts may be employed upon industries that can be prosecuted by hand labor.

Michigan.—Constitution, art 18, sec. 3, provides that no mechanical trade shall be taught to convicts in State prisons except in the "manufacture of those articles of which the chief supply for home consumption is imported from other States and countries."

Acts of 1893, No. 118, sec. 34, provides that once in six months the prison boards shall determine what lines of productive industry shall be pursued in the State prison, house of correction, and reformatory, and shall select such diversified lines of industry as will least interfere with the carrying on of such industries by citizens of the State.

Minnesota.—Acts of 1895, chap. 15, sec. 4, provides that "no contracts for the leasing of the labor of prisoners confined in the State prison or State reformatory at a certain rate per diem, giving the contractor full control of the labor of the prisoners, shall hereafter be made."

Sec. 8 provides that the number of prisoners in the State prison or reformatory employed in a single industry at the same time shall not exceed 10 per cent of the total number of persons engaged in such industry in the State, unless a greater number is required to produce articles or materials to be supplied to State or municipal institutions; but this limitation does not apply to the manufacture of binding twine.

General Statutes of 1894, sec. 3598, provides that not to exceed an average of 33 per cent of prisoners in the State reformatory shall, during any year, be employed in quarrying, manufacturing, and cutting granite for sale.

Mississippi.—Constitution, secs. 223, 224, and 225, and Code of 1892, sec. 3201, prohibit the contracting or leasing of the labor of penitentiary convicts, and of county convicts for labor outside the counties of their conviction.

Missouri.—Revised Statutes of 1889, sec. 7252, forbids the hiring out of male or female penitentiary convicts as domestic servants, to any person outside the prison walls, or the permitting of convicts to

be used as such servants without reward, except by the warden or deputy warden in their own families.

MONTANA.—Constitution, art. 18, sec. 2, and Penal Code, sec. 2960, prohibit letting, by contract, the labor of any convict in any State penitentiary, prison, or reformatory institution.

NEVADA.—Acts of 1887, chap. 91, provide that boots and shoes made by State-prison convicts in excess of the requirements of inmates of State institutions may be sold in the open market at prices to be fixed by the warden, not less than the cost of materials. Such sales shall only be made at wholesale in full cases and unbroken packages of not less than one dozen pairs.

NEW JERSEY.—General Statutes of 1896, p. 3161, secs. 50–53, prohibit the making of any "contract for the labor" of prisoners in any prison, jail, penitentiary, or reformatory institution; but a later enactment permits the contract system in the State reformatory.

Pages 3155 and 3162, secs. 17, 18, and 59, and p. 3168, sec. 18, prohibit the manufacture of felt or silk hats, or any part or parts thereof, or the employment of more than one hundred persons at a time in the prosecution or conduct of any special branch of industry, or in making or manufacturing goods, wares, or merchandise of any kind whatsoever, in any prisons, penitentiaries, jails, or public reformatory institutions.

Page 3156, sec. 24, and p. 3168, sec. 18, require that goods, wares, and merchandise manufactured in the State reformatory or in the State prison, in whole or in part, be marked, stamped, or tagged with the words "Manufactured in the New Jersey State prison," or "Manufactured in the New Jersey State reformatory." If it be impracticable to stamp each article, or if articles are manufactured which are usually put up in packages, it shall be sufficient to put the stamp, label, or tag upon the packages in a good, lasting, and permanent manner. The marking of convict-made goods must be "in a legible and conspicuous manner."

Page 3162, sec. 56, requires that goods manufactured for sale under the public-account system in any prison, penitentiary, jail, or public reformatory shall only be sold after public advertisement in principal newspapers, "calling for public bids, so that there shall be a proper and just competition" for their purchase; "and every effort shall be made to obtain current market prices for the same."

NEW MEXICO.—Compiled Laws of 1897, sec. 3649, requires that "all the products of convict labor shall be sold to the highest bidder, for cash, after twenty days' notice by advertisement in three daily newspapers, not more than one of which shall be published in the same county."

NEW YORK.—Constitution, art. 3, sec. 29, and Birdseye's Statutes and Codes of 1896, p. 2362, sec. 97, prohibit the employment of convicts in State prisons, penitentiaries, jails, or reformatories under the contract, piece-price, or lease systems, or the sale of any part of the product of their labor except to public institutions.

Acts of 1898, chap. 645, provides that no printing or photo-engraving shall be done in any State prison, penitentiary, or reformatory for the State or any public institution owned or controlled thereby, except such as may be required in State penal and charitable institutions, and the reports of the State commission of prisons and the superintendent of prisons, and printing required in their offices.

Acts of 1897, chap. 415, art. 4, requires the procurement of a special license for the sale of convict-made goods, and that no convict-made goods shall be sold or exposed for sale to the general public without being branded, labeled, or marked with the words "convict made," followed by the year when and the name of the penal or reformatory institution in which such commodities were produced. The brands, marks, or labels must be printed in plain English lettering of the style and size known as great primer roman condensed capitals. Labels are to be used only when branding or marking is impossible, and must be in the form of a paper tag attached to each article by wire, if possible, and placed securely upon the box, crate, or other covering in which such goods are packed, shipped, or exposed for sale.

Note.—Acts of 1894, chap. 698, and Acts of 1896, chap. 931, required the marking and labeling of convict-made goods sold or offered for sale to the general public. The act of 1896 was declared unconstitutional by the court of appeals of New York on October 11, 1898, in the case of People *v.* Hawkins (51 N. E. Reporter, p. 257), and the act of 1894 was declared unconstitutional by the supreme court of New York in the case of People *v.* Hawkins (85 Hun., p. 43). As the decision of 1898 was general in scope it undoubtedly renders void that part of the laws 1897 which requires marking of goods.

Birdseye's Statutes and Codes of 1896, p. 2369, secs. 123, 124, and 125, provide that whenever it is ascertained by actual enumeration that the total number of prisoners in the several prisons, penitentiaries, reformatories, and other penal institutions employed in manufacturing brooms and brushes of broom corn exceeds 5 per cent of the total number of persons in the State employed in manufacturing of such goods "the governor shall require the managers of any one or more such penal institutions to discontinue such employment wholly or in part, as he shall direct."

Page 2368, sec. 118, provides that "not exceeding three hundred of the convicts confined in each State prison" shall be employed in the improvement of public highways.

North Carolina.—Acts of 1897, chap. 219, sec. 5, provides that such products of the labor of penitentiary convicts as are sold shall be sold "at the highest market prices," as and when the superintendent may deem best, "but any article or product held more than two months for better prices shall be sold when the board of directors shall direct."

The number of convicts that may be hired or employed on public works and ways, or otherwise, is frequently limited by statute.

North Dakota.—Acts of 1897, chap. 108, prohibits the employment of convicts under the contract, piece-price, or lease systems, and the disposal of products of convict labor (except brick or farm products) to any private person, firm, association, or corporation, by providing that "no person in any prison, penitentiary or other place for the confinement of offenders in said State, shall be required or allowed to work while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted and given, or sold to any person, firm, association or corporation;" the production of brick and farm products being excepted; and the disposal of products of convict labor being allowed to the State, or political divisions thereof, and to public institutions.

OHIO.—Act of April 25, 1898 (93 Laws of Ohio, p. 349), provides that "the contract system shall not be employed," in imposing labor upon the inmates of the Ohio State reformatory, or in the industrial pursuits prescribed for their employment.

Act of March 31, 1892 (89 Laws of Ohio, p. 192), prohibits the making of contracts whereby any contractor shall have control of the labor of convicts in the penitentiary.

Act of May 19, 1894 (91 Laws of Ohio, p. 346), made regulations governing the sale in Ohio of convict-made goods produced in other States; but said act was declared unconstitutional by the Ohio supreme court May 11, 1897, in the case of Arnold *v.* Yanders (47 N. E. Reporter, p. 50).

Act of April 21, 1893 (90 Laws of Ohio, p. 224), prohibits the manufacture of knit and woolen goods in any penal, reformatory, or charitable institution, except for the use of the inmates thereof.

Act of April 24, 1893 (90 Laws of Ohio, p. 237), provides that after May 1, 1894, the total number of prisoners and inmates of penal and reformatory institutions employed at any one time in the manufacture of any one kind of goods which are manufactured in the State outside of such institutions, shall not exceed 10 per cent of the number of persons engaged in manufacturing such goods outside of such institutions, except in industries in which not more than 50 free laborers are employed, as shown by the Federal census, or State enumeration, or by any report of the commissioner of labor statistics.

Act of April 27, 1893 (90 Laws of Ohio, p. 319), requires that convict-made goods produced in penal, reformatory, or other institution in which convict labor is employed, "in this or any other State," "imported, brought, or introduced into the State of Ohio," shall, before being exposed for sale, be branded, labeled, or marked with the words "Convict made," followed by the name of the institution where made, in plain English lettering, of the style known as great primer roman capitals. Such articles must be branded or marked, if possible; if not possible, a label shall be used in the form of a paper tag, which shall be attached by wire to each article, when its nature will permit, and placed securely on the box, crate, or covering in which such goods may be packed, shipped, or exposed for sale. The brand, mark, or label must be on the outside of and upon the most conspicuous part of the finished article, and its box, crate, or covering.

Act of March 31, 1892 (89 Laws of Ohio, p. 193), provides that penitentiary convicts under 22 years of age shall be employed when possible at hand work exclusively, for the purpose of acquiring a trade.

Act of April 30, 1891 (88 Laws of Ohio, p. 420), provides that prisoners in the State reformatory shall be employed in such ways as to interfere with or affect free labor in the least possible degree.

PENNSYLVANIA.—Digest of 1894, p. 1006, sec. 14, and p. 1661, secs. 13 and 15, abolish and prohibit the contract system in all penal and reformatory institutions.

Acts of 1897, No. 141, prescribes that in any State prison, penitentiary, or reformatory not more than 5 per cent of the whole number of inmates of said institutions shall be employed in the manufacture of brooms, brushes, or hollow ware, nor more than 10 per cent in the manufacture of any other kind of goods, wares, articles, or things that are manufactured elsewhere in the State, except mats and mat-

ting, in the manufacture of which 20 per cent of the whole number of such inmates may be employed.

Similar restrictions are prescribed as to the employment of inmates of county prisons, workhouses, and reformatories.

It is also provided that "no machines operated by steam, electricity, hydraulic force, compressed air, or other power, except machines operated by hand or foot power, shall be used in any of said institutions in the manufacture of any goods, wares, articles or things that are manufactured elsewhere in the State."

Digest of 1894, p. 1661, secs. 17–20, require that all products of convict labor, except goods, wares, and merchandise shipped to points outside the State, must be branded immediately upon the completion of the same, and before removal from the place where made in plain English lettering, with the words "convict made," followed by the year and the name of the establishment in which made. The brand is to be placed on each article where the nature of the case will permit, otherwise upon the box or other receptacle or covering in which it is contained. Such branding may be done by casting, burning, pressing, or such other process or means so that it may not be defaced; and in all cases must be upon the most conspicuous place on the article or its covering. Such brand must not be removed except as the goods are sold at retail to customers for individual use; and the box, receptacle, or covering containing such brands shall be open to the inspection or view of such customer.

South Carolina.—Revised Statutes of 1893, Part V, sec. 578, prohibit the "hiring or leasing of convicts in phosphate mining."

South Dakota.—Acts of 1893, chap. 131, requires that the price of binding twine manufactured in the State penitentiary "shall be fixed at the actual cost of production; but no twine shall be put upon the market at a greater price than it can be purchased for from other manufacturers, and no twine shall be sold outside of the State so long as there is a market for the same within South Dakota." In the manufacture of such twine preference must be given to fiber grown in the State.

Tennessee.—Acts of 1897, chap. 125, secs. 29 and 30, direct that contracts be made, if practicable, for the sale of the output of the State coal mines, for a period not to exceed six years, "at such prices per bushel or ton as will give the State of Tennessee a fair price for the labor of its convicts and a just compensation for its coke or coal," and that coke or coal furnished to State institutions shall be at the same cost to them as if bought in the general market.

Sec. 28 prohibits the hiring of any female penitentiary convicts "to any person on the outside as cook, washerwoman, or for any other purpose."

Sec. 31 provides that "the more able-bodied shorter-term convicts" in the penitentiary temporarily employed under contract in building public roads or parks, clearing ground, or in farming operations shall be so employed "where competing the least with free or skilled labor."

Acts of 1897, chap. 39, secs. 1, 4, and 8, direct that not more than ninety-nine penitentiary convicts shall be employed under contract with any one person or in any one business within the walls of the penitentiary; that no contract shall be made extending beyond March 1, 1903, and that contracts shall be so made "that competition with free labor shall be the least possible and that the manufacturing indus

tries established within the penitentiary shall be as diversified as practicable or possible for the best interests of the State, at the same time having due regard for the interests of free labor."

UTAH.—Constitution, art. XVI, sec. 3, and Acts of 1896, chap. 181, sec. 32, prohibit the making of contracts for the labor of convicts.

Acts of 1896, chap. 181, sec. 32, requires that at least once in six months the prison board shall meet to determine what lines of productive industries shall be pursued in the State prison, and "shall select diversified lines of industry with reference to interfering as little as possible with the same lines of industry carried on by citizens of this State."

WASHINGTON.—Constitution, art. 2, sec. 29, prohibits the hiring out of the labor of convicts by contract to any person, firm, or corporation.

General Statutes of 1891, sec. 1158, Acts of 1893, chap. 86; and Acts of 1895, chap. 132, limit the production of articles for sale to jute and other fabrics and brick. It is required that these commodities shall not "be sold for less than the actual cost of production," the method for ascertaining which is prescribed, and that they shall be sold only to actual consumers who are residents of the State of Washington, for cash on delivery, in the order, as near as may be, of the making of written applications therefor.

WISCONSIN.—Annotated Statutes of 1889, sec. 567d–3, requires that in selling commodities produced by the labor of State-prison convicts they shall be disposed of "to the best interests of the State and at the best prices obtainable."

Acts of 1897, chap. 155, requires that all goods, wares, and merchandise made by convict labor in any institution outside of Wisconsin and imported into the State shall, before being exposed for sale, be branded, labeled, or marked with the words "convict made," etc., the details of the law being substantially the same as those of the laws of other States relating to the marking of convict-made goods.

WYOMING.—Acts of 1890–91, chap. 37, sec. 5, prohibit the working of convicts in any coal mine or at any occupation in which the product of the convicts' labor may be in competition with that of any citizen of the State.

Revised Statutes of 1887, sec. 3375, provide that the employment of the inmates of penal and reformatory institutions shall be so conducted as to offer no competition to free labor; and that such employment on Territorial (State) account shall not be enforced or required any further than shall be necessary for the physical and moral well-being of the convicts.

UNITED STATES.—Acts of 1886–87, chap. 213 (24 U. S. S., p. 411), forbid the hiring or contracting out of the labor of United States convicts confined in any State prison, jail, penitentiary, or house of correction, or other place of incarceration.

Acts of 1897–98, chap. 11, sec. 31 (29 U. S. S., p. 211), prohibit the importation into the United States of all goods, wares, and merchandise manufactured wholly or in part by convict labor in any foreign country.

Acts of 1890–91, chap. 529 (26 U. S. S., p.839), require that convicts in United States prisons to be erected under said act are to be employed in manufacturing such goods for the Government "as can be manufactured without the use of machinery."

DIGEST OF THE STATUTES OF THE STATES AND TERRITORIES RELATING TO

MINE LABOR,

PREPARED UNDER THE DIRECTION OF THE INDUSTRIAL COMMISSION

BY

EDWARD DANA DURAND,

EDITOR FOR THE COMMISSION,

IN COLLABORATION WITH

EUGENE WILLISON,

ATTORNEY-AT-LAW.

TABLE OF CONTENTS.

	Page.
CHAPTER I.—Hours of Labor:	
§ 1. Laws Applying to Industries Generally	219
§ 2. Hours of Labor in Mines	219
§ 3. Penalties	220
CHAPTER II.—Employment of Women and Children:	
§ 1. Employment of Women	221
§ 2. Employment of Children	221
CHAPTER III.—Payment of Wages:	
§ 1. Times of Payment	223
§ 2. Method of Payment	225
§ 3. Company Stores	226
§ 4. Correctness of Weighing and of Scales	228
§ 5. Screening of Coal	230
§ 6. Measurement of Coal	231
CHAPTER IV.—Mine Inspection:	
§ 1. Appointment and Removal of Inspectors	232
§ 2. Powers and Duties of Inspectors	235
§ 3. Mine Foremen and Bosses	240
§ 4. Competency of Miners	243
§ 5. Maps and Plans	243
§ 6. Escapement Shafts	244
§ 7. Shafts and Hoisting	247
§ 8. Ventilation	252
§ 9. Fencing of Machinery, Shafts, and Other Openings	259
§ 10. Explosives and Blasting	259
§ 11. Underground Roads; Safety Holes	261
§ 12. Props and Timbers	262
§ 13. Accidents	262
§ 14. Miscellaneous Regulations	264
§ 15. Penalties	265
§ 16. Anthracite Coal Mines	267
APPENDIX:	
Pennsylvania Bituminous Coal Mine Inspection Law	273
Revised Mining Law of Illinois	293

Chapter I.

HOURS OF LABOR.

Sec. 1. Laws Applying to Industries Generally.[1]—Numerous States have passed laws defining the legal day in the absence of a special contract. These laws, for the most part, apply to all classes of industries except domestic and agricultural labor, and include mines in the States here named. In California, Connecticut, Illinois, Missouri, Nebraska (unconstitutional), New York, Ohio, and Pennsylvania the number of hours which shall constitute a legal day is fixed at eight, Illinois and Pennsylvania providing that these hours shall be between the rising and setting of the sun.[2] The legal day is ten hours in Florida, Maine, Michigan, Minnesota, Nebraska (in force), and New Hampshire.[3] All of these States permit extra hours by contract, but in Florida, Indiana, Minnesota, Missouri, and New York the law provides that there shall be extra compensation for overtime. The Nebraska law of 1891, requiring that overtime should be paid for at double the rate per hour paid for previous labor, was declared unconstitutional, as denying the right of parties to contract.[4]

Sec. 2. Hours of Labor in Mines.—In Maryland[5] a law applying to the mines of Allegany and Garrett counties fixes the legal day at ten hours, in the absence of contract, the day to begin at 7 a. m. In Utah the period of employment of workmen in underground mines and smelters is limited to eight hours per day, except in cases of emergency where life or property is in immediate danger; and Colorado passed a similar provision in 1899, which has been held unconstitutional.[6] Wyoming has a constitutional provision (art. 19, sec. 1) that eight hours shall constitute a day's labor in mines. The only law[7] which

---

[1] See for fuller statements digest of general labor laws, pp. 23–28 of this volume.

[2] Cal., Pol. Code, sec. 3244; Conn., G. S. 1888, sec. 1746; Ill., R. S. 1891, ch. 48, sec. 1; Ind., An. St., sec. 7052; Mo., R. S., sec. 6353; Neb., L. 1891, ch. 54, sec. 1; N. Y., L. 1897, ch. 32, art. 1, sec. 3; Ohio, R. S., sec. 4365; Penn., Dig. 1895, p. 1158, sec. 1.

[3] Fla., R. S. 1892, sec. 2117; Me., Pub. L., ch. 82, sec. 43; Mich., L. 1885, No. 137, sec. 2; Minn., G. S., sec. 2240, as amended by L. 1895, ch. 49; Neb., Comp. L., ch. 90, sec. 5329; N. H., P. S. 1891, ch. 180, sec. 20.

[4] Low *v.* Ruse Printing Company, 41 Neb., p. 127.

[5] Md., Pub. Local L., art. 1, sec. 194.

[6] The Utah (L. 1896, ch. 72) and Colorado (L. 1899, ch. 103) acts are identical except as to penalties, the declaratory sections being as follows:

Sec. 1. The period of employment of working men in all underground mines or workings shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Sec. 2. The period of employment of working men in smelters and all other institutions for the reduction or refining of ores or metals shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

[7] Wyo., Acts 1890–91, ch. 83.

has been passed to carry out this provision applies to coal mines and limits the hours to eight, except in cases of emergency; the number of hours as thus defined means actual work at mining, and does not include going to and from work.

Missouri[1] prohibits the employment of a person for more than eight hours at a greater depth than 200 feet where lead or zinc ore is mined or while searching for minerals or any valuable substance. The law does not apply to coal mines.

The Utah law has been upheld by the supreme court of that State[2] as not denying equal protection of the law nor contradictory to any provision of the constitution of the State. The Utah constitution specially provides that the legislature shall enact laws for the protection of employees in factories, smelters, and mines. The Supreme Court of the United States has also upheld the law as not an unconstitutional interference with the right of private contract nor a denial of due process of law or of equal protection.[3] The supreme court of Colorado has held the act of that State void as being class legislation, and also in violation of the rights of liberty and of the acquisition of property under the bill of rights of the constitution of Colorado.[4] The court admitted that if a special provision regarding mines had been placed in the State constitution, such an act as this might be valid.

Hoisting engineers.—In Montana[5] an engineer shall not operate for more than eight hours in twenty-four a first-motion or direct-acting hoisting engine at any mine, nor an indirect hoisting engine at any mine where fifteen or more men are employed, except in case of emergency.

Meal hours.—In Missouri[6] mine owners or operators must allow miners to come to the surface for eating their noonday meal or any other meals for which a time is set apart. At least one hour must be allowed upon the surface, and the hoisting apparatus must be run for the use of the men in going to meals.

SEC. 3. PENALTIES.—An employer or manager violating the provisions of the statutes of the various States as to the hours of labor shall, on conviction, be subject to the following penalties: Colorado, $50 to $500, or imprisonment not more than six months, or both; Indiana, not to exceed $500; Maryland, not to exceed $50; Michigan, any employer taking unlawful advantage of persons in his employ, or seeking employment, because of their poverty or misfortune, shall be subject to a fine of from $5 to $50; Minnesota, $10 to $100; Missouri (as to zinc and lead mines), $25 to $500, or imprisonment up to ninety days, or both; Montana (as to the hours of hoisting engineers), $10 to $100; Utah, guilty of misdemeanor; Wyoming, $50 to $300, or three months' imprisonment, or both. The other States provide no penalties.

---

[1] L. 1899, Act May 11, p. 312.
[2] Holden *v.* Hardy, 46 Pac. Rep., p. 756.
[3] Holden *v.* Hardy, 18 Sup. Ct. Rep., p. 383.
[4] In re Morgan, 58 Pac. Rep., p. 1071.
[5] L. 1897, p. 67, sec. 1.
[6] L. 1899, Act May 8, p. 309.

Chapter II.

EMPLOYMENT OF WOMEN AND CHILDREN.

Numerous laws restricting the employment of children below a certain age, limiting the hours of labor of children and women, or requiring children to attend school, apply to all classes of occupations, and not especially to mining. Especially in view of the fact that in most of the important mining States there are separate provisions regarding the employment of women and children in mines, it seems desirable to summarize here only the statutes of this latter class, referring to the digest of general labor laws in this volume for the provisions applying to industries generally. (See pp. 23–52.)

Sec. 1. Employment of Women.[1]—In Alabama, Arkansas, Colorado, Illinois, Indiana, Missouri, Pennsylvania, Utah, Washington, West Virginia, and Wyoming the employment of women of any age in underground mines is prohibited. Alabama, Pennsylvania, Utah, and Wyoming apply these provisions to outside work about mines.

Sec. 2. Employment of Children.[2]—The laws of most of the mining States prohibit altogether the employment of children of less than a certain age under ground in mines, and several Western States have such a provision in the constitution. This age is fixed at 12 in Alabama, Colorado (coal mines), Iowa, Kansas, New Jersey (an l for girls at 14), North Carolina, North Dakota, Missouri, Tennessee, West Virginia, and the Territories under the United States law. The age is 14 in Arkansas, Idaho, Illinois, Indiana, Montana, South Dakota, Utah, Washington, and Wyoming; and 15 in Ohio. In Pennsylvania the age is 12 in bituminous mines and 14 in anthracite mines, and it is further provided that no person below 16 shall work except under the direction of an experienced miner. Alabama and Wyoming apply the same restrictions to the employment of children on the surface about mines, and Utah prohibits the employment of children under 14 in smelters.

---

[1] Ala., Acts 1896–7, No. 486, sec. 27; Ark., Dig. 1894, sec. 5051; Colo., An. St., sec. 3185; Ill., L. 1899, Act Apr. 18, sec. 22 (p. 320); Ind., An. St., sec. 4780; Mo., R. S., sec. 7066; Pa., Dig., Coal Mines, secs. 112, 306; Utah, Const., art. 16, sec. 3; Wash., Stats. and Codes, sec. 2227; W. Va., Code 1891, p. 991, sec. 13; Wyo., Const., art. 9, sec. 3.

[2] Ala., Acts 1896–7, No. 486, sec. 27; Ark., Dig. 1894, sec. 5051; Colo., An. St., sec. 3185; Idaho, Const., art. 13, sec. 1; Ill., L. 1899, Act Apr. 18, sec. 22 (p. 320); Ind., An. St., sec. 4780; Iowa, L. 1884, ch. 21, sec. 13; Kan., G. S., ch. 149, sec. 22; Mo., R. S., sec. 7066; Mon., Penal Code, sec. 474; N. J., Sup. 1886, p. 380, sec. 18; N. C., L. 1897, ch. 251, sec. 7; N. Dak., Const., art. 17, sec. 209; Ohio, R. S., secs. 202, 6871; Pa., Dig., Coal Mines, secs. 88, 112–114, 306; S. Dak., L. 1890, ch. 112, sec. 11; Tenn., L. 1881, ch. 170, sec. 10; U. S., Acts 1890–1. ch. 564, sec. 12; Utah, Const., art. 16, sec. 3· Wash., Codes and Stats., sec. 2227; W. Va., Code 1891, p. 991, sec. 13; Wyo., Const., art. 9, sec. 3.

Pennsylvania and Washington forbid the employment of children under 12 in breakers or outside works of mines. In Arkansas, Colorado, and Kansas no person may be employed under ground who is unable to read and write, nor, in Kansas, who has not attended school at least three months during the preceding year. In Missouri no person under 14 may be employed who is unable to read and write.

The laws of Illinois, Indiana, Iowa, Tennessee, and Washington require the employer, especially in case of doubt as to the age of children, to secure an affidavit or certificate from the parent or guardian. In North Carolina and Pennsylvania the inspector is specially authorized to investigate as to the age of children, taking oaths if necessary.

Chapter III.

PAYMENT OF WAGES.

Many of the following provisions apply to other classes of employers besides mine operators, while some of the States, though possessing general laws as to payment of wages, probably contain no mines.

Sec. 1. Times of Payment.[1]—*Monthly payments.*[2]—Tennessee and Virginia, by general laws, require employers to pay their laborers once a month. California requires monthly payment by corporations. Maryland acts, applying only to Allegany and Garrett counties, provide that if a mining or manufacturing employer shall be indebted to his employees for wages for more than thirty days, the court may appoint a receiver. Kentucky requires all persons who employ ten or more persons in mining to pay on or before the 16th of each month for the month previous. In Kentucky, Tennessee, and Virginia payment may be made by a due bill redeemable in lawful money and bearing interest.

Fortnightly payments[3].—The following States have general laws requiring mining and manufacturing employers to pay their employees

---

[1] The law of Missouri, as typical, is here given in full:

The employees of the operators of all mines operated within this State for the production of any kind of mineral shall be regularly paid in full of all wages due them at least once in every fifteen (15) days, except that the operators of coal mines shall pay their employees once every fifteen days, on demand of any such employee, and at no pay day shall there be withheld any of the earnings due any employee. Any such operator who fails or refuses to pay his employees, their agents, assigns or anyone duly authorized to collect such wages, or anyone interested in the payment due such employees, as in this section provided, shall become immediately liable to any such employee, his agents or assigns, or anyone interested for an amount double the sum due such employee at the time of such failure or refusal to pay the wages due, to be recovered by civil action in any court of competent jurisdiction within this State. And no employee, within the meaning of this article, shall be deemed to have waived any right accruing to him under this section by any contract he may make contrary to the provisions hereof: *Provided,* Coal mining companies may contract with their employees to pay once a month: *And provided further,* That at no pay day of any coal mining company shall there be withheld of the earnings of any coal mine employee any sum to exceed the amount due him for his labor for ten days next preceding any such pay day.

[2] Cal., L. 1897, ch. 170, sec. 1; Ky., L. 1898, ch. 15, sec. 1; Md., Pub. Local L. 1898, art. 1, sec. 189, art. 12, sec. 145; Tenn., L. 1891, extra session, ch. 5, sec. 1; Va., L. 1887, extra session, ch. 391, sec. 2.

[3] Ind., An. St., sec. 7065, 7071; Iowa, L. 1894, ch. 98, sec. 1; Me., L. 1887, ch. 34, sec. 1; Md., L. 1896, ch. 133; Mo., L. 1899, p. 305; N. J., L. 1896, ch. 179, sec. 1; Ohio, R. S., sec. 6769; Penn., Dig. 1895, p. 2077, sec. 27; W. Va., Code 1891, p. 1003, sec. 2; Wis., An. St., sec. 1729a; Wyo., L. 1890–1, ch. 82, sec. 1.

every two weeks or twice a month:[1] Iowa, Maine, New Jersey, Ohio, Pennsylvania, West Virginia, Wisconsin, and Wyoming. In Missouri operators of mines are required to pay once in fifteen days. Maryland requires corporations mining coal in Allegany County to pay semi-monthly. In West Virginia and Wisconsin the law does not apply if there is a written contract to the contrary. In Missouri and New Jersey a contract to the contrary is specifically declared to be void, except that coal-mining companies in Missouri may contract with their employees to pay once a month. In most cases payment is required to be made in full up to within a specified period, from eight to fifteen days, before the day of payment.

The West Virginia requirement is apparently unconstitutional, in the view of the supreme court of appeals of the State, though the precise point has not been decided. The Pennsylvania act has been held unconstitutional, "at least as far as it amounts to making a contract between parties against their will."[2]

Weekly payments.[3]—In Indiana [1] and Massachusetts employers generally are required to pay wages weekly. Corporations are required to pay weekly in Connecticut, Kansas, New Hampshire, New York, and Rhode Island. In Connecticut they need pay only 80 per cent weekly, if they pay in full once a month. In Illinois an act requiring weekly payment by corporations was held unconstitutional, as depriving persons, without due process of law, of the property right of making contracts. In most of the States named it is further provided that payment for each weekly period must be made within a defined time, generally six or eight days after the expiration of such period.

Penalties.—In most of the States mentioned failure to make payment as required by law is punishable by a fine. In Maine and New Hampshire the fine may not exceed $25; in Connecticut and New York the penalty is $50, half of which, in Connecticut, goes to him who sues; in Massachusetts and Ohio it can not exceed $50; in California and Kentucky it may be $100; in Indiana, New Jersey, Pennsylvania, and Tennessee, not exceeding $200; in Maryland, $50 to $300; in Rhode Island, $100 to $1,000, of which one-half goes to the complainant. In Maine, New Hampshire, and New Jersey the penalty is not enforceable unless action is begun within thirty days. In Indiana, if suit is brought to collect wages, 6 per cent is to be added to the judgment from the time when payment was due; and a penalty of 50 per cent of the judgment is to be levied for the benefit of the school fund. In Iowa, if payment, being due under the act, is not made within five days after demand, the employer is liable, besides the fine, to a penalty, collectible by the employee, of $1 for each day of delay after demand, not exceeding in the aggregate double the amount of wages due; and a reasonable

---

[1] Sec. 7056 of the An. St. of Ind. requires "every company, corporation or association" to pay once in each calendar month. Sec. 7065 requires all mining and manufacturing employers to pay every two weeks "if demanded." Sec. 7059 requires the same classes of employers to pay every week without reference to demand. L. 1899, ch. 124, sec. 1, requires all employers to pay weekly. The last is the latest enactment; but the others have not been specifically repealed.

[2] W. Va., State *v.* Goodwill, 33 W. Va. 179; Penn., court of common pleas, Warren County, Bauer *v.* Reynolds, 14 Pa. County Court Rep., 497.

[3] Conn., G. S. 1888, secs. 1749–1751; Ill., R. S. 1891, ch. 48, sec. 13; Braceville Coal Company *v.* The People, 147 Ill. 66; Ind., L. 1899, ch. 124; Kan., L. 1893, ch. 187, sec. 1; Mass., L. 1894, ch. 508, secs. 51, 65; L. 1895, ch. 438; L, 1896, ch. 241; L. 1898, ch. 481; L. 1899, ch. 247; N. H., P. S. 1891, ch. 180, sec. 21; N. Y., L. 1897, ch. 415, sec. 10; R. I., G. L. 1896, ch. 177, sec. 25.

attorney fee may also be collected. In Kansas the employees can collect a penalty of 5 per cent per month on the amount due, and, if suit is necessary, a reasonable attorney fee.

SEC. 2. METHOD OF PAYMENT.[1]—The following States provide, in most cases by laws which cover factory hands as well, that the wages of miners shall be paid in lawful money: California, Colorado, Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, New Jersey, New York, South Carolina, Tennessee, Virginia, Washington, and Wyoming. The laws of Iowa and Wyoming apply only to coal miners. In New York and California the law applies only to corporations; in Kansas only to corporations and trusts employing ten or more persons; in Maryland only to corporations in Allegany and Garrett counties.

Several States provide specifically that it shall be unlawful to make payment in goods or merchandise. Others provide that payment shall not be made in the form of a check or order not redeemable in lawful money. Contract to accept payment otherwise than in lawful money is specially declared void in Indiana and Kansas. In Illinois, Maryland, New Jersey, and Wyoming such contract is void, and, if payment has been made in any other form than lawful money, the full amount of such wages may nevertheless be collected, as if such payment in illegal form had not been made. In Illinois not only the amount illegally deducted from wages may be recovered, but also a reasonable attorney fee. New Jersey provides that even a settlement with the employee shall not bar action until after the lapse of one year. Special provision is made to legalize deductions for the following purposes: in Wyoming, medicines, medical attendance, fuel, house rent; in Maryland, the same items, and also smithing; in Illinois, such sums as may be agreed upon between employer and employee, to be deducted "for hospital or relief fund for sick or injured employees."

In New Mexico any order or due bill for merchandise, the amount of which is to be charged against and withheld from wages, is to be redeemed in either lawful money or merchandise, at the option of the holder, "Provided, that the holder is not at the time of such presenta-

[1] Cal., L. 1897, ch. 170; sec. 6, 7; Colo., L. 1899, ch. 155, sec. 15; Ill., R. S. 1891, ch. 48, sec. 8; L. 1897, p. 270; Frorer *v.* People, 141 Ill. 171; Ind., An. St., ch. 81, secs. 7059, 7065, 7071; Iowa, L. 1888, ch. 55, sec. 1; Kan., L. 1897, ch. 145, secs. 1–4; Ky., Constitution, sec. 244; L. 1894, sec. 1350; Md., Pub. Local L. 1888, art. 1, secs. 185–187; L, 1892, ch. 445; Mo., R. S., sec. 7058; N. J., Sup. 1886, p. 771, sec. 7; L. 1899, ch. 38; N. M., L. 1893, ch. 26; N. Y., L. 1897, ch. 415, sec. 9; Ohio, R. S., sec. 7015; Penn., Act of June 29, 1881; Row *v.* Haddock, 3 Kulp, 501; S. C., C. C. P., ch. 317; Tenn., L., 1891, extra session, ch. 5, sec. 2; Va., L. 1891, p. 1003, sec. 3; Wash., Stats. and Codes, sec. 2531; W. Va., Code 1891, p. 1003; State *v.* F. C. Coal and Coke Company, 33 W. Va., 188; Wyo., L. 1890–91, ch. 82.

The Iowa statute, as typical, is here given in full:

It shall be unlawful for any person, firm, company or corporation, owning or operating coal mines in the State of Iowa, to sell, give, deliver or in any manner issue, directly or indirectly, to any person employed by him or it, in payment for wages due for labor, or as advances on the wages of labor not due, any scrip, check, draft, order or evidence of indebtedness, payable or redeemable otherwise than in their face value in money; any such person, firm, company or corporation who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding three hundred (300) dollars nor less than twenty-five dollars, and the amount of any scrip, token, check, draft, order or other evidence of indebtedness, sold, given, delivered or in any manner issued in violation of the provisions of this act, shall recover in money at the suit of any holder thereof, against the person, firm, company or corporation, selling, giving, delivering, or in any manner issuing the same: provided that this act shall not apply to any person, firm, company or corporation employing less than ten (10) persons.

tion and demand indebted to" the issuer "for goods, wares, and merchandise to him sold, had, and delivered." In Missouri payment may be made in orders negotiable and redeemable at their face value, without discount, in cash or goods, at the option of the holder. They must be redeemed, "upon presentation and demand, within thirty days from date or delivery thereof," in goods or lawful money, as the holder may demand. In Tennessee and Virginia it is forbidden to issue for wages "any order or other paper whatever, unless the same purports to be redeemable for its face value in lawful money of the United States, bearing interest at legal rate."

Provisions requiring payment of wages in lawful money have been declared unconstitutional in Illinois, Ohio, Pennsylvania, South Carolina, and West Virginia.

In several States payment in ways forbidden by these laws is punishable by a fine. In New York the fine is $50; in California, Virginia, and West Virginia it is not to exceed $100; in Illinois and Tennessee it is not to exceed $200; in Iowa and Washington, not to exceed $300; in Kansas and Kentucky, not to exceed $500; in Maryland it may be $100 for the first offense and from $500 to $1,000 for each succeeding offense.

Assignment of future wages.[1]—California, New Jersey, New York, and Pennsylvania provide that no assignment of future wages payable at periods fixed by law shall be valid if made to the employer or to a person on behalf of the employer, or if made to any person for the purpose of relieving such employer from the obligation to pay as provided by statute. In Indiana no assignment of such future wages is valid.

SEC. 3. COMPANY STORES.[2]—New Jersey and Tennessee forbid persons or companies "who own or control a store for the sale of general

---

[1] Cal., L. 1897, ch. 170, sec. 4; Ind., L. 1899, ch. 124, sec. 4; N. J., L. 1896, ch. 179, sec. 2; N. Y., L. 1897, ch. 415, sec. 12; Penn., Dig. 1895, p. 2027, sec. 28. The law of Pennsylvania is as follows: No assignment of future wages payable semimonthly, under the provisions of this act, shall be valid, nor shall any agreement be valid that relieves the said firms, individuals, corporations or associations from the obligation to pay semimonthly, and in the lawful money of the United States.

[2] Colo., L. 1899, ch. 155; Ill., R. S. 1891, ch. 48, sec. 6; Frorer *v.* The People, 41 Ill., 171; Ind., An. St. 1894, ch. 81, secs. 7067, 7072–7074; Iowa, L. 1888, ch. 55, sec. 2; Kan., L. 1897, ch. 145, sec. 3; Ky., L. 1898, ch. 15, sec. 2; Md., L. 1898, ch. 493; Mo., R. S. 1889, ch. 115, art. 1, sec. 7060; N. J., L. 1888, sec. 11; Ohio, R. S., sec. 7016; Penn., Dig. 1895, p. 1385, sec. 46; Act of June 29, 1881; Tenn., L. 1887, ch. 155; Va., L. 1887, ch. 391, sec. 4; Wash., Codes and Stats., Title 41, sec. 2532; W. Va., Code 1891, p. 1002, sec. 2; p. 1003, sec. 4.

The essential parts of the Colorado act, which is very comprehensive, are as follows:

SECTION 1. It shall be unlawful for any person, company or corporation, or the agent or the business manager of any such person, company or corporation, doing business in this State, to use or employ, as a system, directly or indirectly, the "truck system" in the payment, in whole or in part, of the wages of any employee or employees of any such person, company or corporation.

SEC. 2. The words 'truck system" as used in the preceding section are defined to be: (1) Any agreement, method, means or understanding used or employed by an employer, directly or indirectly, to require his employee to waive the payment of his wages in lawful money of the United States, and to take the same, or any part thereof, in goods, wares or merchandise, belonging to the employer or any other person or corporation. (2) Any condition in the contract of employment between employer and employee, direct or indirect or any understanding whatsoever, express or implied, that the wages of the employee, or any part thereof, shall be spent in any particular place or in any particular manner. (3) Any requirement or understanding whatsoever by the employer with the employee that does not permit the employee to purchase the necessaries of life where and of whom he likes without

store goods or merchandise in connection with their manufacturing or other business to attempt to control their employees or laborers in the purchase of store goods and supplies at the aforesaid store by withholding the payment of wages longer than the usual time of payment, whereby the employee would be compelled" to buy at such store.

Maryland forbids a railroad or mining corporation doing business in Allegany County, or any officer or director of such corporation, to own or have any interest in a general store or merchandise business in Allegany County. Employees of such persons can recover by suit the amount paid for goods bought by them at such stores. They can recover in like manner from their employers the amount paid for goods bought at any store where they have been obliged to trade by a contract between their employers and the keeper of the store.

Mining corporations organized under the existing general laws of Pennsylvania are forbidden to engage in, or permit their employees or officials, in their interest or behalf, or upon their land, to engage in, the buying or selling of any commodity other than those specified in their charters. They may not permit any wages due to an employee to be withheld by reason of the furnishing of goods by any person to such employee, unless the same be withheld in obedience to due process of law. Such companies may, however, supply their employees with oil, powder, or other articles or implements used for or in mining. They are forbidden to grant to any person whomsoever the right to keep a general supply or other store upon the property of the corporation, if such grant is intended to defeat the provision recited. And no such corporation may make any contract with the keeper of any store whereby the employees of the corporation shall be obliged to trade with such keeper. The penalty for violation of these provisions is forfeiture of

---

interference, coercion, let or hindrance. (4) To charge the employee interest, discount or other thing whatsoever for money advanced on his wages, earned or to be earned, where the pay days of the employer are at unreasonable intervals of time. (5) Any and all arrangements, means, or methods, by which any person, company or corporation, shall issue any truck order, scrip, or other writing whatsoever, by means whereof the maker thereof may charge the amount thereof to the employer of laboring men so receiving such truck order, scrip or other writing, with the understanding that such employer shall charge the same to his employee and deduct the same from his wages.

Sec. 3. Any truck order, scrip or other writing whatsoever, made, issued, or used in aid of or in furtherance of, or as a part of, the "truck system" as defined in this act, evidencing any debt or obligation from any person, company or corporation for wages due or to become due to any employee or employees of any person, company or corporation, issued under a system whereby it is the intent and purpose to settle such debt or debts by any means or device other than in lawful money, shall be utterly void in the hands of any person, company or corporation with knowledge that the same had been issued in pursuance of such system, and it shall be unlawful to have, hold or circulate the same with such knowledge.

Sec. 4. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail of not less than thirty days, nor more than six months.

Sec. 5. The violation of the provisions of any section of this act by any coporation organized and existing under the laws of this State shall be deemed sufficient cause for the forfeiture of the charter of any such corporation, and the attorney-general of the State shall immediately commence proceedings in the proper court in the name of the people of the State of Colorado, against any such corporation for the forfeiture of its charter.

Sec. 6. Any foreign corporation doing business in this State that shall violate the provisions of any section of this act shall forfeit its right to do business in this State, and the attorney-general of the State shall, upon such violation coming to his knowledge, by informatfon or otherwise, institute proceedings in the proper court for the forfeiture of the right of any such corporation to do business in this State.

the corporation's charter, to be enforced by suit of the attorney-general of the State. The courts have held that the prohibition of withholding wages, recited above, does not prevent the employee from making a valid assignment of any portion of his wages to secure the payment of his store bills.

The act of Illinois, passed in 1891, declared it unlawful for any person or company engaged in mining to be engaged or interested, directly or indirectly, in keeping a company or truck store, or to control any store for furnishing supplies, tools, clothing, or groceries to their employees. This was, however, declared unconstitutional by the Illinois supreme court.

Indiana, Virginia, and Ohio forbid a firm or company engaged in mining and likewise interested directly or indirectly in merchandising to sell goods to an employee for a greater percentage of profit than is charged on goods of like character and quantity to customers buying for cash; in Ohio "at higher prices than the reasonable or current market value in cash." A violation of this provision is punishable in each of the States named with a fine not to exceed $100. In Ohio the violator is also liable to his employee in civil action for double the amount of any charges in excess of the reasonable or current market value in cash of the goods or supplies. Similar acts of Pennsylvania (June 29, 1881) and West Virginia (Code 1891, p. 1003, sec. 4) have been declared unconstitutional. The Pennsylvania act provided that in case of the charging of such greater profits the debt for goods so sold should not be collectible. It was held to be an unwarranted infringement of the rights of private contract. The West Virginia law was held unconstitutional and void as being class legislation and an unjust interference with private contracts and business. (Penn., Row *v.* Haddock, 13 Kulp, 501; State *v.* F. C. Coal and Coke Company, 33 W. Va., 188.)

The following States forbid coercing or attempting to compel an employee to purchase goods or supplies from any particular person, firm, or company: Colorada, Indiana, Iowa, Kansas, Kentucky, Maryland, New Jersey, Ohio, Pennsylvania, Virginia, and Washington. A similar provision in Missouri has been declared unconstitutional. The Kentucky act applies only to mining; that of Maryland only to railroad and mining corporations in Allegany County. In Tennessee the penalty is a fine not exceeding $50; in Indiana, New Jersey, Kentucky, Ohio, and Virginia, a fine in no case exceeding $100. Ohio adds, "or imprisonment not more than sixty days, or both." Washington levies a fine not exceeding $300. In Iowa, Kansas, and Maryland, and by the Missouri law referred to, the fine may be as much as $500. In Iowa and Kansas imprisonment may be inflicted in place of fine or along with it; in Iowa, not exceeding $60; in Kansas, from $30 to $90. The Pennsylvania law applies only to corporations, and forfeiture of charter seems to be the only penalty provided.

SEC. 4. CORRECTNESS OF WEIGHING AND OF SCALES.[1]—In most States

---

[1]Ala., L. 1896–7, Act 486, sec. 5; Ark., Dig., sec. 5061; L. 1899, No. 102; Ill., L. 1899, Act Ap. 18, secs. 12, 24; Ind., An. St. 1894, secs. 7460–7462; Iowa, L. 1888, ch. 53, secs. 1, 2; Kan., L. 1893, ch. 188, secs. 2, 3; Md., L. 1898, ch. 34, secs. 204–207; Mo., R. S. 1889, sec. 7055, as amended by L. 1895, p. 229; 7056, as amended by L. 1899, p. 304, and L. 1899, p. 311; N. M., L. 1888–9, ch. 126, secs. 1, 2; Ohio, L. 1898, p. 163, sec. 1; Utah, L. 1897, ch. 19, secs. 1–3; Wash., Stats. and Codes, sec. 2244; W. Va., Code 1891, p. 998, sec. 4.

where coal is mined there are special provisions to secure the correctness of scales and of weighing. In Alabama, Arkansas, Illinois, Indiana, Iowa, Maryland, Missouri, New Mexico, Utah, and West Virginia it is provided that the owner or operator of the mine must provide suitable scales of standard make for weighing coal. In all of these States, except New Mexico, it is provided further that the State mine inspectors or the inspectors of weights and measures shall examine these scales from time to time and report any incorrectness to the owner. Tennessee, Ohio, and Wyoming also have laws requiring inspection of scales by State officers. Missouri declares that scales must not be located farther from the opening of the mine than 100 feet.

In Illinois, Kansas, Missouri, Ohio, Washington, and West Virginia the law requires the weighman of the employer, whose duty it is to weigh the coal mined, to take oath to perform his duties faithfully and justly. In Ohio it is also required that the weighman shall give bond in the sum of $300 for his faithful performance of duty. In the following States, in addition to the provision as to oath of the weighman, specific provisions are made that he must keep an accurate record of the coal mined, which shall be open to all persons pecuniarily interested, and usually to State mining officers: Arkansas, Indiana (in this State the weighman is not required to take oath, but must examine and balance scales every morning), Iowa, Maryland, New Mexico, and Utah (in this State he must record weight to the nearest 10 pounds).

In Alabama, Indiana, and Iowa it is provided that 2,000 pounds shall constitute a ton in estimating the payment for mining and that 80 pounds shall constitute a bushel. In Pennsylvania 2,000 pounds constitute a ton and 76 pounds a bushel. In Maryland 2,240 pounds constitute a ton, and where the odd pounds in excess of a hundredweight exceed 56 pounds, the whole hundredweight shall be credited.[1]

Penalties for furnishing false scales or weights and for fraud in weighing are imposed on mine operators, officers, and weighmen in practically all States legislating on this subject.

Check weighmen.[2]—In all of the States which have laws concerning scales and weighmen (except Ohio), and also in Colorado, Pennsylvania, and Tennessee, the laws provide that the miners in any coal mine may employ at their own expense a person who shall act as check weighman. Alabama, Iowa, New Mexico, and Utah provide that not more than one person shall have access on behalf of the miners to scales and records of weights. In Arkansas, Indiana, Kansas, Missouri, Washington, and West Virginia the powers and duties of this officer are stated to be the same as those of the weighman without more specific definition. In Alabama, Colorado (where the act applies only in case 20 or more men are employed under ground), Iowa, Maryland, New Mexico, Pennsylvania, Tennessee, and Utah it is more specifically stated that his duties are to examine the scales and see to it that they are correct, to watch the weighing, and to inspect the records in order to prevent injustice. In Illinois, beside the other duties mentioned, the balancing of scales is specially provided for, and in Indiana the scales are to be balanced every morning. In Maryland willful violations by the weighman or the employer are to be reported by the

[1] Ala., L. 1896–7, Act 486, sec. 4; Ind., sec. 7465; Iowa, L. 1888, ch. 54, sec. 1; Md., L. 1898, ch. 34, sec. 204; Penn., Dig., p. 1314, sec. 17.

[2] In addition to the references given in footnote above, the statutes on this subject are found as follows: Colo., L. 1897, ch. 37, sec. 1; Penn., Dig., p. 1341, sec. 19; Tenn., L. 1887, ch. 206.

check weighman to the county attorney or the mine inspector, and a somewhat similar provision exists in Indiana, Pennsylvania, and Tennessee.

In many of these States it is especially provided that the check weighman shall not be interfered with in his examination of the scales and weighing, but that, on the other hand, he must not in the performance of his duties interfere with the regular working of the mines.

SEC. 5. SCREENING OF COAL.[1]—In most States where coal is mined (Arkansas, Illinois, Indiana, Iowa, Kansas, Missouri, Ohio, Pennsylvania, Washington, West Virginia, Wyoming) acts have been passed providing that where the payment of miners is by the weight of coal mined the coal must be paid for before being passed over any screen, and the full weight mined credited to the miner. In Kansas it is specifically provided that this law may not be waived by contract, and in the other States it is apparently implied that the law is binding and may not be waived, except in Wyoming, where the statute adds that in case of an agreement where coal is credited to miners after having been screened and weighed, the miners or employees shall receive compensation for all marketable or salable coal sent by them to the surface. In Kansas, Missouri, Ohio, and Wyoming it is further added that where mining is done by machinery the class of workers known as loaders, if paid by the ton, shall be credited for the full weight before screening. But in Indiana and Iowa the act is not to compel operators to pay for slate, rock, sulphur, or other impurities. West Virginia provides that coal paid for by weight shall be weighed in

[1] Ark., Acts 1899, No. 102, sec. 2; Ill., R. S. 1891, ch. 93, secs. 26–28; Ind., An. St. 1894, ch, 94, sec. 7465; Iowa, L. 1888, ch. 54, sec. 1; Kan., L. 1893, ch. 188, sec. 1; Mo., R. S. 1889, ch. 115, secs. 7054, 7057; Ohio, R. S. secs. 295a–295c, as added by L. 1898, p. 33; Penn., L. 1897, Act 224, sec. 1 (see also Dig. p. 1341, sec. 17), Wash., Stats. and Codes, sec. 2243; W. Va., Code 1891, p. 998, sec. 3; Wyo., L. 1890, ch. 79, secs. 1, 3.

The following is the full text of the Indiana and Kansas acts, which represent the two most common forms:

Indiana, An. St., sec. 7465:

All coal mined in this State under contract for payment, by the ton or other quantity, shall be weighed before being screened, and the full weight thereof shall be credited to the miner of such coal, and eighty pounds of such coal as mined shall constitute a bushel, and two thousand pounds of coal as mined shall constitute a ton: Provided, That nothing in this act shall be so construed as to compel payment for sulphur, rock, slate, black jack, or other impurities, including dirt, which may be loaded with, or amongst the coal.

Kansas, Acts of 1893, ch. 188:

SEC. 1. It shall be unlawful for any mine owner, lessee or operator of coal mines in this State, employing miners at bushel or ton rates, or other quantity, to pass the output of coal mined by said miners over any screen or other device which shall take any part from the value thereof before the same shall have been weighed and duly credited to the employees and accounted for at the legal rate of weights as fixed by the laws of Kansas.

SEC. 5. Any provisions, contract or agreement between mine owners or operators thereof, and the miners employed therein, whereby the provisions of section 1 of this act are waived, modified or annulled, shall be void and of no effect; and the coal sent to the surface shall be accepted or rejected, and if accepted shall be weighed in accordance with the provisions of this act; and right of action shall not be invalidated by reason of any contract or agreement.

SEC. 6. The provisions of this act shall also apply to the class of workers in mines known as loaders, engaged in mines where mining is done by machinery. Whenever workmen are under contract to load coal by the bushel, ton, or any other quantity the settlement of which is had by weight, the output shall be weighed in accordance with the provisions of this act.

the car in which it is removed from the mine, and that coal paid for by measure shall also be credited in the car in which it is removed from the mine. Illinois also formerly required that coal should be weighed in the pit cars before being screened, but the act has been held unconstitutional under article 2, section 2, of the constitution of Illinois, as depriving persons without due process of law of their property rights in making contracts. (Ramsay *v.* People, 142 Ill., p. 380.) The West Virginia act has been upheld by the State court, especially as applied to corporations. (State *v.* Peel Splint Coal Co., 36 W. Va., p. 802.) The act is declared not to be in violation of the bill of rights of the constitution of West Virginia in depriving persons of property without due process of law; nor is it in conflict with the fourteenth amendment to the Constitution of the United States by abridging the privileges and immunities of the citizens of the United States. The Kansas act has also been upheld as constitutional in Wilson *v.* State, 53 Pacific Reporter, p. 371.

SEC. 6. MEASUREMENT OF COAL.—Maryland:[1] In mines worked by shaft alone the owner or operator may contract with the miners to mine coal by measurement, and in such cases it shall not be obligatory to provide a weighmaster or weigh the coal mined; but the mine cars used in any such mine shall be measured by a sworn measurer and the capacity of each plainly stamped or branded thereon.

Pennsylvania:[2] Where bituminous coal is mined by measurement all cars filled by miners or their laborers shall be uniform in capacity at each mine. No unbranded car shall enter the mine for a longer period than three months without being branded by the mine inspector of the district wherein the mine is situated. The miners may appoint a check measurer.

West Virginia:[3] Each car used shall be numbered by consecutive numbers, plainly marked. If the miners are paid for mining the coal by measure, the number of bushels of coal each car will hold when loaded to its capacity shall also be plainly marked thereon as long as such car is so used.

---

[1] L. 1898, ch. 34, sec. 209, a.
[2] Digest, 1895, p. 1341, sec. 18.
[3] Code, 1891, p. 998, sec. 2.

Chapter IV.

MINE INSPECTION.

Practically all of the States in which mines of any character are located have laws of varying degrees of elaborateness for protecting the safety of miners and securing inspection of mines. Since coal is found more generally in our States than any other mineral, most of the laws on mining inspection and regulation apply only to coal mines. In a few other States the laws applying to coal mines and to other classes of mines are wholly or partly distinct (Colorado, Utah, Montana, Michigan, and California), while in some States the laws are general, applying to all classes of mines (Idaho, New Jersey, New York). The laws usually apply only to mines where ten or more persons are employed, although sometimes a different limit is set.

Pennsylvania has separate laws as to bituminous and anthracite coal mines. The first is referred to in the digest in the following 14 sections, a separate section being devoted to the anthracite law.

Sec. 1. Appointment and Removal of Inspectors.—The enforcement of the mining laws and the inspection of mines is intrusted in a few States to the commissioner of labor or the factory inspector, in addition to his other duties (Maine, New Jersey, New York, and North Carolina).[1] In the other States one or more special inspectors are provided. The appointment is usually made by the governor, and it is provided in most cases that the inspectors shall be practical miners having a certain amount of experience, usually at least five years. A few States require examinations as to competence.

In Alabama[2] there are to be a chief and two associate inspectors, holding office for three years. In Arkansas[3] there is one inspector, who must have an experience of seven years, and who holds office for two years. In Colorado[4] there are separate inspectors for coal mines and for metal mines. A board of examiners, one appointed by the governor and one by the judge of each of the four judicial districts in which coal mines are situated, shall examine candidates, and the governor shall select one coal mine inspector from those certified as competent. The term of office is four years, and the candidate must be at least 30 years of age. As to the metalliferous mines, there is a bureau of mines, consisting of a commissioner, who must have had not less than seven years of practical experience in mining and must possess knowledge of metallurgy and geology, and two inspectors, who must

---

[1] Me., Acts 1893, ch. 292, sec. 1; N. J., L. 1894, ch. 54, sec. 1; N. Y., L. 1897, ch. 415, sec. 120; N. C., L. 1897, ch. 251, sec. 1.

[2] Acts 1896–7, No. 486, sec. 1.

[3] Dig. 1894, sec. 5054.

[4] An. St., secs. 3194–3197; L. 1899, ch. 119, secs. 1–7.

have similar qualifications as to practical experience. The term of the commissioner is four years, and of the inspectors, who are appointed by the commissioner with the consent of the governor, two years. The duties of this bureau are largely in the direction of promoting mining industries in Colorado, making collections, etc., but the inspectors also have duties as to the safety of mines.

In Idaho[1] the inspector of mines is elected by the people biennially. A deputy inspector is also provided for.

Illinois[2] provides for seven inspectors, having a term of two years, who must be at least 30 years of age, and must have had ten years of practical experience. A State mining board, consisting of two practical coal miners, two owners or operators of coal mines, and a mine engineer, is established, whose duty it is to hold examinations from time to time for candidates for the position of mine inspector, as well as for mine foremen, fire bosses, and hoisting engineers. All candidates who receive a rating upon examinations above the minimum fixed by the rules of the board are to be certified to the governor, who is to make his appointments from the names thus submitted. On request of any inspector the county authorities of any county must appoint a county inspector, who must hold a certificate of competence as a mine foreman or manager. He shall assist the State inspector and may be delegated with full power during the State inspector's absence.

In Indiana[3] the inspector of mines is appointed by the State geologist after an examination to test his fitness for the position. An assistant inspector is to be appointed by the inspector after similar examination. Both of these officers must have had at least ten years' practical experience. The term of office is two years. Iowa[4] provides for three inspectors for different districts, who shall hold office two years. In Kansas[5] there is one inspector holding office for two years; he must be 30 years of age. In Kentucky,[6] also, there is one inspector with a term of four years. It is required that he shall have practical knowledge of chemistry, geology, and mineralogy, as well as of mining. Maryland[7] provides for one inspector for the two counties in which mines are located. The inspector must be at least 30 years of age, and holds office for two years. In Michigan[8] an inspector of coal mines is to be appointed by the State commissioner of labor. In addition, the board of supervisors in any county of the Upper Peninsula of Michigan may appoint an inspector for the mines of that county. In Missouri[9] there are two inspectors, one for coal mines and one for other mines. In Montana[10] there is one inspector holding office for four years, who must be at least 30 years of age, and a deputy, who must have similar qualifications. In Ohio[11] the law provides for one chief inspector, and seven district inspectors appointed by the chief inspector. The chief holds office for four years and the district inspectors for

---

[1] Act Feb. 14, 1899, secs. 1, 2, 11, 13.
[2] L. 1899, Act Apr. 18, secs. 6, 7, 12, 15. See provisions in full below, pp. 296–301.
[3] An. St., secs. 7451–7454.
[4] Acts 1884, ch. 21, secs. 1–3, 6, as amended by Acts 1886, ch. 140.
[5] Gen. S. 1897, ch. 149, secs. 6–10.
[6] Stats. 1894, sec. 2722.
[7] L. 1898, ch. 34, sec. 196.
[8] L. 1887, No. 213, sec. 1; L. 1899, No. 57, sec. 1.
[9] R. S., sec. 7071.
[10] Pol. Code, secs. 580–582, as amended by L. 1897, p. 109.
[11] R. S., sec. 290.

three years. The chief inspector must have competent knowledge of chemistry, geology, and mining engineering, and the district inspectors must be practical miners of at least five years' experience.

Pennsylvania[1] provides for a board of examiners to examine candidates for the position of mine inspector. This board is to consist of two mining engineers of good repute and three other persons qualified to act as mine inspector or mine foreman. It shall hold written and oral examinations and shall certify to the governor the names of all persons who received a grade of not less than 90 per cent. The board shall also furnish the persons examined with a copy of the questions and a statement as to whether the answers were right, imperfect, or wrong. Whenever a vacancy occurs among the inspectors the governor is required to appoint the person who has received the highest percentage on the examination until the entire number of such persons is exhausted, when additional examinations shall be held. Inspectors must be at least 30 years of age and have practical experience of five years, including experience in mines generating fire damp. Their term of office is four years. The number of districts in the State is determined by the governor from time to time. but no district shall contain less than 60 nor more than 80 mines.

In South Dakota[2] the governor is to appoint one inspector of mines, at least 30 years of age, for a term of two years. In Tennessee[3] there is to be one inspector holding office for four years. The laws of the United States[4] provide that in any unorganized territory where there are coal mines with an output of at least 1,000 tons per annum the President, in the absence of action by the legislature and governor, shall appoint one inspector. Utah[5] provides for one inspector having a term of four years. Washington[6] provides that there shall be but one inspector until 60 coal mines shall be in operation, after which there shall be additional inspection districts. The appointment of inspectors is to be made by the governor on the recommendation of an examining board, which shall consist of one practical miner, one operator or owner of a coal mine, and one mining engineer. The inspectors are to hold office for four years. West Virginia[7] has one chief inspector and four district inspectors, all to hold office for a term of four years, to be appointed by the governor, and to have had at least six years' experience. Wyoming[8] provides for one inspector of coal mines who shall hold office for two years and who must be at least 30 years of age.

In practically all of these States the law provides that the inspectors shall take an oath of office, and frequently a bond for faithful performance of duty is required. It is usually provided also that each inspector shall devote his entire time to the duties of his office. In Alabama, Colorado, Illinois, Idaho, Indiana, Iowa, Kansas, Kentucky, Missouri, Montana, Ohio, Pennsylvania, Tennessee, the Territories, and Utah it is especially provided that no inspector shall be interested pecuniarily in any mine.

---

[1] Digest, Coal Mines, Bituminous, secs. 275–281; see law in full, p. 282.
[2] L. 1890, ch. 112, sec. 2.
[3] Acts 1887, ch. 247, sec. 1.
[4] Acts 1890–91, ch. 564, secs. 1, 2.
[5] L. 1896, ch. 113, sec. 1.
[6] L. 1897, ch. 45.
[7] L. 1897, ch. 59, sec. 1.
[8] L. 1890–91, ch. 80, sec. 8.

In Colorado, Illinois, Iowa, Kansas, Kentucky, Montana, Ohio, Pennsylvania, Utah, and Wyoming the law specially provides that the inspectors shall procure all necessary instruments for performing their duties, which shall be the property of the State.

Removal.—In addition to penalties which are often prescribed for failure of inspectors to perform their duties, provisions for their removal for sufficient cause are made in several States. Thus Alabama,[1] Iowa,[2] Kentucky (sec. 2722), and West Virginia[3] provide that the governor may for sufficient cause remove an inspector. In Maryland[4] the grand jury of any county may summon an inspector before it to take cognizance of his conduct, and may recommend his removal by the governor. Pennsylvania (sec. 287) provides that if an inspector becomes incapacitated for duty the judge of the court of common pleas of his district shall appoint some person recommended by the board of examiners until he is able to resume his office. Moreover, in case (secs. 293, 294) a petition signed by not less than 15 persons who are miners or operators of mines is presented to this court, it is authorized to inquire into the conduct of an inspector. If he be found unqualified, incompetent, or guilty of malfeasance, the court shall certify that fact to the governor, who shall declare the office vacant. Ohio,[5] Washington,[6] and Wyoming[7] have provisions very nearly the same as those of Pennsylvania. The Iowa law (sec. 16) requires the governor, in case of formal complaint against an inspector, to convene a board consisting of two miners, two mine operators, and a mine engineer to try him. In Illinois (sec. 14), on petition of three mine operators or ten miners, the commissioners of labor shall examine an inspector, and may declare the office vacant. Colorado provides that an inspector of metalliferous mines who shall reveal anything regarding processes, ore bodies, etc., except in the way of official report, shall be removed and fined.

SEC. 2. POWERS AND DUTIES OF INSPECTORS.[8]—*a. Inspection.*—In all the States having inspectors it is their duty generally to visit mines, enforce compliance with the law, and provide for the safety of miners by requiring necessary changes. This inspection must be made at least every month in Maryland, every two months in Michigan (Upper Peninsula), every three months in Alabama, Arkansas, Colorado (coal mines), Pennsylvania, Tennessee, Utah, West Virginia, Wyoming; at

---

[1] L. 1896–97, No. 486, sec. 28.

[2] Acts 1884, ch. 21, sec. 1.

[3] L. 1897, ch. 59, sec. 1.

[4] L. 1898, ch. 34, sec. 209.

[5] R. S., sec. 304.

[6] Codes and Stats., sec. 2231.

[7] L. 1890–91, ch. 80, sec. 13.

[8] Ala., Acts 1896–7, No. 486, secs. 18, 20, 25, 31, 36, 37; Ark., Dig. 1894, secs. 5055, 5056; Colo., An. St. (coal mines), sec. 3197; L. 1899, ch. 119, secs. 4–11 (metal mines); Idaho, Act Mar. 6, 1893, secs. 4–6, 12; Ill., L. 1899, Apr. 18, sec. 12; Ind., secs. 7441, 7454; Iowa, Acts 1884, ch. 21, sec. 2, as amended by Acts 1886, ch. 146; Kan., G. S., ch. 149, secs. 18, 19, 43; Ky., Stats. 1894, ch. 88, secs. 2723, 2726; Me., Acts 1893, ch. 292, secs. 2, 4; Md., Pub. Loc. L., art. 1, secs. 199, 200; Mich., Acts 1887, No. 213, secs. 3, 5, 8; 1899, No. 57, secs. 5, 7, 9; Mo., R. S., 1889, secs. 7072, 7073; Mon., Pol. Code, secs. 582, 585, 588; N. J., Acts 1894, ch. 54, secs. 2, 3, 4; N. Y., L. 1897, ch. 415, secs. 120, 129; N. C., L. 1891, secs. 1, 3, 7; Ohio, R. S., secs. 292, 293, 294, 301b; Pa., Dig. 1895, secs. 285, 288; S. Dak., Acts 1890, ch. 112, secs. 6–8, 13; Tenn., L. 1881, ch. 170, sec. 20; L. 1887, ch. 247, sec. 8; Utah, L. 1896, ch. 113, secs. 3, 14; U. S., Acts 1890–1, ch. 564, sec. 3; Wash., Codes and Stats., sec. 2230; W. Va., L. 1897, ch. 59, sec. 1; Code 1891, p. 991, sec. 4; Wyo., Acts 1890–1, ch. 80, secs. 10, 11, 16, 19.

least every six months in Montana (although another section requires a visit to every mining county at least once each year); at least once a year in Idaho and the Territories of the United States. South Dakota requires the inspector to visit each mining county at least once each year, and examine as many mines as possible. The Colorado inspectors of metal mines are also empowered to visit and regulate reduction and metallurgical plants.

Practically all of the States provide that the inspectors shall have the right to enter mines at any reasonable time, and that the owners and operators of mines shall furnish them the necessary facilities for doing so (Alabama, Arkansas, Colorado (both classes of mines), Idaho, Illinois, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, North Carolina, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Washington, and Wyoming). Most of these States, however, add that the inspector shall not unnecessarily interfere with the working of mines during his inspection. In Arkansas, Illinois, Kansas, Missouri, and Washington the inspector may call upon the courts to issue an order commanding the mine owner or operator to permit him to inspect the mine. The Kansas statute as to the powers and duties of inspectors, being fairly typical, is given below.[1] For Illinois and Pennsylvania laws in full, see pages 283, 300.

b. Records and reports.—In the following States the inspector is required to make a record of each inspection stating the condition in which the mine is found, and to preserve it in his office: Alabama,

---

[1] Kansas, G. S., ch. 149:

SEC. 18. The inspector of mines shall devote the whole of his time to the duties of his office. It shall be his duty to examine each mine in the State as often as possible, and at least twice each year, to see that all provisions of this act are observed and strictly carried out; and he shall make a record of all examinations of mines, showing the condition in which he finds them, the number of persons employed in and about each mine, the extent to which the law is obeyed, the progress made in the improvements sought to be secured by the passage of this act, the number of accidents and deaths resulting from injuries received in the mines, and all other facts of public interest concerning the condition and progress of mining in this State. In order to facilitate the inspector in his duties, it shall be the duty of all coal operators to make quarterly statements to the inspector of the amount of coal mined, and the number of miners and other persons employed around the mines each quarter. The inspector's record and all matters concerning the coal-mining business of public interest shall be embodied in the inspector's annual report made to the governor on the first day of February each year.

SEC. 19. That the inspector may be enabled to perform the duties here imposed on him, he shall have the right at all times to enter any coal mine to make examination or obtain information. He shall notify the owners, lessees or agents immediately of the discovery of any violations of this act and of the penalty imposed thereby for such violation; and in case of such notice being disregarded for the space of ten days, he shall institute a prosecution against the owner, owners, lessee or agent of the mine, under the provisions of section sixteen of this act [21]. In any case, however, where in the judgment of the inspector delay may jeopardize life or limb, he shall at once proceed to the mine where the danger exists and examine into the matter, and if after full investigation thereof he shall be of the opinion that there is immediate danger, he shall apply in the name of the State to the district court of the county in which the mine may be located, or to the district judge in vacation, for an injunction to suspend all work in and about such mine; whereupon said court, or judge in vacation, if the cause appear to be sufficient after hearing the parties and their evidence as in like cases, shall issue a writ to restrain the working until all cause of danger is removed. And the costs of said proceedings, including the charges of attorney prosecuting said application, shall be borne by the owner of the coal mine: *Provided*, That no fee exceeding the sum of twenty-five dollars shall be taxed in any one case for the attorney prosecuting such case: *Provided further*, That if said court (or judge in vacation) shall find the cause not sufficient, then the case shall be dismissed and the cost shall be borne by the State or county in the discretion of the court (or judge in vacation).

Idaho, Iowa, Kentucky (must be filed in the office of the district attorney), North Carolina, New York, Ohio, Pennsylvania, Tennessee, Utah, West Virginia, and Wyoming. In Ohio the district inspectors are required to report to the chief inspector monthly.

Illinois, Pennsylvania, and Wyoming require that a record of the condition of each mine inspected shall be made by the inspector and posted in the office of the mine, where it shall remain for at least a year.

The inspectors of the various States are required in every case to make an annual or biennial report to the governor or the State legislature, giving a summary of their transactions, a statement of the general condition of the mines in the State, and frequently statistical information as to the output of mines, the number of men employed, and the mineral resources of the State generally.

c. Operators' reports.—As a means of facilitating such reports concerning the condition of the mining industry in the State, the laws of many States require that the operators or owners of mines must make reports or statements to the mine inspectors from time to time. These reports are required monthly in Indiana (Acts 1897, ch. 173, sec. 3); quarterly in Kansas (secs. 18, 43), and annually in Alabama, Colorado (metal mines), Idaho, Indiana, Kentucky, Ohio, North Carolina, Pennsylvania, West Virginia, and Wyoming. Illinois (see pp. 301, 306 for full law), Ohio, and North Carolina also require mine operators to report at once to the inspector when important changes in ownership or operation are made—such as the commencing of a new shaft or slope, the abandonment of the mine, etc.

d. Inspection of scales.—The inspector of mines is given special authority to inspect scales, weights, etc., in most States. (See above, p. 229.)

e. Inspection on complaint.[1]—The laws of Idaho, Montana,[2] South Dakota, and Wyoming provide that whenever the inspector of mines

---

[1] Mon., Pol. Code, Part III, secs. 583, 584; Idaho, Act Mar. 6, 1893, sec. 7, as amended Mar. 11, 1895 (p. 160); S. Dak., Acts 1890, ch. 112, sec. 7.

[2] The Montana act in full:

SEC. 583. Whenever the inspector of mines receives a complaint in writing, signed and verified by the oath of three or more persons setting forth that the mine in which they are working is dangerous in any respect, he or the deputy inspector must in person visit and examine such mine. Every complaint must specifically set forth the nature of the danger existing at the mine, and describe with as much certainty as possible, how such mine is rendered dangerous, and must set forth the time the cause of such danger was first observed, and set forth whether or not any notice of such defect or danger has been given by the complainants, or any one else to their knowledge, to the superintendent of such mine, and if no such complaint has been made to such superintendent, the reason why it has not been made.

SEC. 584. After such complaint shall have been received by the inspector of mines, he must serve a copy thereof, but without the names of the complainants, upon the superintendent, or manager, or owner of such mine, at any time before he visits the same, and as soon as possible visit such mine; and if from such examination he ascertains that the mine is, from any cause in a dangerous condition, he must at once notify the owner, lessor, lessee, or agent thereof, such notice to be in writing, and to be served by copy on such owner, lessor, lessee, or agent, in the same manner as provided by law for the serving of legal process, and the notice must state fully and in detail in what particular manner such mine is dangerous or insecure, and require all necessary changes to be made without delay, for the purpose of making such mine safe for the laborers employed therein; and in case of any criminal or civil procedure at law against the party or parties so notified, on account of loss of life or bodily injury sustained by any employee subsequent to such notice, and in consequence of a neglect to obey the inspectors' requirement, a certified copy of the notice served by the inspector is *prima facie* evidence of the gross negligence of the party or parties so complained of.

shall receive a complaint signed by three or more persons, stating that the mine in which they are employed is dangerous in some particular respect distinctly set forth, and also stating whether notice of such danger has been given to the mine operator, and if not the reason therefor, he shall proceed to serve a copy of the complaint, without the names, upon the mine owner or operator. He shall then as soon as possible visit the mine, and in case a dangerous condition is found shall require necessary changes to be made without delay.

The law of Michigan [1] requires each county inspector provided for in the act to make inspection whenever ten miners shall notify him that his services are necessary and that the superintendent of the mine has refused to attend to the complaint made. New Jersey also requires inspection when the employees of a mine make complaint.[2] Colorado requires inspection of metal mines and works on receipt of reliable information as to unsafe conditions.[3]

f. Inspection by miners' committee.—Colorado,[4] Ohio,[5] and Wyoming[6] provide that the miners in any mine may, not oftener than once a month, appoint a committee of two of their number to inspect the mine and its machinery. The owner shall afford every necessary facility for making the inspection, but the miners shall not impede the working of the mine. The owner or his representative may accompany the miners.

g. Enforcement of laws by inspectors.[7]—The laws of Indiana, Iowa, and Tennessee contain no specific provisions as to the powers of inspectors to make orders and to enforce them, but it is presumable that under their general powers of inspection, coupled with the penal provisions of the laws, inspectors would have power to bring suit for

---

[1] L. 1887, No. 213, sec. 7.

[2] L. 1894, ch. 54, sec. 3.

[3] L. 1899, ch. 119, sec. 8.

[4] An. St., sec. 3189.

[5] The Ohio provision in full (R. S., sec. 305):

* * * and the miners employed in any mine may, from time to time, appoint two of their number to act as a committee to inspect not oftener than once in every month, the mine and the machinery connected therewith, and to measure the ventilating current, and if the owner, agent, or manager so desires, he may accompany said committee by himself, or two or more persons, which he may appoint for that purpose; the owner, agent, or manager shall afford every necessary facility for making such inspection and measurement, but the committee shall not in any way interrupt or impede the work going on in the mine at the time of such inspection and measurement, and said committee shall, within ten days after such inspection and measurement, make a correct report thereof to the inspector of mines, on blanks to be furnished by said inspector for that purpose; and if such committee make to the inspector a false or untrue report of the mines, such act shall constitute a violation of this section.

[6] Acts 1890–1, ch. 80, sec. 16.

[7] Ala., Acts 1896–7, No. 486, secs. 37–39; Ark., Dig. 1894, sec. 5057; Colo., An. St., sec. 3191 (coal mines); L. 1899, ch. 119, secs. 11, 13 (metal mines); Idaho, Act Feb. 14, 1899, secs. 5, 8; Ill., L. 1899, Apr. 18, sec. 12; Iowa, Acts 1884, ch. 21, sec. 14, as amended by ch. 56, Acts 1888; Kansas, G. S., ch. 149, secs. 19, 45; Ky., Stats. 1894, sec. 2724; Me., Acts 1893, ch. 292, secs. 1, 2; Md., Pub. Loc. L. art. 1, sec. 199, as amended by ch. 34, 1898; Mich., L. 1887, No. 213, sec. 3; Mo., R. S. 1889, secs. 7072, 7073; Mon., Pol. Code, secs. 584, 585, 3356; N. J., L. 1894, ch. 54, sec. 234; N. Y., L. 1897, ch. 415, secs. 127, 128; N. C., L. 1897, sec. 2; Ohio, R. S., secs. 292, 303; Pa., Dig., Coal Mines, secs. 288, 295–297; S. D., L. 1890, ch. 112, sec. 8; Tenn., L. 1881, ch. 170, sec. 4; Utah, L. 1896, ch. 113, secs. 3, 5, 17; U. S., Acts 1890–1, ch. 564, secs. 4, 16; Wash., Codes and Stats., sec. 2230; Wyo., L. 1890–1, ch. 80, secs. 10, 11, 14; W. Va., Code 1891, p. 991, sec. 12.

failure to comply with the legal requirements. In Maine the inspector is simply directed to prosecute violations of law or to call the attention of the board of health to any condition which he may think needs remedying. In Maryland the authority to enforce the law is given to the inspector in broad terms. Michigan authorizes the inspector to order workmen to quit work until any dangerous place or condition shall be remedied, and New Jersey gives the inspector similar power after examination whenever a complaint is made in writing that the lives of the employees are in danger.

In the other States it is provided that the inspector shall give notice of any changes which are necessary to comply with the law and to protect the safety of the miners. In case of failure to comply with the order many of the States (Alabama, Colorado (metal mines), Idaho, Kansas (see footnote, p. 236, for full law), Kentucky, Missouri, New Jersey, North Carolina, Ohio, South Dakota, and Wyoming) specifically provide that the inspector shall bring suit to collect the fines or impose the punishment provided by law, and in the other States it is presumable that he would have the same power. The detailed procedure is regulated in a few of the States. Thus, in Alabama it is provided that in case of controversy between the inspector and the owner or operator of mine the chief inspector may call upon the board of examiners for assistance and counsel, and in case the owner refuses to comply with the order the matter is referred by the inspector to the probate court, from which appeal lies to higher courts. In Pennsylvania and Wyoming the law provides that the mine inspector shall exercise a sound discretion in enforcing the provisions of the law, going beyond its strict letter, if necessary; in case the owner of a mine or any other person shall appeal from the decision of the inspector, the proper court of the county shall speedily determine the matter, and may in its discretion appoint three disinterested persons to forthwith examine the mine. In Idaho the action is to be brought by the attorney-general of the State at the instance of the inspector.

In Utah and the Territories of the United States it is provided that the inspector shall give notice to the governor in case a mine is not furnished with proper appliances or is unsafe, and that the governor shall thereupon give notice requiring necessary changes. In case of failure to conform, it shall be unlawful to operate the mine after a time fixed.

The laws of many States (Arkansas, Colorado (both classes of mines), Iowa, Illinois, Kentucky, Missouri, Montana, New York, North Carolina, Ohio, Pennsylvania, New Mexico, Tennessee, Utah, United States for the Territories, and Washington) permit the use of the injunction as a cumulative remedy, in addition to prosecution and punishment, for failure to comply with the laws or with the orders of the inspector. The inspector is authorized to file complaint, either directly or through the prosecuting attorney of the county, with the judge of the proper court, who, after hearing, may restrain and enjoin the owner from operating the mine until the law has been complied with. This remedy is permissible in Kansas, West Virginia, and Wyoming only in case the inspector believes that immediate danger exists. The law is fullest in Pennsylvania, where it is enacted that in case an inspector considers a mine or a part of a mine to be in a condition such as to jeopardize life or health, he shall notify two mine inspectors of other districts.

If the three agree, they shall instruct the superintendent of the mine to remove such dangerous condition immediately, and in case of neglect shall apply to the court of common pleas of the county. The court shall speedily determine the case and shall restrain the working of the mine, if it deems necessary, till all danger is removed. (Sec. 288; see provisions in full, p. 284.) The Missouri provision is typical.[1]

i. Posting of rules.[2]—The laws of Alabama, Kansas, Pennsylvania. Washington, and Wyoming provide that a copy of the rules concerning the duties of each class of employees in the mine, as regulated by statute, shall be posted conspicuously at the mine. Pennsylvania and Wyoming require the printing of these rules in the different languages of the miners.

SEC. 3. MINE FOREMEN AND BOSSES.[3]—The laws of California, Colorado, Illinois, Indiana, Kansas, New Mexico, Pennsylvania, Tennessee, West Virginia, and Wyoming require the owner or operator of every mine to appoint some competent person to act as mine foreman or mine boss. In Alabama and Montana a fire boss must be appointed in mines generating fire damp or explosive gases. In Pennsylvania the assistants of the mine foreman in mines generating explosive gases must be qualified as fire bosses or foremen. Illinois requires a "mine examiner," practically a fire boss, in all mines.

Examinations.—The laws of six States require special examinations to test the competency of mining bosses. In Alabama the examination is to be conducted by a board consisting of the chief inspector, two practical miners, and two mine operators. Two grades of certificates are granted, one authorizing the holder to act as boss in mines generating explosive gases and the other in mines not generating such gases. Applicants for either class must be at least 23 years of age and must have had five years' practical experience as miners.

Illinois has established a State mining board to be appointed by the State commissioner of labor. It shall consist of two practical miners, two operators of mines, and an engineer. Candidates for examination

---

[1] Missouri, R. S., sec. 7073:

* * * and if the said inspector shall, after examination of any mine and the works and machinery pertaining thereto, find the same to be worked contrary to the provisions of this article, or unsafe for the workmen therein employed, said inspector shall, through the circuit attorney of his county, or any attorney in case of his refusal to act, acting in the name and on behalf of the State, proceed against the owner, agent or operator of such mine, either separately or collectively, by injunction, without bond, after giving at least two days' notice to such owner, agent or operator; and said owner, agent or operator shall have the right to appear before the judge to whom application is made, who shall hear the same on affidavits and such other testimony as may be offered in support as well as in opposition thereto; and if sufficient cause appear, the court, or judge in vacation, by order, shall prohibit the further working of any such mine in which persons may be unsafely employed contrary to the provisions of this article, until the same shall have been made safe and the requirements of this article shall have been complied with; and the court shall award such costs in the matter of said injunction as may be just; but any such proceedings so commenced shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this article.

[2] Ala., Acts 1896–7, No. 486, sec. 32; Kan., G. S., ch. 149, sec. 46; Pa., Dig., Coal Mines, sec. 274; Wash., Codes and Stats., sec. 2237; Wyo., Acts 1890–1, ch. 80, sec. 6.

[3] Ala., Acts 1896–7, No. 486, secs. 3, 16, 24, 26; Cal., Act Mar. 27, 1874, sec. 5; Colo., An. St., secs. 3184, 3185, 3189; Ill., L. 1899, Act Apr. 18, secs. 6–8, 16; Ind., An. St., secs. 7472, 7479, as amended by L. 1897, ch. 111; L. 1897, ch. 84; Kan., G. S., ch. 149, sec. 16; Mon., Pol. Code, secs. 3358, 3359; N. M., Comp. L., sec. 1569; Pa., Dig., Coal Mines, secs. 254, 259, 262, 298–305, 309–311; Tenn., L. 1881, ch. 170, sec. 8; W. Va., Code 1891, p. 991, sec. 11; Wyo., L. 1890–1, ch. 80, secs. 6, 15.

as mine bosses or "managers" must be at least 24 years of age, and must have had four years' practical experience; they shall also be men of good character and temperate habits. The character of the examination is prescribed in the law. Examinations are likewise provided for the position of mine examiner, a title corresponding to that of fire boss in some other States. Candidates for this certificate must be at least 21 years of age. Hoisting engineers must also be examined. A register of those to whom certificates are issued must be kept by the State mining board. Certificates may be canceled whenever the board is convinced that the holder has become unworthy of official indorsement for any reason. A fee of $1 is required for examination and $2 for the certificate. (See law in full, p. 297.)

In Indiana the inspector of mines is the examiner as to the competency of mine and fire bosses and hoisting engineers. Certificates shall be granted to persons who have already filled these positions successfully for three years. No one shall be employed in either of these capacities without a certificate. Those who apply for examination must pay a fee of $1.

The inspector of mines in Montana is authorized to conduct examinations and issue certificates. A certificate is required for foremen in mines generating gases.

Pennsylvania provides (secs. 298–305) that on petition of a mine inspector the court of common pleas of any county shall appoint an examining board consisting of the mine inspector, a miner, and a mine operator or superintendent. The applicants for examination must be at least 23 years old and must have had five years' practical experience. The board issues certificates of two grades—one authorizing the holder to act as foreman in mines generating explosive gases and the other in other mines. A separate examination and certificate are provided for the position of fire boss. Foremen or fire bosses who neglect their duties or become incapacitated by drunkenness or other causes may be summoned, and on examination by the board their certificates may be withdrawn.

Wyoming provides that an examining board shall be appointed by the district court in any county on petition of the inspector, to consist of the inspector, an operator, and a miner. A second examination may be required in case the inspector is satisfied that a mine boss or a fire boss is incompetent. No person shall be employed in either of these capacities without a certificate.

Duties.—The duties of mine bosses are usually stated in essentially the same terms in the laws of the different States.[1] They are to

[1] The West Virginia law may be cited as typical, though containing a few unusual provisions (Code 1891, p. 991, sec. 11):

SEC. 11. In order to secure the proper ventilation of every coal mine and promote the health and safety of persons employed therein, the operator or agent shall employ a competent and practical inside overseer, to be called "mining boss," who shall be a citizen and an experienced coal miner, or any person having two years' experience in a coal mine, and shall keep a careful watch over the ventilating apparatus and the airways, traveling ways, pumps and drainage; and shall see that as the miners advance their excavations, proper break-throughs are made as provided in section 10 of this act, and that all loose coal, slate and rock overhead in the working places, and along the haul ways, be removed or carefully secured so as to prevent danger to persons employed in such mines; and that sufficient props, caps, and timbers are furnished of suitable size and cut square at both ends, and as near as practicable to the proper lengths for the places where they are to be used; and such props, caps and timbers shall be delivered and placed in the working places of the miners, and every workman

inspect the ventilation and machinery, to see to it that loose coal, slate, or rock overhead is secured from falling and that proper timbering is provided, to measure the ventilation (usually once each week, making a proper record of the examination), and to see to the safety of the mine generally. The bosses are specially required in some States to make an inspection of the workings from time to time and to record the result of the observation. This inspection must be daily in Colorado, on alternate days in Indiana, Pennsylvania, and Wyoming, and at least once in three days in West Virginia. In Indiana and Wyoming the mine boss shall make a monthly report to the inspector of mines, stating the condition of the mine, the number of men employed, etc. Several other States require a report of the air measurements to be sent to the mine inspector monthly. In West Virginia and Wyoming the mining boss is directed to notify the owner or superintendent of the mine of his inability to comply with any of the provisions of the law, and the owner or superintendent is required to attend to any matter thus complained of. Tennessee requires the mine boss or his assistant to go through the mine daily after the workmen have left, close the doors, and see to the ventilation.

Indiana provides that whenever an unsafe place or condition is reported to the mining boss by a miner, he shall give an acknowledgment in writing of the receipt of the notice and shall at once inspect the place and put it in safe condition.

The duties of the mine foreman are defined with special fullness in Pennsylvania (secs. 262, 309–311). He is required to enter in a book a report of the condition of the mine after each inspection, to attend personally to his duties, and see that all the regulations for each class of workmen are carried out, to cause stoppings along the air ways to be properly built, to provide for a proper width of roads used for hauling places, etc. (For these provisions in full, see pages 279, 287.) The duties of fire bosses are similarly regulated (secs. 317–319).

Illinois also prescribes very fully the duties of the "mine manager." He must especially supervise and inspect the handling of explosives and the hoisting machinery. He must keep a record of those descend-

---

in want of props or timbers and cap pieces, shall notify the mining boss or his assistant of the fact at least one day in advance, giving the length and number of props or timbers and cap pieces required; but in case of an emergency, the timbers may be ordered immediately upon the discovery of any danger; and the place and manner of leaving the orders for timbers shall be designated in the rules of the mine; and shall have all water drained or hauled out of the working places before the miners enter, and the working places kept dry, as far as practicable, while the miners are at work. On all haul ways, space not less than ten feet long and two feet six inches wide between the wagon and the rib, shall be kept open at distances not exceeding one hundred feet apart, in which shelter from passing wagons may be secured. It shall further be the duty of the mining boss to have bore holes kept not less than twelve feet in advance of the face, and, when necessary, on the sides of the working places that are being driven towards and in dangerous proximity to an abandoned mine or part of a mine suspected of containing imflammable gases or which is filled with water. The mining boss or his assistant shall visit and examine every working place in the mine at least once in every three days, and oftener when necessary, while the miners of such places are at work, and shall direct that each and every working place shall be secured by props or timbers whenever necessary, so that safety in all respects be assured, and no person shall be directed to work in an unsafe place, unless it be for the purpose of making it safe. The mining boss shall notify the operator or agent of the mine of his inability to comply with any requirements of this section; it shall then become the duty of such operator or agent at once to attend to the matter complained of by the mining boss, to comply with the provisions hereof.

ing into the mine, and he or his agent must be present before the descending and until after the hoisting out of all miners. The duties of "mine examiners" are similarly detailed. (For provisions in full, see pages 302, 303).

SEC. 4. COMPETENCY OF MINERS.—Pennsylvania has a provision relating to tests of the competency of miners in anthracite coal mines. (See p. 268.) The only other State which regulates the competency of miners is Missouri, which by a law of 1899[1] declares that any person desiring for himself to conduct room, entry, or other underground mining must produce evidence to the coal-mine inspector that he has for two years worked in coal mines with or as a practical miner. Unless possessed of a certificate showing such qualification, no person may mine coal unless associated with a practical miner.

SEC. 5. MAPS AND PLANS.[2]—In all the mining States except Idaho, Michigan, Nevada, and North Carolina the statutes require that the owner or operator of a coal mine must make an accurate map of the mine showing the different strata through which it passes the workings, etc., the requirements differing somewhat in detail in different States. The most elaborate statutes are those of Illinois and Pennsylvania, quoted in full below (pp. 273, 293). A copy of the map must, in every State, be filed with the inspector of mines, and a copy retained by the operator; while Arkansas, Colorado, Illinois, and Montana also require a copy to be filed with the county clerk or recorder. In case the owner fails to furnish a map, or in case the inspector has reason to believe it inaccurate, the inspector may have a map made at the expense of the owner—except in Alabama, California, and New Mexico. Additional maps or corrections must be filed showing the changes in the workings at least once a year in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Kentucky, Missouri, Montana, and Wyoming; while in Indiana, Ohio (if the inspector directs), Pennsylvania, Tennessee, Utah, Washington, and West Virginia the changes must be made once in six months. Most of the States provide that the maps thus required shall be on a scale of not more than 100 feet to the inch, while a few (Alabama, Illinois, Ohio, and Wyoming) fix the scale at 200 feet to the inch.

Whenever a mine is worked out or abandoned a completed map showing that fact, and usually showing the boundary of the land owned, must be filed in all of the States except Alabama, California, Colorado, Iowa, Kentucky, New Mexico, and Utah.

The Montana statute is typical, and is quoted in full.[3]

---

[1] Approved June 2, L. 1899, p. 308.

[2] Ala., Acts 1896–7, No. 486, sec. 19; Ark., Dig. 1894, sec. 5045; Cal., L. 1874, Act Mar. 27, sec. 1; Colo., An. St., sec. 3181; Ill., Act Apr. 18, 1899 (p. 301), sec. 1; Ind., An. St., secs. 7431, 7445; L. 1897, ch. 173; Ia., Acts 1884, ch. 21, sec. 7; Kan., G. S. 1897, ch. 149, sec. 17; Ky., Stats. 1894, sec. 2729; Mo., R. S., secs. 7061, 7062; Mon., Pol. Code, part 3, sec. 3350; N. M., Comp. L. sec. 1575; Ohio, R. S., sec. 296; Pa., Dig. Coal Mines, secs. 226–229; Tenn., L. 1881, ch. 170, secs. 1, 2; Utah, L. 1896, ch. 113, sec. 4; Wash., Stats. and Codes, sec. 2219; W. Va., Code 1891, p. 991, sec. 5; Wyo., Acts 1890–1, ch. 80, sec. 1.

[3] Montana, Pol. Code, Part III:

SEC. 3350. The owner or operator of any coal mine in the State must make, or cause to be made, an accurate map or plan of the mine, which must exhibit the openings or excavations, the shafts, slopes, or tunnels, the entries, rooms, or other workings, must show the direction of the air currents therein, accurately delineate the surface section lines of the coal lands controlled by the owner of the said mines and show the exact relation to and proximity of the workings of said mine to said surface lines; said map, or plan, must also show the exact date of each survey made, and

SEC. 6. ESCAPEMENT SHAFTS.[1]—Practically all of the mining States require that all mines, whether they be worked by shaft or slope, shall have two separate openings.[2] In most of these States it is spe-

---

indicate the boundary line of the most advanced face of the workings at such date; and in case more than one seam of coal is opened or worked, a separate map or plan as aforesaid, must, if desired by the inspector, be made of the working in each seam. The map, or plan, or a true copy thereof, with the record of all surveys of said boundary lines and underground workings, must be delivered to the state inspector of mines, and the original or a true copy of the same must be retained for reference and inspection at the office of the coal mine. The maps and plans so delivered to the inspector of mines are the property of the State, and must be transferred to his successor in office. Maps of mines filed with the inspector must be open to the examination of the public in the presence of the inspector, but in no case must any copy of the same be made without the consent of the owner, operator, or his agent.

SEC. 3351. After the maps and plans herein provided are completed, thereafter in July of each year, the owner or operator of every coal mine must cause surveys to be made of all alterations and extensions of the workings made during the year preceding, and must have the records and results of the survey duly entered upon the maps of the inspector, and upon that kept at the mine. The said extensions must be placed upon the inspector's map, and the map returned to the inspector within thirty days from the completion of the survey. When any coal mine is worked out, and is about to be abandoned the owner or operator must have the maps or plans thereof extended to include all the excavations made, showing the most advanced workings of every part of the mine and the relation of such boundaries to marked boundaries on the surface.

SEC. 3352. Whenever the owner or operator of any coal mine neglects or refuses to furnish the inspector the map or plan of such coal mine, or the extensions thereto, as provided for in this chapter, the inspector is authorized to make, or cause to be made, an accurate map or plan of such coal mine, at the expense of the owner, and the cost may be recovered from the owner or operator, in the same manner as other debts, in the name of the State.

[1] Ala., Acts 1896–7, No. 486, secs. 14, 15; Ark., Dig., secs. 5047, 5047a; Cal., Stats. and Codes, p. 633, Act Mar. 13, 1870; Colo., An. St., sec. 3182; Ill., L. 1899, Act Apr. 18 (p. 303), sec. 3; Ind., An. St., secs. 7429, 7430, as amended by L. 1897, ch. 145; Kan., Gen. St., ch. 149, secs. 8, 9, 11, 14, 36; L. 1899, ch. 165; Iowa, Acts 1884, ch. 21, secs. 8, 9; Ky., St. 1894, sec. 2730; Mich., L. 1899, No. 57, sec. 2; Mo., R. S., sec. 7063; Mon., Pol. Code, secs. 3353, 3354; L. 1897, p. 66; N. Mex., Comp. L., sec. 1577; N. Y., L. 1897, ch, 415, sec. 121; N. C., L. 1897, ch. 251, sec. 4; Ohio, R. S., sec. 297; Pa., Digest, Coal Mines, secs. 230–236; Tenn., L. 1881, ch. 170, sec. 3; U. S., Acts 1890–1, ch. 564, secs. 5, 8; Utah, L. 1896, ch. 113, secs. 6, 9; Wash., Stats. and Codes, secs. 2221, 2222, 2234; L. 1897, ch. 45, sec. 3; W. Va., Code 1891, p. 991, sec. 6; Wyo., Acts 1890–1, ch. 80, secs. 2, 3.

[2] For Pennsylvania and Illinois laws in full, see pp. 274, 295.

The Iowa law is typical (Acts 1884, ch. 21):

SEC. 8 (as amended by chapter 56, Acts of 1888). It shall be unlawful for the owner or agent of any coal mine worked by a shaft, to employ or permit any person to work therein unless there are to every seam of coal worked in such mine, at least two separate outlets, separated by natural strata of not less than one hundred feet in breadth, by which shafts or outlets distinct means of ingress and egress are always available to the persons employed in the mine, but in no case shall a furnace shaft be used as an escape shaft; and if the mine is a slope or drift opening, the escape shall be separated from the other openings by not less than fifty feet of natural strata; and shall be provided with safe and available traveling ways, and the traveling ways to the escapes in all coal mines shall be kept free from water and falls of roof; and all escape shafts shall be fitted with safe and convenient stairs at an angle of not more than sixty degrees descent, and with landings at easy and convenient distances, so as to furnish easy escape from such mine, and all air shafts used as escapes where fans are employed for ventilation, shall be provided with suitable appliances for hoisting the underground workmen; said appliances to be always kept at the mine ready for immediate use; and in no case shall any combustible material be allowed between any escape shaft and hoisting shaft, except such as is absolutely necessary for operation of the mine; *Provided*, That where a furnace shaft is large enough to admit of being divided into an escape shaft and a furnace shaft, there may be a partition placed in said shaft, properly constructed so as to exclude the heated air and smoke from the side of the shaft used as an escape shaft, such partition to be built of incombustible material for a distance of not less than fifteen feet up from the

cifically declared that these openings must reach every vein or stratum of the mine which is being worked, and the same requirement is apparently implied in every case. The opening specially intended for exit in case of damage to the main shaft is frequently called the escapement shaft.

Montana declares that these two openings shall be separated by such a distance of natural strata as shall be necessary to insure safety. The openings must be at least 50 feet apart in Wyoming, 100 feet apart in Arkansas, Colorado, Indiana, Kentucky, North Carolina, Ohio, and Washington; 100 feet apart in the case of shaft mines and 50 feet apart in the case of slope or drift mines in Iowa, Kansas, and West Virginia; 150 feet apart in California (in coal mines), New Mexico, New York (if the inspector deems necessary), Pennsylvania (and 30 feet if worked by drift), Tennessee, the Territories (under United States law), and Utah; 300 feet apart in Missouri, and not less than 300 feet nor more than 400 feet apart in Michigan. Iowa and Kansas provide, however, that the distance of the escapement shaft from the main shaft shall not be less than 300 feet without the consent of the inspector, and that no building shall be put nearer the escape shaft than 100 feet except the house necessary to cover the fan. In Illinois the distance shall not be less than 300 feet except by consent of the inspector, and surface buildings must not be allowed in such a way as to jeopardize free exit. California has a separate law applying to quartz-mining claims, which provides that where a shaft or incline reaches a depth of more than 300 feet from the surface a second shaft or tunnel must be made to connect with the main shaft at a depth of not less than 100 feet from the surface. Any person failing to provide such means of egress is liable for damages in case of accident from failure to provide it. Montana has also a separate law, applying only to quartz mines, which requires a second shaft wherever the depth of the main shaft or incline is more than 100 feet from the surface. This exit must be provided with proper ladders, signboards, etc.

Definition of escapement shafts.—In several of these States provision is made for a certain length of time within which mine operators may comply with the law, or exceptions are made where escapement shafts have already been constructed which do not strictly comply with the requirements. Colorado and Kentucky apply the law only where more than 15,000 cubic yards have been excavated in any shaft, slope, or drift. In some other States the number of persons who may work

---

bottom thereof; *And provided,* That where two or more mines are connected underground, each owner may make joint provisions with the other owner for the use of the other's hoisting shaft or slope as an escape, and in that event the owners thereof shall be deemed to have complied with the requirements of this section. *And provided further,* That in any case where the escape shaft is now situated less than one hundred feet from the hoisting shaft there may be provided a properly constructed underground traveling way from the top of the escape shaft, so as to furnish the proper protection from fire, for a distance of one hundred feet from the hoisting shaft; and in that event the owner or agent of any such mine shall be deemed to have complied with the requirements of this section; *And provided further,* That this act shall not apply to mines operated by slopes or drift openings where not more than five persons are employed therein; *And provided further,* That any escapement shaft that is hereafter sunk and equipped before said escapement shaft shall be located or the excavation for it begun the district inspector of mines shall be duly notified to appear and determine what shall be a suitable distance for the same. The distance from main shaft shall not be less than three hundred feet without the consent of the inspector and no building shall be put nearer the escape shaft than one hundred feet, except the house necessary to cover the fan.

in the mine pending construction of escapements is limited. In Arkansas, Colorado, Illinois, Kansas, Kentucky, Missouri, Montana, North Carolina, Ohio, and Tennessee it is specifically provided that the two openings need not necessarily be in the same mine, but that arrangements for escapement through other contiguous mines are permissible under proper conditions.

The laws of Missouri, North Carolina, Ohio, the United States, and Utah specifically declare that ventilating shafts shall not be considered as escapement shafts. Iowa, Kansas, and Pennsylvania permit ventilating shafts to be used for escapements in case they are sufficiently large to be divided into two parts. In that case there shall be a partition in the shaft properly constructed to exclude heated air and smoke from the side used as an escape shaft. Wyoming and Washington declare that when furnace ventilation is used, before the second opening has been made available, the furnace shall not be placed within 40 feet from the foot of the shaft. Washington provides further that when coal is hoisted by steam power from a shaft or slope and there is not other means of egress for the miners, there must be a steam pump or other power to furnish water, and hose must be provided, to put out fire in the shaft. Colorado permits air shafts to be used as escapement shafts if they have proper ladder ways.

In Colorado, Kentucky, Ohio, and Pennsylvania the laws specifically permit the owner of a mine who is unable to provide the necessary escapement shafts upon his own land to appropriate by condemnation proceedings land necessary for this purpose.

Equipment of escapement shafts.—Illinois requires escapement shafts to be carefully inspected weekly. Michigan, Missouri, Montana, Washington, North Carolina and West Virginia have enacted that the escapement shaft must be equipped with suitable appliances for for exit, either stairways or hoisting apparatus. In Indiana and Iowa the stairways must not be steeper than 60 degrees, and must be provided with guard rails, or else proper hoisting apparatus, always ready for the use of miners, must be provided. Illinois permits only stairways, which must be substantial and at an angle not over 45 degrees; while Kansas declares that the stairways shall not be over 45 degrees in angle, and adds that where air shafts are used as escapes they must be provided with suitable hoisting appliances, and that no combustible material shall be allowed between an escape shaft and a hoisting shaft except such as is absolutely necessary. In Pennsylvania and Wyoming stairways may be used where the escapement shaft is not over 75 feet in vertical depth, and in that case shall not exceed an angle of 60 degrees, and shall have landings not less than 18 inches wide and 4 feet long. If the second opening is a slope for a traveling way and has a greater angle than 20 degrees, it must be provided with stairways. If the escapement shaft is more than 75 feet deep, it must be provided with hoisting machinery, unless the mine is worked by two shafts. In Illinois, Pennsylvania, and Wyoming all water coming from the surface or out of the strata in the shaft shall be conducted by rings or otherwise prevented from falling down the shaft.

Traveling ways.—In Missouri and West Virginia the laws declare that the traveling roads or ways reaching to the escapement shaft must be of sufficient size to make them available for speedy exit in case of accident, and must be kept clean. Illinois, Kansas, and Montana declare that these traveling ways must be at least five feet in

eight, and that they must be free from obstructions and from standing water. In Indiana the traveling roads must be the full height of the vein worked and four feet wide, and must be kept free from water. Pennsylvania (sec. 232) requires that, unless the mine inspector shall deem it impracticable, all mines shall have at least two general passageways, one leading from the main shaft or entrance and the other from the escapement shaft, both to be kept well drained and in a safe condition. No part of the workings of a mine shall be driven more than 300 feet in advance of such passageways except entries, air ways, or other narrow work. Provision is also made for connecting the workings with such passageways by means of overcasts where necessary.

SEC. 7. SHAFTS AND HOISTING.[1]—*Equipment of shafts, traveling ways, etc.*—In Colorado (coal mines), Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Montana, Pennsylvania, Tennessee, and Utah it is required that the top of every shaft shall be fenced in or furnished with a safety gate, and in most of these States it is further added that each fence or drift leading into the shaft shall be properly fenced and protected. The Kansas act provides that the fence around the top of each shaft and landing shall not be less than three feet high and that the gates on the side used for loading and unloading cages shall be at all times closed except when in actual use. Utah declares that a person who shall sink a shaft on public domain, in prospect for

---

[1] Ala., Acts of 1896–7, No. 486, secs. 22, 24; Ark., Dig., secs. 5050, 5052; Cal., Act Mar. 27, 1874, sec. 6; Acts 1893, ch. 74; Colo., An. St., secs. 3183, 3185, 3198, (coal mines); L. 1899, ch. 119 (metalliferous mines), sec. 20; Ill., L. 1899, Act Apr. 18 (pp. 303, 305), secs. 2, 4, 23, 28; Ind., An. St., secs. 7437–7439, 7446, 7449, 7468, 7470, 7471, 7481; Iowa, Acts 1884, ch. 21, secs. 11, 12; Kan., G. S. 1897, ch. 149, secs. 12, 13, 27; Ky., Stats. 1894, sec. 2731; Mich., L. 1887, No. 213, sec. 3; L. 1899, No. 57, secs. 3, 4; Mo., R. S., secs. 7064b, 7066–7068; Mon., Pol. Code, part 3, secs. 3361, 3362, 3650–3653; Pen. Code, part 1, sec. 705; Nev., G. S., ch. 1, sec. 296; N. M., Comp. L. 1884, sec. 1580; N. Y., L. 1897, ch. 415, sec. 123; N. C., L. 1897, ch. 251, sec. 5; Ohio, R. S., secs. 298–300; Pa., Dig., Coal Mines, secs. 237–240, 315, 328–332, 339–345, 359–364, 370, 372; S. Dak., L. 1897, ch. 92, sec. 1; Tenn., L. 1881, ch. 170, secs. 10, 11, 13; Utah, Comp. L. 1888, sec. 2240; L. 1896, ch. 113, secs. 12, 13; U. S., Acts 1890–1, ch. 564, secs. 10, 11, 13; Wash., Codes and Stats., secs. 2225, 2226, 2269; W. Va., Code 1891, p. 991, sec. 8; Wyo., Acts 1890–1, ch. 81, sec. 7.

For laws of Illinois and Pennsylvania in full, see pp. 275 ff; 296, 306. The following laws are typical:

Colorado (An. St.):

SEC. 3183. In all cases where the human voice can not be distinctly heard, the owner or agent shall provide and maintain a metal tube from top to the bottom of the slope or shaft, or a telephone connection suitably adopted to the free passage of sound, through which conversation may be held between persons at the bottom and at the top of the shaft or slope; also the ordinary means of signaling to and from the top and bottom of the shaft or slope; and in the top of every shaft shall keep an approved safety gate and an approved safety catch, and sufficient cover overhead on every carriage used for lowering and hoisting persons; and the said owner or agent shall see that sufficient flanges or horns are attached to the sides of the drum of every machine that is used for lowering and hoisting persons in and out of the mine, and also, that adequate brakes are attached thereto; the main link, attached to the swivel of the wire rope, shall be made of the best quality of iron, and shall be tested by weights satisfactory to the inspector of mines of the State; and bridle chains shall be attached to the main link from the cross pieces of the carriage; and no single link chain shall be used for lowering or raising persons into or out of said mine; and not more than five persons for each ton capacity of the hoisting machinery used at any coal mine, shall be lowered or hoisted by the machine at any one time.

Missouri (R. S.):

SEC. 7066. The owner, agent or operator of every mine operated by shaft shall provide suitable means of signaling between the bottom and the top thereof, and shall also provide safe means of hoisting and lowering persons in a cage covered

any mineral, ventilating a mine, or otherwise, shall inclose it with a substantial fence at least four and one-half feet high (sec. 2240).

Several States—Colorado (coal mines), Illinois (sec. 2), Indiana, Kansas, Montana, Missouri, Ohio, Pennsylvania, Utah, and Wyoming—provide that at the bottom of every shaft there shall be a traveling way cut into the rock, so as to permit men to pass from one side of the shaft to the other without going over or under the cage.

Indiana (sec. 7468) declares that where two veins are mined from one shaft there must be two reflecting lamps, one on each side of the shaft, not more than ten feet from the shaft in the upper vein. Illinois requires proper lights at landings.

Colorado has a number of special provisions as to shafts in metalliferous mines. Thus, where there is only one exit, and that covered with a building, fire protection must be provided. Shafts more than 50 feet in depth, equipped with hoisting machinery, must be partitioned, and one compartment must be set aside for a ladderway. Proper landings are required. Suitable ladders must also be provided in upraises and winzes. Shafts equipped with buildings and machinery and having only the working shaft for exit must hereafter be divided into two compartments, one for a ladderway. This ladderway shall be securely bulkheaded at a point 25 feet below the collar of the shaft, and from below this bulkhead a drift shall be run to the surface. Employees sinking shafts or inclines must be provided with a chain ladder, or other ladder, to insure safe means of exit. Shaft collars shall be covered to prevent objects falling down the shaft; where a cage is used a bonnet must be placed over the shaft. When wooden doors are used at the entrance of the shaft, it must be housed in and the doors must stand at an angle of not less than 45 degrees, and must be not less than four inches thick. Each station or level must, when practicable, have a passageway around the working. Proper guard rails are required at each level. When a shaft is sunk on a vein or body of

---

with boiler iron, so as to keep safe, as far as possible, persons descending into and ascending out of said shaft; and such cage shall be furnished with guides to conduct it on slides through such shaft, with a sufficient brake on every drum to prevent accident in case of the giving out or breaking of machinery; and such cage shall be furnished with spring catches, intended and provided, as far as possible, to prevent the consequences of cable breaking or the loosening or disconnecting of the machinery; and no props or rails shall be lowered in a cage while men are descending into or ascending out of said mine: *Provided,* That the provisions of this section in relation to covering cages with boiler iron shall not apply to coal mines less than one hundred feet in depth, where the coal is raised by horse power. No male person under the age of twelve years, or female of any age, shall be permitted to enter any mine to work therein; nor shall any boy under the age of fourteen years, unless he can read and write, be allowed to work in any mine. Any party or person neglecting or refusing to perform the duties required to be performed by the provisions of this article shall be deemed guilty of a misdemeanor, and punished by a fine in the discretion of the court trying the same, subject, however, to the limitations as provided by section 7069 of this article.

Sec. 7067. No owner, agent or operator of any mine operated by shaft or slope shall place in charge of any engine whereby men are lowered into or hoisted out of the mines, any but an experienced, competent and sober person not under eighteen years of age; and no person shall be permitted to ride upon a loaded cage or wagon used for hoisting purposes in any shaft or slope, and in no case shall more than twelve persons ride on any cage or car at one time, nor shall any coal be hoisted out of any mine while persons are descending into such mine; and the number of persons to ascend out of or descend into any mine on one cage shall be determined by the inspector; the maximum number so fixed shall not be less than four nor more than twelve, nor shall be lowered or hoisted more rapidly than five hundred feet to the minute.

ore, a sufficient pillar of ground must be left standing on each side of the shaft.

Boilers.[1]—The laws of California and New Mexico require that boilers used for generating steam in and about coal mines shall be kept in good order and shall be examined by a competent boiler maker at least once in three months. Colorado, Illinois, Kansas, Missouri, New York, Tennessee, and Washington similarly require inspection of boilers by competent persons once in six months. Arkansas, Colorado, Illinois, Kansas, Missouri, New York, and Washington add that boilers shall be furnished with proper steam gauges, water gauges, and safety valves. Illinois and Ohio declare that boilers and buildings containing them shall not be nearer than 60 feet from any shaft or slope. Pennsylvania prescribes the duties of firemen in caring for boilers (sec. 333). For Pennsylvania and Illinois laws in full see pp. 289, 296.

Hoisting engineers.—Most States which regulate mining require that the engineers in charge of hoisting machinery shall be sober and competent persons. It is usually provided also that they must not delegate the control of the machinery at any time to any other person, and that no person shall interfere with them in their duties. Thus in Alabama, Arkansas (engineers must be at least 18 years of age), Colorado (for both classes of mines), Iowa, Kansas (at least 18 years of age), Michigan, Missouri (18 years of age; same requirements for firemen), North Carolina, Ohio, Pennsylvania (at least 21 years of age; see sections 328, 370), Tennessee, Utah, United States, Washington (not less than 18 years of age), and West Virginia. Illinois and Indiana require hoisting engineers to submit to examination in the same way as mining bosses (see p. 241). The duties of engineers are specially regulated in Illinois and Pennsylvania (see pp. 288, 302).

Hoisting gear.—Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Montana, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia provide that the drums on which hoisting cables are run must have adequate brakes. Colorado (as to metalliferous mines), Alabama, Illinois, and Indiana provide that the drum shall have an indicator by which the engineer shall know where the cages in the shaft are at the time. Illinois regulates the manner of fastening cables.

In Colorado (as to coal mines), Illinois, Kansas, Pennsylvania, and Tennessee the law requires that the drum shall have proper flanges; in Illinois and Pennsylvania these must extend at least four inches beyond the cable when all of it is wound upon the drum.

Pennsylvania, New York, and West Virginia require that the hoisting machinery shall be carefully inspected daily to see that it is in proper condition. California and New Mexico declare that the hoisting machinery shall be kept constantly in repair.

In Colorado (coal mines), Kansas, Pennsylvania, and Tennessee the main link or coupling chain attached to the swivel of the wire rope used for hoisting must be of the best quality of iron and tested satisfactorily; bridle chains must be attached to the main link from the

[1] Ark., Dig. 1894, sec. 5052; Cal., Act Mar. 27, 1874, sec. 10; Colo., An. St., sec. 3187; Ill., L. 1899, Act Apr. 18, sec. 4; Kan., G. S. 1897, ch. 149, sec. 15; Mo., R. S. 1889, sec. 7068; N. M., Comp. L., sec. 1584; N. Y., L. 1897, ch. 415, secs. 123, 124; Ohio, R. S., sec. 299; Pa., Dig., Coal Mines, sec. 333; Tenn., L. 1881, ch. 170, sec. 13; Wash., Codes and Stats., sec. 2228.

crosspieces of the carriage, and no single-link chain shall be used for lowering or hoisting persons.

Indiana requires that the rope used for hoisting must be of wire and shall be examined every morning. Illinois demands careful inspection of all hoisting apparatus every morning and testing of the ropes by hoisting the cages (sec. 16).

Safety of cages.—Practically all of the States which regulate mining provide also that the cages used for lowering and hoisting miners shall be provided with proper safety catches to prevent them from falling in case the cable shall break.[1] In Montana, Nevada, South Dakota, and Washington (sec. 2269) it is specially provided that the safety apparatus, whether consisting of eccentrics, springs, or other devices, must be securely fastened to the cage, and must be of sufficient strength to hold the cage at any depth to which the shaft may be sunk.

The laws also provide that the cage shall have a cover to protect the men from falling substances. In Colorado (as to coal mines), Iowa, Kentucky, Michigan, Ohio, Pennsylvania, Tennessee, Utah, the United States, and West Virginia the statute merely declares that this cover shall be "sufficient." In Arkansas, Illinois, and Missouri it must be made of boiler iron or iron plate. In Indiana this boiler plate must be at least one-fourth of an inch in thickness, while in Nevada (where the statute applies only in case the shaft is at least 450 feet deep) the boiler plate must be three-sixteenths of an inch thick. South Dakota, which applies the act only where the shaft is at least 200 feet deep, also requires the thickness to be three-sixteenths of an inch, and Washington has the same provision as to shafts over 150 feet deep (sec. 2269). The Montana act is more detailed than the others. It declares that the iron cover must be at least three-sixteenths of an inch thick, and must cover the top of the cage so as to afford the greatest protection. The cage must also have an iron or steel casing not less than one-eighth of an inch in thickness, or a wire netting with wires not less than one-eighth of an inch in diameter. The doors of the cage must be made of the same material as the sides, and must be not less than 5 feet high. In Colorado metalliferous mines the hood must be three-sixteenths of an inch thick, oval if solid, and if divided in the middle the sides must slope not less than 45 degrees.

Arkansas, Illinois, Montana, Missouri, and Washington also require that the cage shall be furnished with proper guides. In Illinois, proper handholds for each man allowed on the cage must be furnished (sec. 2).

Men on cages.—Indiana and Kansas limit the number of persons who may ride on any cage at one time to six. In Arkansas the number is limited to eight, and in Iowa, Michigan, North Carolina, Ohio, Tennessee, and West Virginia the number of persons who may ride on one cage is ten. Other States, Montana, Missouri, and Washington, limit the number to twelve, while Iowa, Montana, Missouri, Pennsylvania, Utah, the United States, and Washington leave it to the discretion of the inspector to prescribe the number. Illinois declares that no person shall ride on a cage containing either a loaded or empty car. All of these States, and also New York, forbid any person to ride on a loaded cage.

Colorado (coal mines) and Washington provide that not more than

[1] Alabama, Arkansas, Colorado (both classes of mines), Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nevada, Ohio, Pennsylvania, South Dakota, Tennessee, United States, Utah, Washington, and West Virginia.

five persons shall be lowered or hoisted for each ton's capacity of the hoisting machinery. In metalliferous mines of Colorado a notice of the maximum number allowed on the cage must be posted, and it is a misdemeanor to ride on an overloaded cage.

In the following States it is also enacted that no person shall descend in a car or cage while coal is being raised in the other cage: Arkansas, Illinois, Indiana, Kansas, Montana, Michigan, Missouri, and Washington; and several of these add that props and timbers shall not be lowered while men are on cages.

Arkansas, Montana, and Missouri declare that cages shall not move more rapidly than 500 feet per minute when persons are being lowered or hoisted. In Illinois (except by consent of the inspector) and Washington the speed is limited to 600 feet per minute.

Illinois prohibits the use of any unstable or self-dumping platform for carrying men or materials unless provided with some convenient device for locking it. (See law in full, p. 507.)

Signals.—Most of the States have regulations concerning signaling between the top and bottom of the shaft. In Arkansas, Missouri, and Washington the law merely provides that suitable means for signaling shall be furnished. In Indiana, Ohio, Utah, and the United States a metal tube, such as to permit conversation between the top and bottom of the shaft, is required. In Colorado this metal tube is made alternative with a telephone, and in Iowa with other suitable means. In Kansas, Pennsylvania (sec. 238), Tennessee, and West Virginia a metal tube is required, and also other proper means of signaling. Pennsylvania (sec. 340), Illinois, Missouri,[1] and Montana specifically require that a competent man shall be placed at the top and another at the bottom of every shaft to attend to the signals and to supervise generally the lowering and hoisting of men. Missouri, Montana, and Illinois require that these men shall be at their posts at least thirty minutes before the hoisting begins in the morning and for thirty minutes after it has ceased at night. Colorado requires a "cager" at each level in metalliferous mines having two or more levels.

Several States provide especially for a code of signals with regard to hoisting. Montana and California leave it to the mine operators to establish such a system of signals, but require that a proper set of rules shall be posted for the guidance of the men. Colorado requires the commissioner of mines to establish a code in metalliferous mines. A separate section in Montana requires the mine inspector to prepare a complete code of signals for use in all mines worked through a shaft of 75 feet or more in depth. Apparently this latter section would take precedence in ordinary cases over the other provision. In Illinois, Indiana, and Pennsylvania (sec. 378) the code of signals is fixed by the law itself, different numbers of raps, bells, or whistles having different significations. These States also require that the rules concerning the signals shall be properly posted.

Duties of men in charge.—The law in Pennsylvania is especially detailed as to the duties of hoisting engineers, topmen, and cagers (or bottommen), requiring them to exercise special care in various details to protect the safety of men being lowered or hoisted. Thus the engineer must see that his boilers are properly cared for and that the steam pressure does not exceed the limit. He must not allow any

---

[1] L. 1899, Mar. 15, p. 310.

unauthorized person to enter the engine house and must take special precautions to keep his engine well under control (secs. 328–331). The cager shall not withdraw the car until the cage comes to rest; shall be careful to attend to the safety springs of catches; shall not allow tools to be placed on the same cage with men or boys, and shall personally attend to the signals (secs. 339–342). The topman of every shaft shall see that the springs for the cages are kept in good order and must be careful not to let coal or other material fall down the shaft; must not allow tools on the same cage with employees, and must take special precautions in lowering horses or mules into the mine. Special provisions are also made concerning the topmen at the head of slopes or inclined planes (secs. 343–347). The Pennsylvania law in full is quoted on p. 289.

SEC. 8. VENTILATION.[1]—*Quantity of air.*—In all the mining States except Idaho and Nevada the operators of mines are required to provide proper means of ventilation to secure the circulation of air

[1] Ala., Acts 1896–7, No. 486, secs. 8, 9, 11, 21, 23, 26; Ark., Dig. 1894, sec. 5048; Cal., L. 1874, Act Mar. 27, secs. 4, 5 (in Stats. of 1885, p. 633); Colo., An. St., secs. 3184, 3198; Ind., An. St., secs. 7435, 7443, 7476–7478, as amended by L. 1897, ch. 111; Ill., L. 1899, p. 317, secs. 16, 19; Ia., Acts 1884, ch. 21, sec. 10, as amended by Acts 1888, ch. 56; Kan., G. S., ch. 149, secs. 34, 35, 41, 43; Ky., Stats. 1894, sec. 2731; Md., L. 1898, ch. 34, sec. 201; Mich., L. 1899, No. 57, sec. 8; Mo., R. S., secs. 7064, 7064a (added by L. 1895, p. 228), 7065; Mon., Pol. Code, part 3, secs. 3355–3360; New Mexico, Code, sec. 1578; N. Y., L. 1897; ch. 115, sec. 122; N. C., L. 1897, ch. 251, sec. 5; O., R. S., secs. 298, 301; Pa., Dig. 1895, Coal Mines, secs. 242–266; Tenn., L. 1881, ch. 170, secs. 7–9; Utah, L. 1896, ch. 113, sec. 7; U. S., Stats. 1890–1, ch. 564, sec. 6; Wash., Stats. and Codes, 1891, secs. 2223, 2224, L. 1897, ch. 45, secs. 4, 6, 9; W. Va., R. S. 1891, p. 991, sec. 10; L. 1897, ch. 59, sec. 10; Wyo., L. 1890–1, ch. 80, secs. 4–6.

The Pennsylvania and Illinois laws are given in full below (pp. 276, 303). The Colorado provisions, being fairly typical, are here quoted:

SEC. 3184. The owner or agent of every coal mine or colliery, whether shaft, slope or drift, shall provide and maintain for every such mine an amount of ventilation not less than one hundred cubic feet, and such additional number of cubic feet as may be ordered by said mine inspector, per minute, per person employed in such mine, and also an amount of ventilation of not less than five hundred cubic feet per minute for each mule or horse used in said mine which shall be circulated and distributed throughout the mine in such a manner as to dilute and render harmless and repel the poisonous and noxious gases from each and every working place in the mine, and break-throughs or airways shall be driven as often as the inspector of mines may order, at the different mines inspected by him, and all break-throughs or airways, except those last made near the working faces of the mines, shall be closed up and made air tight, by brattice, trap doors or otherwise, so that the currents of air in circulation in the mine may sweep to the interior of the mine, where the persons employed in such mine are at work; and all mines governed by this statute shall be provided with artificial means of producing ventilation, when necessary, to provide a sufficient quantity of air, such as fanning, or suction fans, exhaust steam furnacés, or other contrivances of such capacity and power as to produce and maintain an abundant supply of air; but, in case a furnace shall be used for ventilating purposes, it shall be built in such a manner as to prevent the communication of fire to any part of the works, by lining the upcast with an incombustible material for a sufficient distance up from the said furnace. All mines generating fire damp shall be kept free from standing gas, and every working place shall be carefully examined every morning with a safety lamp, by a competent person or persons, before any of the workmen are allowed to enter the mine; and the person making such examination shall mark on the face of the workings the day of the month; and in all mines, whether they generate fire damp or not, the doors used in assisting or directing the ventilation of the mine shall be so hung and adjusted that they will shut up of their own accord, and can not stand open; and the owner or agent shall employ a practical and competent inside overseer, to be called a "mining boss," who shall keep a careful watch over the ventilating apparatus, and the airways, traveling ways, pumps, timbers and drainage; also, shall see that, as the miners advance their excavations, that

through the working places of the mine to an extent sufficient to render harmless the obnoxious gases generated.[2] The amount of air required is not specified in Alabama, Michigan, Maryland, or New York. In California, New Mexico, Tennessee, and the Territories under the United States act, there must be 55 cubic feet per second of pure air, or 3,300 cubic feet per minute, for every 50 men employed. In all of the other States 100 cubic feet per minute for each man must be furnished, and in Washington an equal quantity for each animal in the mine. In Colorado and Iowa 500 cubic feet per minute must also be secured for each horse or mule used in the mine. In Illinois, Missouri, and Montana 600 cubic feet are required for each animal, and in Indiana and Utah 300 cubic feet. In Pennsylvania 150 cubic feet per minute are required for each man in mines where fire damp has been discovered, and in Utah 200 cubic feet. In Illinois, Missouri, and Montana the law provides that the currents of air in the mines shall be divided or split in such a way as to give a separate current for each 100 men, or for a

---

all loose coal, slate and rock overhead are carefully secured against falling in or upon the traveling ways, and that sufficient timber, of suitable lengths and sizes, is furnished for the places where they are to be used, and placed in the working places of the mines; and he shall measure the ventilation at least once a week, at the inlet and outlet, and also at or near the face of all the entries; and the measurement of air so made shall be noted on blanks, furnished by the mine inspector; and on the first week day of each month the "mining boss" of each mine shall sign one of such blanks, properly filled, and forward the same by mail to said mine inspector, a copy of which shall be filed at the office of the coal company, subject to inspection by miners.

Sec. 3198 (as amended by chapter 123, acts of 1893). The owner, agent or lessee of each coal mine or colliery in this State employing ten or more men shall, when working in close proximity to an abandoned mine or part of a mine containing water or fire damp, cause bore holes to be kept, at least twenty feet in advance of the coal face and sides of all working places in such mine or colliery, known to be approaching old and abandoning workings. Side holes to be not more than twenty-five feet apart and to a like depth; also that it shall not be lawful for any owner or agent operating vertical coal veins, to mine or extract coal from levels under any portion of said mine or adjoining mines where water exists, without first having pumped out such water. All veins pitching over seventy degrees shall be understood as vertical veins, under this act. And said owner or agent shall cause all abandoned shafts, air shafts, slopes, slack piles or cave holes to be securely and safely fenced off; and in all bituminous and lignite coal mines coming under the provisions of this act, the state inspector of coal mines shall have the authority to compell [compel] the owners, agents or lessees of coal mines to remove any or all fine coal or slack which may accumulate in the working places or gobs, and where gob-fires or spontaneous combustion are known or even suspected to exist, a careful inspection shall be made daily of the workings, by the mine boss or an other competent person, and if an increase of temperature be localized in any part of the gobs or other places, prompt action shall be taken to remove the heated gob or debris, or extinguish the fire by water or other contrivance; but if the fire has already reached such proportions that it is impossible to extinguish it in that way, then it shall be the duty of the superintendent, or mine boss in the absence of the superintendent, to at once build suitable stoppings of double walls of a concave shape, and at least two feet apart, with ends, top and bottom, built into cuttings made into the coal or rock, and the center between the walls to be filled in with sand or other fine earthy matter, which shall be closely tamped, so as to fill up all cracks and crevices, the outside of said walls to be carefully plastered with lime and cement, so as to completely isolate the fire from air. Should combustion still be suspected to be going on, then steam, where practicable, shall be injected toward the fire from pipes in connection with boilers, and passing through said walls or stoppings, or to flood with water the site of the fire; and that in all coal mines known to generate explosive gas, that the owner or agent shall provide and adopt a system, by which water under pressure, or otherwise shall be sprinkled, and make damp all accumulations of fine coal dust from time to time that may accumulate on any haulage road, rooms, stopes or any other working places.

smaller number if the inspector deems necessary. In Indiana a separate current is required for each 50 persons, while in Washington it is required for each 75 persons unless the inspector finds that the system of splitting the air can not be adopted except at extraordinary expense. Pennsylvania (sec. 243) requires a separate current for each 65 persons, but the inspector may permit not over 100 to work in the same current. Tennessee requires the splitting of air for each 50 persons in case explosive gas is known to exist in the mine. Tennessee also prescribes the size of the intake and return air shafts.

Several States (Alabama, Indiana, Iowa, Maryland, Missouri, Montana, and Washington) especially provide that, if the mine inspector shall find men working without sufficient air, he shall order the operator to rectify the condition, and, in case of failure to do so, shall either himself order the men out of the mine or appeal for injunction from the courts to restrain the working of the mine. Similar powers are conferred upon the inspector incidentally in connection with other powers in many States. (See above, p. 238.)

Pennsylvania (sec. 270) permits condemnation of adjacent lands when necessary to secure proper ventilation or drainage for any mine.

Machinery and ventilating apparatus.—To secure the required ventilation the laws usually provide that any satisfactory appliance, such as fans or furnaces, may or shall be used. In Washington, however, the use of a furnace for ventilating is prohibited. Tennessee and Indiana forbid the use of a furnace where breakers or other buildings stand directly over the top of the shaft; while in other States (Arkansas, Colorado, Indiana, Iowa, Missouri, and Montana) where furnaces are used the shaft must be lined with incombustible material to prevent danger of fire. Montana adds that furnaces must not emit smoke into any shaft or slope which is the only means of egress. (See also provisions as to ventilating shafts used as escapements, p. 246.)

Pennsylvania (sec. 244) requires ventilating fans to be kept in continuous operation, unless by permission of the inspector, specifying certain hours; in all cases fans shall be started two hours before beginning work.

In Pennsylvania (sec. 314) and Washington it is provided that, if ventilating machinery breaks down or ceases to operate, the workmen shall be withdrawn from the mine, and that where inflammable gas is believed to be present the mine shall be properly inspected with a safety lamp before they are allowed to reënter. In Pennsylvania the duties of fan engineers in such cases are especially regulated, as well as their general duties (sec. 334) and those of furnacemen (secs. 313, 335–337).

The Pennsylvania act (sec. 265) further declares that after its passage no principal ventilating fan shall be placed inside of a coal mine wherein explosive gas has been detected or wherein the air is contaminated with coal dust. Stationary boilers must be placed more than 50 feet from the bottom of the upcast shaft. All ventilating fans must be provided with recording instruments for showing the number of revolutions and the effective ventilating pressure, and records of these shall be kept (sec. 376).

Fire boss—Measurement of currents.—The laws of Alabama, California, Colorado, Illinois (secs. 16, 18), Indiana (sec. 7479), Kansas, Montana, New Mexico, North Carolina, Ohio, Pennsylvania (sec. 258), Tennessee, West Virginia, and Wyoming provide especially that each

coal mine must have a competent foreman, mine boss, or fire boss. Some States require a separate officer to act as fire boss. The boss shall keep a careful watch over the ventilating apparatus and air ways, shall examine working places to discover fire damp, and in most cases is required to measure the air current at least once a week, and to keep a record of the measurement, which shall be open to the inspector, and which in some States must be reported to him monthly. The Illinois and Pennsylvania laws are especially full as to the duties of fire bosses (see pp. 288, 303). (See also provisions as to foremen and bosses, p. 240.)

Doors.—To secure the proper circulation of air, it is provided in Alabama, Colorado, Indiana, Illinois, Kansas, Missouri, Montana, Ohio, Pennsylvania, Tennessee, Washington, West Virginia, and Wyoming that all doors in the mine which regulate the current shall be so hung or adjusted that they will close themselves. The Kentucky law simply provides that proper doors shall be furnished. In Illinois, Indiana, Missouri, Montana, and Ohio the law requires that a boy or "trapper" shall be kept at the doors to see that they are properly closed, at least in the case of the larger mines, and a similar requirement exists in Pennsylvania unless approved self-acting doors are used. The Kansas laws prohibits employees or others from leaving doors open longer than while passing through, and requires that any person who tears down a brattice cloth must immediately notify the mine boss, and it must be promptly replaced. Tennessee declares that the main air door on any traveling road shall be double and an extra door shall be filed, to be closed only in the event of an accident to one of the others, and the sides and top of such doors shall be well built with stone and mortar where the inspector deems necessary. The Washington act provides that the main doors in a mine shall be so placed that whenever one door is open another which has the same effect on the current of air shall remain closed. Pennsylvania requires an extra emergency door on inclined planes or machine-haulage roads (sec. 246).

Break-throughs.—In order that the ventilation may be sufficient and the currents of air reach to the working faces themselves, the statutes frequently provide that break-throughs or air ways shall be made from one drift to another at certain intervals, or that the working face shall not be driven more than a certain distance ahead of a current of air. Thus in Iowa, Kentucky, North Carolina, Ohio, and Washington no working place may be driven more than 60 feet in advance of a break-through, and all break-throughs except those last made near the working face shall be closed up to force the air forward. The distance between break-throughs in Pennsylvania is left to the discretion of the inspector, but must not be more than 35 yards nor less than 16 yards. The Indiana laws require break-throughs to be made at least every 75 feet and also provide for closing up all but the last one, while Wyoming requires break-throughs every 16 yards. Break-throughs in Kansas [1] must not be more than 40 feet apart and must be at least 6 feet

[1] The Kansas act in full (Acts 1895, ch. 171):

SEC. 1. It shall be unlawful for any mine owner, agent, lessee or operator of any coal mine, or any other underground workings, where any kind of mineral is mined or excavated, in either shaft mine, slope mine or drift mine, by system of room and pillar, to mine or cause to be mined by any employee employed therein, in any of said mines, any minerals mined by bushel, ton, or other rates, to excavate coal or

wide and to the full height of the coal strata if not over 6 feet, in no case to have an area of less than 21 square feet. Unused break-throughs must be properly closed. Alabama and Colorado leave it to the discretion of the mine inspector to require break-throughs at such intervals as he may deem necessary; while Illinois (sec. 16) requires mine managers to provide sufficient break-throughs and (sec. 19) to close them substantially with brick or similar material laid in cement.

Special precautions against fire damp.—In most of the States legislating regarding ventilation it is provided that where fire damp or explosive gas is known to accumulate in a mine or a part of a mine, accumulations of standing gas in working places shall be prevented, and a competent person, usually the fire boss, shall examine the mine with a safety lamp every morning before the men are permitted to enter for work, while in most cases some method of recording the fact of such inspection is required: Alabama (secs. 23, 26), Arkansas, California, Colorado, Illinois, Indiana (examination before every shift), Kansas, Kentucky, Missouri, Montana, New Mexico, North Carolina, Ohio, Pennsylvania (before every shift, sec. 248), Tennessee, Washington, West Virginia (before every shift), and Wyoming (before every

---

other minerals, in an advance space of forty feet, unless break-throughs are made, ranging in distance as follows: Forty feet shall constitute the distance between break-throughs, which shall be made through the pillar which divides either rooms, air courses, or entries, where any of said rooms, air courses or entries are in operation, and in no case shall the distance exceed the aforesaid distance, namely, forty feet, irrespective of thickness or distance of the pillar or pillars which divides such rooms, air courses or entries.

SEC. 2. Said break-throughs shall be at least six feet wide and the full height of coal strata, or other minerals mined which does not exceed six feet in height, and in no case shall the air courses have less than thirty-six feet of an area, where mines are operated on room and pillar system. And the compensation for making such break-throughs shall be regulated by or between the employer and employee; and any room, air course or entry, or any other working places where miners or others are employed, shall cease operation at the working faces until said break-throughs are perfected as herein specified, in section 1 of this act. And said break-throughs shall be filled with either slate, rock, or closed by brattice, to make the same air-tight, as soon as the second or succeeding break-throughs are made. And in case any of such break-throughs are partly opened or torn down, by the concussion of shots, or blasts, or by premature explosion, or otherwise, the foreman or superintendent, or agent in each of any of the said mines, shall immediately cause any of such break-throughs to be properly closed and made air-tight, as soon as notified by an employee.

SEC. 3. Every mine owner, agent, lessee or operator of coal mines or underground workings of the character mentioned in section 1 of this act shall provide, and hereafter maintain for every such mine, ample means of ventilation, affording not less than 100 cubic feet of air in every such mine, per man per minute. Said volume of air shall be directed or circulated, where any person or persons may be working in any of said mines.

SEC. 4. The inspector of mines shall cause the volume of air to be increased when necessary to such an extent as will dilute, carry off, and render harmless, the noxious gases generated therein. And mines generating firedamp shall be kept free of standing gas, and every working place shall be carefully examined every morning, with a safety lamp by an examiner, or fire boss, before miners or other employees enter their respective working places. Said examiner or fire boss shall register the day of the month at the place of the workings, and also on top in a book which shall be kept in the weighmaster's office for such special purpose, and as proof of inspection, he shall daily record all places examined in said book, and in case of danger where firedamp may have accumulated during the absence of any person, or persons, employed therein, said examiner or fire boss, must notify the miners or those employed therein, or those who may have occasion to enter such places. And the hydrogen or firedamp, generated therein, must be diluted and rendered harmless, before any person or persons enter such working, or abandoned part of the mine with a naked light.

shift). In Maryland it is enacted that whenever noxious gases are known to exist in a mine it shall be the duty of the mine inspector, on information, to examine the mine and require the owner to close it or any part thereof, or properly ventilate it.

In Pennsylvania and West Virginia the law requires that mines generating fire damp shall be kept free from standing gases in the worked-out parts as far as possible, and that entrances to such parts shall be properly closed and a warning posted. In such mines, also, Colorado, Illinois, Montana, Kansas, Pennsylvania (sec. 368), and West Virginia provide that accumulations of fine dry coal dust must be prevented as far as possible, and when necessary must be watered down.

Colorado adds that where gob fires are known or suspected to exist a careful inspection shall be made daily. If an increase of temperature be found, prompt action shall be taken to put out the fire, but if it has reached such proportions that it can not be extinguished suitable stoppings shall be built, consisting of double walls of a concave shape, such as to completely isolate the fire from air. If combustion is still suspected, then steam and water, if practicable, shall be used to extinguish it.

Missouri, Montana, and Pennsylvania declare that no persons shall be employed where they are likely to come in contact with explosive gases, unless they are in charge of persons whom the foreman knows to have had experience sufficient to insure the safety of the miners.

Bore holes.—In order to prevent excavations from breaking through unexpectedly into parts of mines or other places containing fire damp, it is provided that bore holes must be driven in advance of the excavations when approaching abandoned workings likely to contain fire damp or water. In Arkansas, Colorado, Illinois (sec. 25), Missouri, Tennessee, and Washington the law requires that these bore holes shall be driven at least 20 feet in advance of the face of the working place, and if necessary on the sides thereof. Colorado adds that these side bore holes shall not be more than 25 feet apart. In Alabama and Indiana workings approaching such accumulations of water or gas shall not exceed eight feet in width, and front and side bore holes must be made not less than three yards deep. The bore holes in Kansas, Pennsylvania, Washington, West Virginia, and Wyoming must be at least 12 feet in advance, and when necessary must be driven on the sides also. In Pennsylvania the side holes must be not over eight feet apart, and bore holes are also required in the cutting of clay veins, spars, or faults, in entries, or other narrow workings going into the solid coal.

Pennsylvania (sec. 374) and Wyoming declare that accumulations of gas or fire damp shall not be removed by brushing in any way. The Pennsylvania statute further provides that in case gas is ignited by blasting or otherwise the miner shall put it out immediately, if possible, and if unable to do so he shall immediately notify the mine foreman.

Safety lamps.[1]—Alabama, Colorado, Illinois, North Carolina, Ohio, Pennsylvania, Tennessee, and Wyoming provide that all safety lamps

[1] Ala., Acts 1896–7, No. 486, sec. 13; Colo., An. St., sec. 3186; Ill., L. 1899, Apr. 18, sec. 29; Kan., G. S. 1897, ch. 149, sec. 44; N. C., L. 1897, ch. 251, sec. 6; Ohio, R. S., secs. 301, 306, as amended 1894, p. 160, Pa., Dig., Coal Mines, secs. 252, 253, 268, 363, 365; Tenn., L. 1881, ch. 170, sec. 9; W. Va., Code 1891, p. 991, sec. 10, Wyo., Acts 1890–1, ch. 81, sec. 6.

used in coal mines shall be the property of the owner or operato' of the mine and shall be in charge of the agent, mine foreman, fire boss, or other competent person. In Pennsylvania the law specially defines the cases in which safety lamps must be used. The use of electric currents in places where safety lamps are required is prohibited (sec. 251). Alabama and Pennsylvania declare that a sufficient number of safety lamps, not less than 25 per cent of the lamps used, shall be kept at each mine where gas has ever been generated. Illinois gives the mine inspector power to require the necessary number of lamps. Alabama, Illinois, North Carolina, and Pennsylvania declare that the person in charge of the safety lamps must properly care for them and deliver them locked and in safe condition to the men before each shift. In Alabama and Pennsylvania any person whose safety lamp is defective or injured must promptly report the fact to the mine foreman. In North Carolina no unauthorized person shall have in his possession a key for unlocking a safety lamp, and no matches are allowed in mines except under the direction of the mine foreman. Pennsylvania provides that no one except a person duly authorized by the mine foreman shall have in his possession a key to safety lamps, and that no one shall be intrusted with a lamp until he has given sufficient evidence to the mine foreman that he understands its proper use. The use of the common Davy safety lamp is prohibited, and the Clanny lamp may be used only if its gauze is thoroughly protected by a metallic shield.

Pennsylvania further declares[1] that no explosive oil shall be taken into coal mines for lighting purposes except when used in approved safety lamps and that oil shall not be stored in mines in quantities exceeding five gallons. Places where cars are oiled or greased must be thoroughly cleaned to prevent accumulation of waste oil. In Indiana,[2] Missouri,[3] Pennsylvania, and Ohio only a pure animal or pure cottonseed oil, or oils as free from smoke as these, shall be used for illuminating purposes. The Indiana, Missouri, and Ohio laws are detailed as to tests of oil.[4] Kansas prohibits the use of any other oil than lard oil for lighting purposes.

---

[1] L. 1899, ch. 74.

[2] L. 1899, ch. 144, sec. 1.

[3] L. 1895, Apr. 9 (p. 225).

[4] Ohio, R. S.:

SEC. 306 (as amended by act passed March 29, 1892, Laws of Ohio, vol. 89, page 164, and by act passed April 19, 1894, Laws of Ohio, vol. 91, page 160). Only a pure animal or vegetable oil, or other oil as free from smoke as a pure animal or vegetable oil, and not the product or by-product of rosin, and which shall, on inspection, comply with the following test, shall be used for illuminating purposes in the mines of this State: All such oil must be tested at 60 degrees Fahrenheit. The specific gravity of the oil must not exceed 24 degrees Tagliabue. The test of the oil must be made in a glass jar one and five-tenths inches in diameter by seven inches in depth. If the oil to be tested is below 45 degrees Fahrenheit in temperature, it must be heated until it reaches about 80 degrees Fahrenheit; and should the oil be above 45 degrees and below 60 degrees Fahrenheit, it must be raised to a temperature of about 70 degrees Fahrenheit, when, after being well shaken, it should be allowed to cool gradually to a temperature of 60 degrees Fahrenheit, before finally being tested. In testing the gravity of the oil, the Tagliabue hydrometer must be, when possible, read from below, and the last line which appears under the surface of the oil shall be regarded as the true reading. In case the oil under test should be opaque or turbid, one-half of the capillary attraction shall be deemed and taken to be the true reading. Where the oil is tested under difficult circumstances, an allowance of one-half degree may be made for possible error in parallax before condemning the oil for use in the mine. All oil sold to be used for illuminating purposes in the mines of this State, shall be contained in barrels or packages branded conspicuously with the name of the dealer, the specific gravity of the oil, and the date of shipment.

SEC. 9. FENCING OF MACHINERY, SHAFTS, AND OTHER OPENINGS.[1]—Aside from the special provisions concerning fences or gates for hoisting shafts, several States provide that all abandoned shafts and slopes or openings of any kind shall be properly fenced or covered—Colorado (both classes of mines) Indiana, Kansas, Montana, Missouri, and Tennessee. Montana and Missouri add that all sumps shall be properly covered. Ohio and North Carolina require that all underground entrances to places not in actual course of working or extension shall be properly fenced across. In Pennsylvania all dangerous places must be properly fenced and sign boards, indicating the danger, must be so hung upon the fences as to be plainly seen (sec. 315). Abandoned slopes and other places must also be fenced (sec. 364).

Kansas, Pennsylvania (sec. 241), Tennessee, and Wyoming further provide that all machinery shall be protected or fenced.

SEC. 10. EXPLOSIVES AND BLASTING.[2]—Colorado declares that underground workings of a coal mine shall not be used for storing gunpowder or other blasting material. The provisions as to metalliferous mines are more elaborate.[3] Kansas forbids more than 12½ pounds of powder or explosives to be taken into a mine by any one person at one time. Such explosives must be kept in a tight box, securely locked, at least 20 yards from the working face. Illinois (see pp. 296, 304) prohibits any miner from having more than 25 pounds of powder or 3 pounds of high explosives, and requires explosives to be kept in properly located locked boxes. The powder house must be on the surface, fireproof, and safely located. Missouri also requires explosives to be

[1] Colo., An. St., sec. 3198; L. 1899, ch. 119, sec. 20; Ind., An. St., sec. 7439; Kan., G. S., sec. 27; Mo., R. S., sec. 7068; Mon., Pol. Code, sec. 3362; Pen. Code, sec. 704, as amended by L. 1899, p. 149; N. C., L. 1897, ch. 251, sec. 5; Ohio, R. S., sec. 298; Pa., Dig., Coal Mines, secs. 241, 315, 364; Tenn., L. 1881, ch. 170, sec. 13; Wyo., Acts 1890–1, ch. 80, sec. 7.

[2] Colo., An. St., sec. 3198 (coal mines); L. 1899, ch. 119, sec. 20 (metal mines); Ill., L. 1899, Apr. 18, secs. 5, 20; Ind., Acts 1899, ch. 167; Kan., G. S., ch. 149, secs. 25, 28–31; Mo., R. S., secs. 7064c, 7077, 7077a, as added by L. 1895, Apr. 9 and 11; Mon., Pol. Code, sec. 3358; N. Y., L. 1897, ch. 415, sec. 125; Pa., Dig., Coal Mines, secs. 269, 323, 352, 357, 358, 371, 373; Wash., Stats. and Codes, sec. 2240.

[3] Colorado, L. 1899, ch. 119:

SEC. 20. First—That explosives must be stored in a magazine provided for that purpose alone; said magazine to be placed far enough from the working shaft, tunnel, or incline to insure the same remaining intact in the event the entire stock of explosives in said magazine be exploded; that all explosives in excess of the amount required for a shift's work must be kept in said magazine; that no powder or other explosive be stored in underground workings where men are employed; that each mine shall provide and employ a suitable device for thawing or warming powder and keep the same in condition for use; that oils or other combustable [combustible] substances shall not be kept or stored in the same magazine with explosives.

Second—That the commissioner of mines shall have authority to regulate and limit the amount of nitro powder stored or kept in general supply stores in mining camps or mining towns where there is no municipal law governing the storage of same.

Third—That oils and other inflamable [inflammable] material shall be stored or kept in a building erected for that purpose, and at a safe distance from the main buildings, and at a safe distance from the powder magazine, and their removal from said building for use shall be in such quantities as are necessary to meet the requirements of a day only.

Fourth—That no person shall, whether working for himself, or in the employ of any person, company or corporation, while loading or charging a hole with nitroglycerine powder or other explosives, use or emply [employ] any steel or iron tamping bar; nor shall any mine manager, superintendent, foreman or shift boss, or other person having the management or direction of mine labor, allow or permit the use of such steel, iron or other metal tamping bar by employees under his management or direction.

kept in a strong locked box, to be placed at least 100 feet from the point where blasting is done. Montana declares that no more powder shall be stored in a mine than is necessary for one day's use. Pennsylvania limits the amount of explosives to be taken into a mine to the amount required for use in one shift, requires metallic canisters to be used, and also limits the amount of explosives which may be stored in a tipple, or weighing office, or place where workmen have business.

Kansas provides that blasting shall be done only by shot firers especially employed for the purpose, and Missouri has a similar provision as regards dry and dusty mines discharging light carbonated hydrogen gas or mines where coal is blasted off the solid. Pennsylvania provides that no person shall be employed to blast coal unless the mine foreman is satisfied that he is qualified by experience, and in places likely to generate sudden volumes of fire damp, or where safety lamps are necessary, no shots shall be fired except under the supervision and with the consent of the mine foreman or some competent person designated for that purpose.

Some States regulate the manner of firing blasts, etc. Thus in Illinois no workman is permitted to bring a lighted lamp, pipe, or other thing containing fire nearer than five feet from an open box containing explosives. No coal dust or inflammable material may be used for tamping. No means shall be used to hasten the burning of a fuse. Proper warning must be given to persons approaching, and not more than one shot shall be fired at the same time in any place unless by electricity or long fuses. (For the Illinois act in full, see p. 304.)

Indiana prohibits blasting during working hours except in opening new mines. No shot shall be fired in any working place before all shots in places beyond that working place have been fired and the miners have passed out. Where coal is mined by blasting off the solid no drill hole for blasting shall be driven more than one foot past the end of the cutting of the coal at the loose end. Not more than eight pounds of blasting powder shall be placed in a hole.

The Indiana law in full is given below.[1]

---

[1] Indiana, Laws 1899, ch. 167:

SEC. 1. That there be no shooting, or blasting of any kind allowed in the mines of the State in working hours: *Provided*, In cases of opening up a new mine, which contains not over twenty (20) employees, and not over one hundred (100) yards in any direction from the bottom of said shaft, the said mine operator, superintendent, agent, boss and miners shall be permitted to allow shooting or blasting twice in working hours only.

SEC. 2. That where powder, or other explosives, is used in mining or loosing coal, in any mine of this State, it shall be unlawful for any miner or other persons to fire any shot in any working place, on any entry, before all shots in places beyond such working place have been fired, and all miners and other persons have passed such working place on their way to the outlet of such mine.

SEC. 3. That in any mine in this State, where coal is mined by "blasting off the solid" it shall be unlawful for any miner or other person to drill any hole, for the purpose of blasting, more than one foot past the end of his cutting or "loose end" or to prepare a "shot" in such a way that the distance from the hole to the loose end shall be more than five feet, measured at right angles to the direction of the hole.

SEC. 4. That it shall be unlawful for any miner, or other person, to place in any hole, for the purpose of blasting coal or other material, in any coal mine in this state, more than eight pounds of blasting powder, or to light a squib, fuse or other device with a purpose to discharge any shot which he knows to contain more than eight pounds of blasting powder, or to discharge any such shot by the use of an electric battery or any other device which may be used for such purpose.

SEC. 5. It shall be the duty of the mine operator or superintendent or agent or mine boss to see that section (1) one of this act be enforced or carried out.

SEC. 6. And for violation of any section of this act the same parties, the mine

Kansas also declares that shots shall be fired once each day, and only after the miners have been hoisted out of the mine. Holes shall not be drilled for blasting until the coal has been undermined to the depth of at least two feet or to the full depth of the drill or until the coal has been sheared to a similar depth at the sides.[1]

Missouri and Montana provide that no blasting hole shall be charged with loose powder or otherwise than with a properly constructed cartridge, and that in dry and dusty mines the cartridges must be loaded with powder cans especially constructed for that purpose. Missouri requires blasting by shot firers to be done only after the men have left the mine. New York gives the inspector of mines power to prescribe rules concerning the manner of storing and using explosives; none except qualified persons shall be permitted to fire shots, and timely notice must be given before any blast is fired.

Illinois, New York, and Washington also provide that in charging holes for blasting no iron or steel-pointed bars shall be used unless tipped with copper or soft material. Colorado prohibits use of metal tamping bars in metalliferous mines.

Pennsylvania provides that proper notice shall be given to all persons before blasts are fired, and that when a workman opens a box containing explosives or handles them he shall put his lamp at least 5 feet away and shall not smoke. Coal must be properly undermined before blasting (sec. 312). (For the Pennsylvania law in full see pp. 287, 291.)

SEC. 11. UNDERGROUND ROADS; SAFETY HOLES.[2]—Several States provide that on underground gangways or planes, whether self-acting or engine planes, suitable means of signaling between stopping places and the ends of such planes must be provided, and also places of refuge or manholes at certain intervals, and some of these also require manholes in gangways where cars are hauled by animals. In Arkansas, Kansas, Missouri, and Montana these manholes must not be over 30 feet apart in the case of self-acting or engine planes and not over 60 feet apart in gangways where animal power is used for moving cars. In Illinois (both for mechanical and animal-power planes), Ohio, Washington, and West Virginia the manholes are to be not more than 60 feet apart. Pennsylvania requires manholes at least every 45 feet in

---

operator, superintendent, agent, boss and miners shall be guilty of a misdemeanor, and for such offense shall be fined not over ($100) one hundred dollars, nor less than ($5) five dollars, or imprisonment in the county jail not over (6) six months, nor less than (30) thirty days for each offense.

[1] Kansas, G. S., ch. 149, sec. 29:

It shall be unlawful for any miner or any person other than the shot-firers provided for in section 1 of this act [the next preceding section], to fire any shot in any coal-shaft, slope, drift or pit in this state. Any miner or other person engaged in mining coal in this state, who shall drill any hole or fire any shot in the coal vein at the working face of any room or entry until so much of said coal vein at said working face as the said shot or shots are intended to throw down shall have been undermined to the depth of not less than two feet, or sheared or cut to the full depth of the drill or shot-hole and of the full thickness of the coal vein in rooms, or shall have been sheared to the full depth of the drill or shot-hole and the full thickness of vein in entries, or who shall so direct the drilling of such holes as to include between such shearing or mining and the back or rear end of the hole a greater width of coal than is contained between such shearing or mining and the mouth of the hole, shall be deemed guilty of a misdemeanor, and fined as hereinafter provided.

[2] Ark., Dig., sec. 5052; Colo., An. St., secs. 3187, 3198; Ill., L. 1899, Apr. 18, sec 21; Kan., G. S., ch. 149, secs. 16, 37; Mo., R. S., sec. 7068; Mon., Pol. Code, part 3, sec. 3363; Ohio, R. S., sec. 299; Penn., Dig., Coal Mines, secs. 257, 324–327, 338, 353–355, 366, 367, 381; Wash., Codes and Stats., sec. 2228; W. Va., Code 1891, p. 991, secs. 9, 11; Wyo., Acts 1890–1, ch. 80, sec. 6.

the case of engine or self-acting planes and every 90 feet where animal power is used. Pennsylvania, Illinois, Ohio, and West Virginia provide that if sufficiently wide space exists through the tunnels these manholes are unnecessary. Colorado requires the places of refuge every 50 feet. Wyoming requires them every 90 feet on all hauling roads. In Montana, Missouri, Pennsylvania, and Wyoming these places must be whitewashed in order to make them more conspicuous.

Colorado enacts further that wherever coal is hauled by machinery on underground roads, if the grade is more than six feet per 100, double drawbars must be attached to every car and the hooks used to attach the cars must be furnished with some device to prevent them from becoming unfastened. Moreover, double chains with approved safety hooks must be attached to the socket of the hoisting ropes.

Pennsylvania provides that safety blocks or other devices must be placed on cars to prevent them from falling into shafts or running away on slopes and inclined planes. No person is allowed to travel to or from work on an inclined plane or locomotive road when other good roads exist. No person except the driver or trip runner is permitted to ride on loaded cars, or in empty cars at more than six miles an hour. Tunnels in which locomotives are used (sec. 381) must be properly ventilated, by a special apparatus if so required by the inspector. The Pennsylvania statute also prescribes the duties of drivers and of trip runners in considerable detail, as well as of the persons employed to hook cars onto the hauling rope or chain at the bottom of a slope. (See these provisions in full, pp. 288, 292.)

Illinois requires a conspicuous light in front of every train of pit cars, except on inclined planes. (For provisions in full, see p. ——.)

SEC. 12. PROPS AND TIMBERS.—The laws of most States require that mines shall be properly timbered, and that the owners or persons in charge of mines shall keep a sufficient supply of props and other timbers, and shall deliver them when required at places convenient to the reach of the miners.[1] The details vary slightly in the different States. Indiana, Pennsylvania, and West Virginia require that proper places (in Indiana blackboards and in Pennsylvania books or sheets) shall be provided on which miners may enter a statement of the props or timbers required from time to time. Colorado declares as to metalliferous mines that all old timber must be removed from the mine and not permitted to decay underground.[2]

SEC. 13. ACCIDENTS.[3]—In case of serious or fatal accident in a

---

[1]Ala., Acts 1896–7, No. 486, sec. 12; Ark., Dig., sec. 5060; Colo., An. St., sec. 3184; Ill., L. 1899, Apr. 18, sec. 16; Ind., An. St., sec. 7444; Iowa, Acts 1884, ch. 21, sec. 18; Kan., G. S., ch. 149, sec. 16; Mo., R. S., sec. 7076; Md., Pub. Loc. Laws, art. 1, sec. 202; Mich., Acts 1899, No. 57, sec. 7; N. C., L. 1897, ch. 251, sec. 8; N. Y., L. 1897, ch. 415, sec. 122; Ohio, R. S., sec. 6871; Pa., Dig., Coal Mines, secs. 255, 316; Utah, L. 1896, ch. 113, sec. 16; Wash., Codes and Stats., sec. 2233; W. Va., Code 1891, p. 991, sec. 11; Wyo., Acts 1890–1, ch. 80, sec. 6.

[2]L. 1899, ch. 119, sec. 20.

[3]Ala., Acts 1896–7, No. 486, sec. 29; Ark., Dig., sec. 5053; Colo., An. St., sec. 3188 (coal mines); L. 1899, ch. 119, sec. 20 (metal mines); Idaho, Acts 1893, p. 152, sec. 10; Ill., L. 1899, Apr. 18, secs. 26, 27; Ind., An. St., secs. 7474, 7475; Iowa, Acts 1884, ch. 21, sec. 2, as amended by Acts 1886, ch. 140; Kan., G. S., ch. 149, sec. 20; Md., Pub. Loc. Laws, art. 1, sec. 199; Mo., R. S., sec. 7069; Mon., Pol. Code, part 3, sec. 586; N. Y., L. 1897, ch. 415, sec. 126; N. C., L. 1897, ch. 251, sec. 6a; Ohio, R. S., sec. 301; Pa., Dig., Coal Mines, secs. 289–292; S. Dak., Acts 1890, ch. 112, sec. 9; Tenn., L. 1881, ch. 170, sec. 12; L. 1887, ch. 247, secs. 9, 10; U. S., Acts 1890–1, ch. 564, sec. 15; Utah, L. 1896, ch. 113, sec. 15; Wash., Stats. and Codes, sec. 2229; W. Va., Code 1891, p. 991, sec. 15; Wyo., Acts 1890–1, ch. 80, sec. 12.

mine practically all of the laws require notice at once to be given by the owner or person in charge to the mine inspector.[1] Iowa requires report of fatal accidents only. In the Territories under the United States law and in Utah full reports of fatal accidents must be made to the inspector within ten days, and in Utah a similar report where the accident results in serious injuries. (For statutes of Illinois and Pennsylvania, see pp. 284, 306.)

Upon receiving such a report concerning an accident it is the duty of the inspector (in Alabama, Colorado (as to coal mines), Illinois, Kansas, Missouri, Pennsylvania, Tennessee, Washington, West Virginia, and Wyoming) to visit the scene of the accident at once and to make suggestions with a view to securing safety to the miners. In these same States and also in Arkansas, Colorado (as to metal mines), Idaho, Indiana, Montana, North Carolina (in case the accident be fatal), Ohio (in case the accident be fatal), and South Dakota the inspector is to investigate the causes of the accident and to make a record or report of these causes and of the result of the accident. For the purpose of this investigation the inspector is authorized to summon witnesses and compel testimony in Alabama, Arkansas, Illinois, Indiana, Kansas, Missouri, Pennsylvania, Tennessee, Washington, West Virginia, and Wyoming, and perhaps by implication in the other States. In case the inspector can not come immediately to the scene of the accident, Idaho, Montana, and South Dakota make it the duty of the owner or person in charge to secure written statements on oath from persons witnessing the accident or first to arrive after it.

Where the accident is a fatal one the law in many States requires the person in charge of the mine to give notice at once to the coroner. In Iowa, Indiana, Maryland, Montana, and South Dakota the inspector is authorized to be present and aid the coroner in his investigation. Colorado (as to metal mines), Illinois, Idaho, Pennsylvania, Washington, West Virginia, and Wyoming further give the inspector power himself to give evidence or to examine and cross-examine witnesses before the coroner. North Carolina and Ohio, which provide for a separate investigation by the inspector, also require the coroner to report his findings to the inspector. In Iowa, Pennsylvania, Tennessee, West Virginia, and Washington the law provides that no person having any interest in the mine where the accident has occurred shall serve on the coroner's jury. (As to liability of owners for damages, see p. 266.)

Stretchers, etc.—Washington and Wyoming require owners or operators of mines to keep convenient at the mouth of the mine stretchers

[1] The Kansas statute in full (G. S., ch. 149, sec. 20):

Whenever, by reason of any explosion, or other accident, in any coal mine, or the machinery connected therewith, loss of life, or serious personal injury, shall occur, it shall be the duty of the person having charge of such coal mine to give notice thereof forthwith to the inspector, and if any person is killed thereby to the coroner of the county, who shall give due notice of the inquest to be held. It shall be the duty of the inspector upon being notified as herein provided, to immediately repair to the scene of the accident, and make such suggestions as may appear necessary to secure the future safety of the men; and if the results of the explosion do not require an investigation by the coroner, he shall proceed to investigate and ascertain the cause of the explosion or accident, and make a record thereof, which he shall file as provided for; and to enable him to make the investigation, he shall have power to compel the attendance of persons to testify, and to administer oaths or affirmations. The cost of such investigation shall be paid by the county in which the accident occurred, in the same manner as costs of inquests held by the coroner or justices of the peace are paid.

for carrying injured persons in case of accident. Alabama, Illinois, and Pennsylvania have a similar requirement, and add that in mines generating fire damp a sufficient quantity of linseed or olive oil, bandages, and linen shall be kept in store. These States also require a woolen blanket and a waterproof blanket to be provided.[1]

Pennsylvania (sec. 348) further declares that the mine foreman must see to it that any person who is injured about the mine shall receive necessary treatment, if need be at the expense of the county.

Entombed miners.—A law of Pennsylvania (Dig. 1895, p. 1340) declares that when workmen are entombed in a coal mine it shall be the duty of the court of the county, on the petition of any relatives of such workmen, to take necessary testimony to ascertain whether they can be recovered. If it appears feasible, the court shall issue a mandamus to the owner of the mine to proceed to recover the bodies of such workmen.

SEC. 14. MISCELLANEOUS REGULATIONS.—Pennsylvania especially has numerous regulations of a minor character seldom found in other States. For example, no unauthorized person shall enter any mine (sec. 349); no person in a state of intoxication shall be allowed to go into a mine (sec. 350); miners must properly undermine coal before blasting it (sec. 312), and shall set sprags under the coal when necessary (sec. 322). No inexperienced person shall be employed to mine out pillars except in company with experienced men (sec. 382), and the mine foreman shall not permit improper methods of mining out pillars (sec. 312). No person shall go into an old shaft or abandoned part of a mine without the permission of the foreman, or travel to and from work except on traveling ways assigned for that purpose (sec. 379). Pennsylvania further requires (sec. 351) that all employees shall inform the mine foreman of the unsafe condition of a working place or of any damage to the workings, that (sec. 354) they shall examine their working places before commencing work, and shall take down dangerous slate, attend to the timbering, etc. (sec. 320). Miners are prohibited from destroying any notice board or danger signal (sec. 356). or from committing any nuisance or leaving rubbish in the roads or air ways (sec. 362).

Pennsylvania also declares that stables inside of mines must be excavated in the solid strata, must be free from combustible material, and must be supplied with a separate air current not mixed with that ventilating the working parts of the mine. The storing of hay or straw is also carefully regulated (secs. 266, 267).

The superintendents of mines in Pennsylvania (secs. 263, 264) are required to keep on hand a full supply of all necessary materials and supplies, to examine at least once a week, and countersign, the reports of the mine foreman entered in the mine record book, and to require the foreman to comply with the provisions of the law.

In Pennsylvania (sec. 380) no steam pipe shall be permitted on traveling or hauling ways unless incased in asbestos or so placed as to prevent radiation of heat as far as possible.

Tennessee (L. 1881, ch. 170, sec. 6) requires that a suitable place be furnished at each mine for men to wash and change their clothes. Pennsylvania (sec. 377) has a similar requirement as regards mines where the clothing of the employees is wet by working in wet places.

---

[1]Ala., Acts 1896–7, No. 486, sec. 10; Ill., L. 1899, Apr. 18, sec. 30; Pa., Dig., Coal Mines, sec. 307; Wash., Stats. and Codes, sec. 2235; Wyo., Acts 1890–1, ch. 80, sec. 18.

Pennsylvania further provides[1] that where water may have been allowed to accumulate in dangerous quantities in a mine or part thereof, it shall be lawful for any mine owner whose mine is endangered by the water, with the approval of the mine inspector, to construct drifts, across property lines if needful, in order to remove the water. No operator is permitted to mine coal within 50 feet of such an accumulation of water without removing it.

Kansas[2] declares that no standing water or obstructions of any kind shall be allowed in traveling ways, air courses, or rooms.

Wyoming[3] requires mines to be kept as dry as possible.

Idaho[4] prohibits the employment of aliens in mines unless they have declared their intention of becoming naturalized.

Illinois prohibits the working of any mine nearer than 10 feet from the boundary line of the coal right of the owner.[5]

Wyoming[6] has provided for the establishment of a State hospital for disabled miners.

West Virginia[7] has provided for establishing three miners' hospitals, regulating their organization and management in considerable detail. Persons injured on railroad trains or in coal mines are to be treated free of charge.

SEC. 15. PENALTIES.—Numerous special penalties are provided in various States in connection with particular sections and provisions of the laws. Aside from these, separate penal clauses exist in most of the laws as regards acts of miners and as regards those of mine operators and superintendents. The amount of the penalty is sometimes the same in the case of the miners as in the case of the owners or managers, but in other States the penalty is less in the case of miners.

Actions of miners.—The laws of most of the States[8] enumerate somewhat in detail the acts on the part of miners which are prohibited.[9] These vary in some regards in different States, but the general provision, which is almost always added, including any other act which endangers the life or safety of miners or the security of the mine,

---

[1] Secs. 272, 273.

[2] G. S., ch. 149, sec. 39.

[3] Acts 1890–1, ch. 80, sec. 6.

[4] Act Feb. 2, 1899.

[5] L. 1899, Apr. 18, sec. 25.

[6] Acts 1891, ch. 81, as amended by Acts 1899, ch. 15.

[7] Acts 1899, ch. 57.

[8] Ala., L. 1896–7, No. 486, sec. 30; Ark., Dig., sec. 5059; Colo., An. St., sec. 3190; Ill., L. 1899, Act Apr. 18, sec. 31; Ind., An. St., sec. 7440; Iowa, Acts 1884, ch. 21, sec. 15; Kan., G. S., ch. 149, sec. 26; Ky., Stats. 1894, sec. 1732; Md., Pub. Loc. L., art. 1, sec. 208; Mo., R. S., sec. 7075; N. C., L. 1897, ch. 251, sec. 8; Ohio, R. S., sec. 6871; Pa., Dig., Coal Mines, secs. 362, 383; Tenn., L. 1881, ch. 170, sec. 19; Wash., Stats. and Codes, sec. 2232; W. Va., Code 1891, p. 991, sec. 14; Wyo., L. 1890–1, ch. 80, sec. 7.

[9] The Missouri statute is typical (R. S.):

SEC. 7075. Any miner, workman or other person who shall knowingly injure any water gauge, barometer, air course or brattice, or shall obstruct or throw open any airways, or carry any lighted lamps or matches into places that are worked by the light of safety lamps, or shall handle or disturb any part of the machinery of the hoisting engine, or open a door to a mine and not have the same closed again, whereby danger is produced, either to the mine or those at work therein, or who shall enter into any part of the mine against caution, or who shall disobey any order given in pursuance of this article, or who shall do any willful act whereby the lives and health of persons working in the mine, or the security of the mine or miners, or the machinery thereof, is endangered, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine or imprisonment, at the discretion of the court.

makes the application practically identical in all the States. Among the specific acts which are mentioned in almost every case are injury to shafts, water meters, air courses and machinery, interference with air ways, failure to close ventilating doors, taking lighted lamps, matches, or smokers' articles into places where safety lamps are required, and disobeying orders generally.

Actions of mine owners.—The following are the general penalties upon mine owners or managers for willful failure to comply with the law:[1] Alabama, not over $300 fine and imprisonment; Arkansas, not less than $25 for each day of violation; California, misdemeanor, or in case of death resulting from such failure the overseer shall be held guilty of manslaughter; Colorado, $100 to $500 (coal mines), $25 to $300 (metal mines); Idaho, not over $500 for each day's violation; Illinois, not over $500, or not over six months' imprisonment, or both; Indiana, misdemeanor, $5 to $200 fine; Iowa, not over $500, or six months' imprisonment; Kansas, $100 to $300, or imprisonment thirty to ninety days, or both (with other penalties for certain special violations); Michigan, $50 to $100, or imprisonment ten to ninety days, or both; Missouri, $50 to $200, or twelve months' imprisonment, or both (with certain special provisions); Montana, misdemeanor; New Jersey, $1,000; New Mexico, misdemeanor; North Carolina, not less than $50, or not over thirty days' imprisonment, or both; Ohio, same as North Carolina; Pennsylvania, not over $500, or imprisonment not over six months, or both; Tennessee, misdemeanor, fine or imprisonment, or both; United States, not over $500; Utah, $500 to $5,000; Washington, $200 to $500; West Virginia, $50 to $500, or imprisonment not over three months; Wyoming, $200 to $500.

See also the provisions for restraining the operation of mines in case of failure to comply with the law, page 239.

Right of action by injured persons.—In many States right of action is granted to those injured in person or property by any violation of the law.[2] In Arkansas, California, Michigan, and New Mexico this right of action is given to the person directly injured, while in Colorado, Indiana, Iowa, Kansas, Missouri, North Carolina, Ohio, Pennsylvania and Wyoming it accrues to the person directly injured, or, in case of fatal accident, to his widow and heirs or personal representatives. The Missouri act is typical.[3]

---

[1] Ala., L. 1896–7, No. 486, sec. 39; Ark., Dig., sec. 5062; Cal., Act Mar. 27, 1874, sec. 9; Colo., An. St., sec. 3200; Idaho, Act Feb. 14, 1899, sec. 5; Illinois, Act Apr. 18, 1899, sec. 33; Ind., An. St., secs. 7457, 7483; Iowa, Acts 1884, ch. 21, sec. 19; Kan. G. S., ch. 149, secs. 21, 47; Mich., L. 1887, No. 213, sec. 5; L. 1899, No. 57, sec. 10; Mo., R. S., secs. 7063a, 7064e, 7070; Mon., Pol. Code, sec. 3364; Pen. Code, secs. 718, 722; N. J., L. 1894, ch. 54, sec. 4; N. M., Comp. L., sec. 1583; N. C., L. 1897, ch. 251, sec. 8; Ohio, R. S., sec. 6871; Pa., Dig., Coal Mines, sec. 384; Tenn., L. 1881, ch. 170, sec. 10; U. S., Acts 1890–1, ch. 564, sec. 7; Utah, L. 1896, ch. 113, sec. 8; W. Va., Code 1891, p. 991, sec. 17; Wyo., Acts 1890–1, ch. 80, sec. 21.

[2] Ark., Dig., sec. 5058; Cal., Act Mar. 13, 1872, sec. 3; Act Mar. 27, 1874, sec. 8; Colo., An. St., sec. 3192; Ind., An. St., sec. 7473; Iowa, Acts 1884, ch. 21, sec. 14; Kan., G. S., ch. 149, sec. 24; Mich., L. 1887, No. 213, sec. 4; Mo., R. S., sec. 7074; N. M., Comp. L., sec. 1582; N. C., L. 1897, ch. 251, sec. 6a; Ohio, R. S., sec. 301; Pa. Dig., Coal Mines, sec. 385; Wyo., L. 1890–1, ch. 80, sec. 17.

[3] Missouri (R. S. 1889):

SEC. 7074 (as amended by act approved April 23, 1891, page 182, acts of 1891). For any injury to persons or property occasioned by any violation of this article or failure to comply with any of its provisions, a right of action shall accrue to the party injured for any direct damages sustained thereby; and in case of loss of life by reason of such violation or failure as aforesaid, a right of action shall accrue to the widow of

SEC. 16. ANTHRACITE MINES.—The regulations of law of the State of Pennsylvania which have been referred to in the digest in the preceding 15 sections apply to bituminous mines only, the acts as to bituminous and anthracite mines being separate. In many cases practically the same requirements as to means for securing safety are applied to anthracite as to bituminous mines. Often the phraseology of the statutes is identical; the differences which exist are chiefly those growing out of the different character of the coal. In view of the fact that anthracite coal is found only in Pennsylvania, these special provisions are of less interest to those making a study of mining legislation in general than the provisions concerning bituminous mines. For this reason, and to avoid confusion in the digest of general mining laws, the law relating to anthracite mines is here digested separately. Even where its provisions are the same as those concerning bituminous mines it has seemed best to describe them briefly without reference to the other provisions.[1]

1. *Appointment of inspectors* (secs. 22–30).—The anthracite coal region is divided into eight inspection districts, for each of which an inspector is to be appointed by the governor for a term of five years. Inspectors must be 30 years of age and must have had five years' mining experience. Three examining boards, to be appointed by the judges of certain county courts and each to consist of three coal miners and two mining engineers, are to examine candidates and recommend a person for each position to the governor. No person pecuniarily interested in a mine may be appointed. On petition of 15 or more miners or coal operators the court of the proper county may inquire into charges of incompetency or malfeasance against an inspector, and may declare the office vacant.

2. *Duties of inspectors* (secs. 35–40, 44).—Inspectors shall examine mines as often as possible and see to it that all necessary precautions are taken to secure the safety of the workmen and the enforcement of the laws. They shall have the right to enter mines and examine them at any reasonable time, but shall not obstruct their working. A record of each visit showing the condition of the mine shall be made. Each inspector shall make an annual report to the governor. The owner or operator of every mine must make a report to the inspector of his district annually, and must give immediate notice when any new working is begun, when a mine is abandoned or reopened, when a new coal breaker is first operated, when the pillars of a mine are about to be removed, when a squeeze or crush occurs, or when any other important change affecting the persons employed takes place.

3. *Enforcement of law* (secs. 206–211, 216).—The operators of mines are required to post conspicuously an abstract of the rules established by law concerning mining (sec. 191). The inspector shall, whenever he discovers a dangerous condition not provided for in the law, give notice to the owner to make any change he deems necessary, but the

---

the person so killed, his lineal heirs or adopted children, or to any person or persons who were, before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages sustained by reason of such loss of life or lives: *Provided*, That all suits brought under this article shall be commenced within one year after any cause of action shall have accrued under this article and not afterward: *And, provided further*, That any person entitled to sue under this section for loss of life or lives may recover any sum not exceeding ten thousand dollars.

[1] Dig. Coal Mines, secs. 22–225.

owner has a right of appeal to a board of arbitration, consisting of one member chosen by the inspector, one by the owner, and a third by these two. Whenever an affidavit is submitted to the judge of the court of quarter sessions of any county declaring that a person has been negligently guilty of an offense against the provisions of the law, that person may be arrested and brought to trial. The procedure is regulated with some detail, and provision is made for appeal. On the application of the inspector any court has power to prohibit by injunction or otherwise the working of a mine where the provisions of law have been violated. For any injury due to the failure of an owner, superintendent, mine foreman, or fire boss to comply with the law a right of action accrues to the person injured, or to his widow or lineal heirs in the case of death. This latter provision has been held unconstitutional so far as the owner is made liable for the acts of the mine foreman, especially in view of the fact that the foreman is a representative of the State, being examined and authorized by State authority. (Durkin *v.* Kingston Coal Co. et al., 33 Atl. Rep., 337.)

4. *Mine foremen* (secs. 101–111, 138–150).—Every mine must have a mine foreman, who may, however, have necessary assistants. Every foreman or assistant foreman must hold a certificate of qualification. For this purpose the judges of local courts are to appoint a board of examiners for each inspection district, to consist of the district inspector, two practical miners, one mine owner or operator, and one engineer. Candidates for examination must have had at least five years' practical experience in mines. Fire bosses are not examined, but must have had five years' experience, three of which must have been in mines generating noxious or explosive gases, and must certify to such experience before some person authorized to administer oaths. The mine foreman must take all necessary precautions, under the direction of the owner or operator of the mine, to secure safety. He shall take charge of matters relating to ventilation, shall examine every working place in the mine at least once every alternate day, and all shafts, main roads, signal apparatus, places generating explosive gases, etc., daily. Other details of the foreman's duties connect themselves with special regulations concerning safety.

5. *Examination of miners.*[1]—The most striking feature of the laws relating to anthracite mines is the requirement, first enacted in 1889, that all miners (as distinguished from mine laborers) must secure a certificate of competency. In each of eight inspection districts in the anthracite region an examining board is established, to consist of nine miners, each of whom must have had five years' practical experience. The board must meet monthly and examine under oath all persons who wish to be employed as miners. Applicants must produce satisfactory evidence of having had at least two years' practical experience as miners or as mine laborers. They must be able to answer intelligently 12 questions in English concerning the practical requirements of mining.

6. *Map of mines* (secs. 46–56).—The owner or operator of every mine must make an accurate map or plan of its workings on a scale of 100 feet to the inch. The requirements as to what shall be shown in this map are stated in considerable detail. A copy must be kept at the mine and another deposited with the inspector. The map

[1] L. 1897, ch. 225.

must be modified to show new workings and extensions at least once every six months. When a mine is abandoned the map must be extended to include all excavations, and such parts of the mine as have been worked to the boundary lines of adjoining properties or as are to be allowed to fill with water must be surveyed in duplicate. In case the owner fails to furnish a map or in case the inspector believes the map to be inaccurate, he shall have a correct map made at the expense of the owner.

The owners of adjoining mines must leave a pillar of coal along the boundary line which shall be a sufficient barrier for the safety of the employees in case either mine shall be abandoned or allowed to fill with water.

7. *Escapement shafts* (secs. 57–63).—Every mine must have at least two openings or outlets, separated by strata not less than 60 feet in breadth underground and 150 feet in breadth at the surface, furnishing distinct means of egress. It is not necessary that these openings should be in the same mine. Land may be condemned where necessary to secure an additional outlet; the procedure is regulated in the law. Escapement shafts or slopes shall be fitted with safe and available appliances for exit. In slopes where the angle of inclination is 15 degrees or less a separate traveling way must be provided. No inflammable structure shall be erected over the entrance of any opening and no breaker or other inflammable structure for the storage of coal shall be hereafter built nearer than 200 feet from such an opening.

8. *Shafts and hoisting* (secs. 63–79, 154–158, 177–180, 187).—The law regulates especially the manner of sinking shafts in order to protect workmen during the process. For example, rock and coal shall not be raised except in a bucket or cage having a safe clevis or fastening. Guides must be provided for cages, to be kept within 75 feet of the bottom of the shaft. Other provisions apply to completed shafts. Proper fences and gates are required at the top and at each slope. A safe and substantial structure must be built overhead to sustain the sheaves and pulleys, and the top must be arranged so that no material can fall into the shaft.

Only competent and experienced persons, at least 21 years of age, may be employed as hoisting engineers. Engineers must be constantly on duty. Their duties are regulated in some detail. Boilers must be examined every six months and must be provided with proper safety valves and other adjustments. The duties of firemen are regulated (sec. 176).

Efficient brakes, flanges, and indicators are required on hoisting drums. The main link of the chain connecting the hoisting rope to the cage must be of the best quality of iron, and proper bridle chains are required. Ropes, catches, etc., must be carefully examined every day. Cages must be provided with efficient hand rails, safety catches, and covers. Not more than ten persons shall ride on a cage or on a car, and no one shall ride on a loaded cage or car. The inspector may reduce the number permitted to ride. There shall be specially designated a headman and a footman in every shaft or slope, who shall be at their places at all times while men are being lowered or hoisted. An empty trip shall be hoisted, whenever the engine has been standing idle for an hour or more, before men are hoisted or lowered. Suitable appliances shall be provided by which conversation can be held between

persons at the top and bottom, and also proper signals. No person shall jump on a car or cage after the signal to start has been given, except the man giving the signal.

9. *Ventilation* (secs. 111–133, 142–148, 174, 175).—The operators of mines are required to furnish sufficient ventilation, securing not less than 200 cubic feet of air per minute for each person employed. The ventilating current must reach every working place in sufficient quantities. A separate current or split must be provided for each 75 persons. Air passages must be of sufficient area, and the velocity of air shall at no opening exceed 450 feet per minute if gauze safety lamps are used, except in the main inlet or outlet air ways. The quantities of air in circulation shall be measured every week and a monthly report made to the inspector. Ventilators shall be provided with recording instruments. Furnaces may not be used for ventilation in mines generating explosive gases. Headings shall not be driven more than 60 feet from the face of each chamber or breast. Cross cuts must be substantially closed. Doors must close automatically, and all main doors must have an attendant, unless an approved self-acting door is used. Main doors must be so placed that when one is open another having the same effect on the current shall be closed, and an extra main door must also be provided.

Worked out or abandoned parts of mines must so far as possible be kept free from dangerous bodies of gas or water. In mines generating explosive gases a careful examination of all working places must be made every morning, and the men shall not be allowed to enter the mine until it is reported safe. A report of the examination shall be recorded. If at any time a part of the mine becomes dangerous, every workman shall be withdrawn and it shall be rendered safe. In every working where there is likely to be an accumulation of gas, or where danger from gas is imminent, locked safety lamps must be used. Safety lamps shall be the property of the mine owner, and shall be examined, cleaned, and locked by some competent person before use. No miner shall have a key to safety lamps, and no lucifer matches or other apparatus for striking lights is permitted. No blast shall be fired in any mine where locked safety lamps are used except by the permission of the mine foreman. No accumulation of gas shall be removed by brushing where it is possible to remove it by brattice. When gas is ignited, the person igniting it must extinguish it immediately if possible, and otherwise notify the mine foreman.

10. *Blasting and explosives* (secs. 163–170).—Gunpowder and explosives shall not be stored in a mine, and not more than 25 pounds shall be in the possession of any one workman at one place. A wooden or metallic box, securely locked, must be used for storing, and must be at least ten feet from the track where possible. No lamp, lighted pipe, or other thing containing fire shall be brought nearer than five feet from an open box containing explosives. High explosives must be stored and used in accordance with special rules to be furnished by the manufacturers and to be approved by the mine owners. No iron or steel-pointed needles shall be used, and no tamping bar of iron or steel unless tipped with six inches of copper or other soft metal. Sufficient notice must be given before firing blasts. A charge which has missed fire shall not be withdrawn nor the hole reopened. The burning of fuses and squibs shall not be hastened in any way. No person shall

blast coal who is not duly qualified unless under the immediate charge of an experienced person.

11. *Props and timbers* (secs. 134–136, 151, 192).—The superintendent or foreman of every mine must furnish suitably prepared props, rails, and timbers, delivered as near the working place as is possible in mine cars. Workmen shall give notice of the need of such material one day in advance. It is the duty of workmen to properly timber all places. No props or timbers which are supporting the roof or sides of the mine shall be removed by cutting; it must be done by blasting.

12. *Underground roads* (secs. 180–189).—Passageways used for the transportation of materials must be wide enough to permit persons to pass cars, or, if impracticable, must have safety holes not more than 150 feet apart. Locomotives shall not move faster than 6 miles per hour, and must have a sufficient alarm. Proper ventilation must be secured where locomotives are used in any intake air way. No person shall couple cars in motion, unless it be the top man or the bottom man of the slope. When cars are run on gravity roads by brakes or sprags, the runner must ride on the rear end of the last car only, and when run by sprags a space not less than two feet from the body of the car must be provided for passageway. No person under 16, and no person not specially designated, shall run cars on a gravity road. No person shall travel on a gravity plane while cars are being hoisted or lowered. Safety brakes must be provided to prevent cars from running away. The bumpers on cars must be of sufficient length.

13. *Breakers* (secs. 86–90, 159, 160, 190).—There must be a competent outside foreman in charge of the breaker and outside work at each mine. The engineer of the breaker engine must be sober and competent and not under 18 years of age. A signal apparatus must be established to give notice to the engineer. No person under 15 shall oil the machinery. Where the coal dust is so dense as to be injurious to health the inspector may direct measures for its removal as far as practicable.

14. *Accidents* (secs. 94–100, 196–203).—Whenever loss of life or serious injury occurs, notice must be given to the inspector of mines. The inspector shall visit the scene of the accident and make suggestions to protect the safety of the persons employed. In case of death as the result of the accident the inspector shall notify the coroner and shall be present at the inquest, where he may examine witnesses. If he is not present, the coroner shall send notice in writing to the inspector if the accident appears to be caused by neglect or defect which requires remedy. No person interested or employed in a mine shall be qualified to serve on a coroner's jury as to an accident happening in that mine. If no investigation is made by the coroner, the inspector shall make a full examination and report.

Every mine owner must furnish a properly constructed ambulance unless the homes of all the workmen are within a half mile. Whenever any person is injured so as to be unable to walk, he shall be removed by the mine owner to his home or to a hospital.

15. *Miscellaneous provisions.*—Mine owners are directed to use every precaution to insure the safety of workmen in all cases (sec. 138). Each miner is required to report immediately any condition which leads him to suspect danger (sec. 161). The miner in charge of any breast or other place shall examine such place before commencing

work and after firing every blast, and his laborer or assistant shall not go to the place until it has been examined (sec. 171). A person who shall knowingly damage or remove any apparatus or machinery, interfere with ventilation, carry open lights where safety lamps are required, or do anything else which endangers the security of the mine, is punishable (sec. 162). No person shall play or loiter about machinery (sec. 89). All machinery must be protected by covering or railing (sec. 84). The sides of stairs and dangerous walks must be provided with railings (sec. 85). A suitable building for washing and changing clothes must be provided at the request of 20 men in any mine (secs. 91–93). Whenever a place is likely to contain a dangerous accumulation of water, sufficient bore holes must be kept constantly in advance of the workings approaching such a place (sec. 152).

APPENDIX.

PENNSYLVANIA COAL MINE INSPECTION LAW—BITUMINOUS.

[Brightly's Purdon's Digest, 1895, pp. 1359 ff. The center headings do not appear in the statute, but are inserted for convenience.]

MAP OR PLAN OF MINE.

SEC. 226. The operator or superintendent of every bituminous coal mine shall make, or cause to be made by a competent mining engineer or surveyor, an accurate map or plan of such coal mine, not smaller than a scale of two hundred feet to an inch, which map shall show as follows:

First. All measurements of said mine in feet or decimal parts thereof.

Second. All the openings, excavations, shafts, tunnels, slopes, planes, main entries, cross entries, rooms, *et cetera,* in proper numerical order in each opened strata of coal in said mine.

Third. By darts or arrows made thereon by a pen or pencil the direction of air currents in the said mine.

Fourth. As accurate delineation of the boundary lines between said coal mine and all adjoining mines or coal lands, whether owned or operated by the same operator or other operator, and the relation and proximity of the workings of said mine to every other adjoining mine or coal lands.

Fifth. The elevation above mean tide at Sandy Hook of all tunnels and entries, and of the face of working places adjacent to boundary lines at points not exceeding three hundred feet apart.

Sixth. The bearings and lengths of each tunnel or entry and of the boundary or property lines. The said map or plan, or a true copy thereof, shall be kept in the general mine office by the said operator or superintendent for use of the mine inspectors and for the inspection of any person or persons working in said mine, whenever said person or persons shall have cause to fear that any working place is becoming dangerous by reason of its proximity to other workings that may contain water or dangerous gas.

SEC. 227. At least once in every six months, or oftener if necessary, the operator or superintendent of each mine shall cause to be shown accurately on the map or plan of said coal mine, all the excavations made therein during the time elapsing since such excavations were last shown upon said map or plan; and all parts of said mine which were worked out or abandoned during said elapsed period of time shall be clearly indicated by colorings on said map or plan; and whenever any of the workings or excavations of said coal mine have been driven to their destination, a correct measurement of all such workings or excavations shall be made promptly and recorded in a survey book prior to the removal of the pillars or any part of the same from such workings or excavations.

SEC. 228. The operator or superintendent of every coal mine shall, within six months after the passage of this act, furnish the mine inspector of the district in which said mine is located with a correct copy, on tracing muslin or sun print, of the map or plan of said mine hereinbefore provided for. And the inspector of the district shall, at the end of each year or twice a year if he requires it, forward said map or plan to the proper person at any particular mine, whose duty it shall be to place or cause to be placed on said map or plan all extensions and worked out or abandoned parts of the mine during the preceding six or twelve months, as the case may be, and return the same to the mine inspector within thirty days from the time of receiving it. The copies of the maps or plans of the several coal mines of each district as hereinbefore required to be furnished to the mine inspector shall remain in

the care of the inspector of the district in which the said mines are situated, as official records, to be transferred by him to his successor in office; but it is provided that in no case shall any copy of the same be made without the consent of the operator or his agent.

SEC. 229. If any superintendent or operator of mines shall neglect or fail to furnish to the mine inspector any copies of maps or plans as hereinbefore required by this act, or if the mine inspector shall believe that any map or plan of any coal mine made or furnished in pursuance of the provisions of this act is materially inaccurate or imperfect, then, in either case, the mine inspector is hereby authorized to cause a correct survey and map or plan of said coal mine to be made at the expense of the operator thereof, the cost of which shall be recoverable from said operator as other debts are recoverable by law: *Provided, however,* That if the map or plan which may be claimed by the mine inspector to be inaccurate shall prove to be correct, then the commonwealth shall be liable for the expense incurred by the mine inspector in causing to be made said test survey and map, and the costs thereof, ascertained by the auditor general by proper vouchers and satisfactory proofs, shall be paid by the state treasurer upon warrants which the said auditor general is hereby directed to draw for the same.

ESCAPEMENT SHAFTS.

SEC. 230. It shall not be lawful for the operator, superintendent or mine foreman of any bituminous coal mine to employ more than twenty persons within said coal mine, or permit more than twenty persons to be employed therein at any one time, unless they are in communication with at least two available openings to the surface from each seam or stratum of coal worked in such mine exclusive of the furnace upcast, shaft or slope: *But provided,* That in any mine operated by shaft or slope and ventilated by a fan, if the air shaft shall be divided into two compartments, one of them may be used for an airway and the other for the purpose of egress and ingress from and into said mine by the persons therein employed, and the same shall be considered a compliance with the provisions of this section hereinbefore set forth. And there shall be cut out or around the side of every hoisting shaft, or driven through the solid strata at the bottom thereof, a traveling way not less than five feet high and three feet wide, to enable persons to pass the shaft in going from one side of it to the other without passing over or under the cage or other hoisting apparatus.

SEC. 231. The shaft or outlet, other than the main shaft or outlet, shall be separated from the main outlet and from the furnace shaft by natural strata at all points by a distance of not less than one hundred and fifty feet (except in all mines opened prior to June thirtieth, one thousand eight hundred and eighty-five, where such distances may be less, if, in the judgment of the mine inspector, one hundred and fifty feet is impracticable). If the mine be worked by drift, two openings, exclusive of the furnace upcast shaft, and not less than thirty feet apart, shall be required (except in drift mines opened prior to June thirtieth, one thousand eight hundred and eighty-five, where the mine inspector of the district shall deem the same impracticable). Where the two openings shall not have been provided as required hereinbefore by this act, the mine inspector shall cause the second to be made without delay; and in no case shall furnace ventilation be used where there is only one opening into the mine.

SEC. 232. Unless the mine inspector shall deem it impracticable, all mines shall have at least two entries or other passageways, one of which shall lead from the main entrance and the other from the other opening into the body of the mine, and said two passageways shall be kept well drained and in a safe condition for persons to travel therein throughout their whole length, so as to obtain in cases of emergency, a second way for egress from the workings. No part of said workings shall at any time be driven more than three hundred feet in advance of the aforesaid passageways, except entries, airways or other narrow work, but should an opening to the surface be provided from the interior of the mine, the passageways aforesaid may be made and maintained therefrom into the working part of the mine, and this shall be deemed sufficient compliance with the provisions of this act relative thereto; said two passageways shall be separated by pillars of coal or other strata of sufficient strength and width.

SEC. 233. Where necessary to secure access to the two passageways required in section three of article two of this act in any slope mine where the coal seam inclines and has workings on both sides of said slope, there shall be provided an overcast for the use of persons working therein, the dimensions of which shall not be less than four feet wide and five feet high. Said overcast shall connect the workings on both sides of said slope, and the intervening strata between the slope and the overcast

shall be of sufficient strength and thickness at all points for its purpose: *Provided*, That if said overcast be substantially constructed of masonry or other incombustible material, it shall be deemed sufficient.

SEC. 234. When the opening or outlet, other than the main opening, is made and does not exceed seventy-five feet in vertical depth, it shall be set apart exclusively for the purpose of ingress to or egress from the mine by any person or persons employed therein; it shall be kept in a safe and available condition and free from steam and dangerous gases and all other obstructions, and if such opening is a shaft it shall be fitted with safe and convenient stairs with steps of an average tread of ten inches and nine inches rise, not less than two feet wide, and to not exceed an angle of sixty degrees descent, with landings of not less than eighteen inches wide and four feet long, at easy and convenient distances: *Provided*, That the requirements of this section shall not be applicable to stairways in use prior to June thirtieth, one thousand eight hundred and eighty-five, when, in the judgment of the mine inspector, they are sufficiently safe and convenient. And water coming from the surface or out of the strata in the shaft shall be conducted away by rings, casing or otherwise, and be prevented from falling upon persons who are ascending or descending the stairway of the shaft.

SEC. 235. Where any mine is operated by a shaft which exceeds seventy-five feet in vertical depth, the persons employed in said mine shall be lowered into and raised from said mine by means of machinery, and in any such mine the shaft, other than the main shaft, shall be supplied with safe and suitable machinery for hoisting and lowering persons, or with safe and convenient stairs for use in cases of emergency by persons employed in said mine: *Provided*, That any mine operated by two shafts, and where safe and suitable machinery is provided at both shafts for hoisting coal or persons, shall have sufficiently complied with the requirements of this section.

SEC. 236. At any mine, where one of the two openings required hereinbefore is a slope and is used as a traveling way, it shall not have a greater angle of descent than twenty degrees and may be of any depth.

SHAFTS AND HOISTING.

SEC. 237. The machinery used for lowering or raising the employees into or out of the mine and the stairs used for ingress and egress shall be kept in a safe condition, and inspected once each twenty-four hours by a competent person employed for that purpose. And such machinery and the method of its inspection shall be approved by the mine inspector of the district in which the mine is situated.

SEC. 238. The operator or superintendent shall provide and maintain, from the top to bottom of every shaft where persons are raised or lowered, a metal tube suitably adapted to the free passage of sound through which conversation may be held between persons at the top and bottom of said shaft, and also a means of signaling from the top to the bottom thereof, and shall provide every cage or gear carriage used for hoisting or lowering persons with a sufficient overhead covering to protect those persons when using the same, and shall provide also for each said cage or carriage a safety catch approved by the mine inspector. And the said operator or superintendent shall see that flanges, with a clearance of not less than four inches, when the whole of the rope is wound on the drum, are attached to the sides of the drum of every machine that is used for lowering and hoisting persons in and out of the mine, and also that adequate brakes are attached to the drum. At all shafts safety gates, to be approved by the mine inspector of the district, shall be so placed as to prevent persons from falling into the shaft.

SEC. 239. The main coupling chain attached to the socket of the wire rope shall be made of the best quality of iron, and shall be tested by weights or otherwise to the satisfaction of the mine inspector of the district wherein the mine is located, and bridle chains shall be attached to the main hoisting rope above the socket, from the top crosspiece of the carriage or cage, so that no single chain shall be used for lowering or hoisting persons into or out of the mines.

SEC. 240. No greater number of persons shall be lowered or hoisted at any one time than may be permitted by the mine inspector of the district, and notice of the number so allowed to be lowered or hoisted at any one time shall be kept posted up by the operator or superintendent in conspicuous places at the top and bottom of the shaft, and the aforesaid notice shall be signed by the mine inspector of the district.

FENCING OF MACHINERY.

SEC. 241. All machinery about mines from which any accident would be liable to occur shall be properly fenced off by suitable guard railing.

VENTILATION.

SEC. 242. The operator or superintendent of every bituminous coal mine, whether shaft, slope or drift, shall provide and hereafter maintain ample means of ventilation for the circulation of air through the main entries, cross entries and all other working places to an extent that will dilute, carry off and render harmless the noxious or dangerous gases generated in the mine, affording not less than one hundred cubic feet per minute for each and every person employed therein; but in a mine where firedamp has been detected the minimum shall be one hundred and fifty cubic feet per minute for each person employed therein, and as much more in either case as one or more of the mine inspectors may deem requisite.

SEC. 243. After May thirtieth, one thousand eight hundred and ninety-four, not more than sixty-five persons shall be permitted to work in the same air current: *Provided*, That a larger number, not exceeding one hundred, may be allowed by the mine inspector where, in his judgment, it is impracticable to comply with the foregoing requirement; and mines where more than ten persons are employed shall be provided with a fan furnace or other artificial means to produce the ventilation, and all stoppings between main intake and return airways hereinafter built or replaced shall be substantially built with suitable material, which shall be approved by the inspector of the district.

SEC. 244. All ventilating fans shall be kept in operation continuously night and day, unless operations are indefinitely suspended, except written permission is given by the mine inspector of the district to stop the same, and the said written permission shall state the particular hours the said fan may not be in operation, and the mine inspector shall have power to withdraw or modify such permission as he may deem best, but in all cases the fan shall be started two hours before the time to begin work. When the fan may be stopped by permission of the mine inspector a notice printed in the various languages used by persons employed in the mine, stating at what hour or hours the fan will be stopped, shall be posted by the mine foreman in a conspicuous place at the entrance or entrances to the mine. Said printed notices shall be furnished by the mine inspector and the cost thereof borne by the State.

SEC. 245. Should it at any time become necessary to stop the fan on account of accident or needed repairs to any part of the machinery connected therewith, or by reason of any other unavoidable cause, it shall then be the duty of the mine foreman or any other officials in charge, after first having provided, as far as possible, for the safety of the persons employed in the mine, to order said fan to be stopped so as to make the necessary repairs or to remove any other difficulty that may have been the cause of its stoppage. And all ventilating furnaces in mines shall, for two hours before the appointed time to begin work and during working hours, be properly attended by a person employed for that purpose. In mines generating firedamp in sufficient quantities to be detected by ordinary safety lamps, all main air bridges or overcasts made after the passage of this act shall be built of masonry or other incombustible material of ample strength or be driven through the solid strata.

SEC. 246. In all mines the doors used in guiding and directing the ventilation of the mine shall be so hung and adjusted that they will close themselves, or be supplied with springs or pulleys so that they can not be left standing open, and an attendant shall be employed at all principal doors through which cars are hauled, for the purpose of opening and closing said doors when trips of cars are passing to and from the workings, unless an approved self-acting door is used, which principal doors shall be determined by the mine inspector or mine foreman. A hole for shelter shall be provided at each door so as to protect said attendant from being run over by the cars while attending to his duties, and persons employed for this purpose shall at all times remain at their post of duty during working hours: *Provided*, That the same person may attend two doors where the distance between them is not more than one hundred feet. On every inclined plane or road in any mine where haulage is done by machinery and where a door is used, an extra door shall be provided to be used in case of necessity.

SPECIAL PROVISIONS AS TO EXPLOSIVE GASES.

SEC. 247. All mines generating firedamp shall be kept free of standing gas in all working places and roadways. No accumulation of explosive gas shall be allowed to exist in the worked out or abandoned parts of any mine when it is practicable to remove it, and the entrance or entrances to said worked out and abandoned places shall be properly fenced off and cautionary notices shall be posted upon said fencing to warn persons of danger.

SEC. 248. In all mines wherein explosive gas has been generated within the period

of six month next preceding the passage of this act, and also in all mines where firedamp shall be generated, after the passage of this act, in sufficient quantities to be detected by the ordinary safety lamp, every working place without exception and all roadways shall be carefully examined immediately before each shift by a person or persons appointed by the superintendent and mine foreman for that purpose. The person or persons making such examination shall have received a fire boss certificate of competency required by this act, and shall use no light other than that inclosed in a safety lamp while making said examination. In all cases said examination shall be begun within three hours prior to the appointed time of each shift commencing to work, and it shall be the duty of the said fire boss, at each examination, to leave at the face and side of every place so examined, evidence of his presence. And he shall also, at each examination, inspect the entrance or entrances to the worked out or abandoned parts which are adjacent to the roadways and working places of the mine where firedamp is likely to accumulate, and where danger is found to exist he shall place a danger signal at the entrance or entrances to such places, which shall be sufficient warning for persons not to enter said place.

SEC. 249. In any place that is being driven toward or in dangerous proximity to an abandoned mine or part of a mine suspected of containing inflammable gases, or which may be inundated with water, bore holes shall be kept not less than twelve feet in advance of the face, and on the sides of such working places, said side holes to be drilled diagonally not more than eight feet apart, and any place driven to tap water or gas shall not be more than ten feet wide, and no water or gas from an abandoned mine or part of a mine and no bore hole from the surface shall be tapped until the employees, except those engaged at such work, are out of the mine and such work to be done under the immediate instruction of the mine foreman.

SEC. 250. The fire boss shall, at each entrance to the mine or in the main intake airway near to the mine entrance, prepare a permanent station with the proper danger signal designated by suitable letters and colors placed thereon, and it shall not be lawful for any person or persons, except the mine officials in cases of necessity, and such other persons as may be designated by them, to pass beyond said danger station until the mine has been examined by the fire boss as aforesaid and the same, or certain parts thereof, reported by him to be safe, and in all mines where operations are temporarily suspended the superintendent and mine foreman shall see that a danger signal be placed at the mine entrance or entrances, which shall be a sufficient warning to persons not to enter the mine, and if the ordinary circulation of air through the mine be stopped, each entrance to said mine shall be securely fenced off and a danger signal shall be displayed upon said fence, and any workman or other person (except those persons hereinbefore provided for), passing by any danger signal into the mine before it has been examined and reported to be safe as aforesaid, shall be deemed guilty of a misdemeanor, and it shall be the duty of the fire boss, mine foreman, superintendent or any employee of the mine to forthwith notify the mine inspector, who shall enter proceedings against such person or persons as provided for in section two of article twenty-one of this act.

SAFETY LAMPS.

SEC. 251. All entries, tunnels, airways, traveling ways and other working places of a mine where explosive gas is being generated in such quantities as can be detected by the ordinary safety lamp, and pillar workings and other working places in any mine where a sudden inflow of said explosive gas is likely to be encountered (by reason of the subsidence of the overlying strata or from other causes), shall be worked exclusively with locked safety lamps. The use of open lights is also prohibited in all working places, roadways and other parts of the mine through which firedamp might be carried in the air current in dangerous quantities. In all mines or parts of mines worked with locked safety lamps, the use of electric wires and electric currents is positively prohibited, unless said wires and machinery and all other mechanical devices attached thereto and connected therewith are constructed and protected in such a manner as to secure freedom from the emission of sparks or flame therefrom into the atmosphere of the mine.

SEC. 252. After January first, one thousand eight hundred and ninety-four, the use of the common Davy safety lamp for general work in any bituminous coal mine is hereby prohibited, neither shall the Clanny lamp be so used unless its gáuze is thoroughly protected by a metallic shield, but this act does not prohibit the use of the Davy and Clanny lamps by the mine officials for the purpose of examining the workings for gas.

SEC. 253. All safety lamps used for examining mines or for working therein shall be the property of the operator, and shall be in the care of the mine foreman, his

assistant or fire boss or other competent person, who shall clean, fill, trim, examine and deliver the same, locked, in a safe condition, to the men when entering the mine before each shift and shall receive the same from the men at the end of each shift, for which a service charge not exceeding cost of labor and material may be made by the operator. A sufficient number of safety lamps, but not less than twenty-five per centum of those in use, shall be kept at each mine where gas has at any time been generated in sufficient quantities to be detected by an ordinary safety lamp, for use in case of emergency. It shall be the duty of every person who knows his safety lamp to be injured or defective, to promptly report such fact to the party authorized herein to receive and care for said lamps, and it shall be the duty of that party to promptly report such fact to the mine foreman.

DUTIES OF MINE FOREMEN.

SEC. 254. In order to better secure the proper ventilation of the bituminous coal mines and promote the health and safety of the persons employed therein, the operator or superintendent shall employ a competent and practical inside overseer for each and every mine, to be called mine foreman; said mine foreman shall have passed an examination and obtained a certificate of competency or of service as required by this act, and shall be a citizen of the United States and an experienced coal miner, and said mine foreman shall devote the whole of his time to his duties at the mine when in operation, or in case of his necessary absence, an assistant chosen by him, and shall keep a careful watch over the ventilating apparatus, and the airways, traveling ways, pump and pump timbers and drainage, and shall often instruct, and as far as possible, see that as the miners advance their excavations all dangerous coal, slate and rock overhead are taken down or carefully secured against falling therein, or on the traveling or hauling ways, and that sufficient props, caps and timbers of suitable size are sent into the mine when required, and all props shall be cut square at both ends, and as near as practicable to a proper length for the places where they are to be used, and such props, caps and timbers shall be delivered in the working places of the mine.

PROPS AND TIMBERS.

SEC. 255. Every workman in want of props or timbers and cap pieces shall notify the mine foreman or his assistant of the fact at least one day in advance, giving the length and number of props or timbers and cap pieces required, but in cases of emergency the timbers may be ordered immediately upon the discovery of any danger. (The place and manner of leaving the orders for the timber shall be designated and specified in the rules of the mine.) And if, from any cause, the timbers can not be supplied when required, he shall instruct the persons to vacate all said working places until supplied with the timber needed, and shall see that all water be drained or hauled out of all working places before the miner enters, and as far as practicable kept dry while the miner is at work.

CUT-THROUGHS FOR VENTILATION.

SEC. 256. It shall be the duty of the mine foreman to see that proper cut-throughs are made in all the rooms, pillars at such distances apart as in the judgment of the mine inspector may be deemed requisite, not more than thirty-five nor less than sixteen yards each, for the purpose of ventilation, and the ventilation shall be conducted through said cut-throughs into the rooms by means of check doors made of canvas or other suitable material, placed on the entries or in other suitable places, and he shall not permit any room to be opened in advance of the ventilating current. Should the mine inspector discover any room, entry, airway or other working places being driven in advance of the air current contrary to the requirements of this section, he shall order the workmen working in such places to cease work at once until the law is complied with.

SHELTER HOLES IN HAULING ROADS, ETC.

SEC. 257. In all hauling roads, on which hauling is done by animal power, and whereon men have to pass to and from their work, holes for shelter, which shall be kept clear of obstruction, shall be made at least every thirty yards and be kept whitewashed, but shelter holes shall not be required in entries from which rooms are driven at regular intervals not exceeding fifty feet, where there is a space four feet between the wagon and rib, it shall be deemed sufficient for shelter. On all hauling roads whereon hauling is done by machinery, and all gravity or inclined planes

inside mines upon which the persons employed in the mine must travel on foot to and from their work, such shelter holes shall be cut not less than two feet six inches into the strata and not more than fifteen yards apart, unless there is a space of at least six feet from the side of the car to the side of the roadway, which space shall be deemed sufficient for shelter: *Provided*, That this requirement shall not apply to any parts of mines, which parts were opened prior to the passage of this act, if deemed impracticable by the mine inspector.

FURTHER DUTIES OF MINE FOREMEN.

SEC. 258. The mine foreman shall measure the air current at least once a week at the inlet and outlet and at or near the faces of the entries, and shall keep a record of such measurements. An anemometer shall be provided for this purpose by the operator of the mine. It shall be the further duty of the mine foreman to require the workmen to use locked safety lamps when and where required by this act.

SEC. 259. The mine foreman shall give prompt attention to the removal of all dangers reported to him by the fire boss or any other person working in the mine, and in mines where a fire boss is not employed, the said mine foreman or his assistant shall visit and examine every working place therein at least once every alternate day while the miners of such place are or should be at work, and shall direct that each and every working place be properly secured by props or timbers, and that no person shall be directed or permitted to work in an unsafe place unless it be for the purpose of making it safe: *Provided*, That if the owner or operator of any mine employing a fire boss shall require the mine foreman to examine every working place every alternate day, then it shall be the duty of the mine foreman to do so.

SEC. 260. When the mine foreman is unable personally, to carry out all the requirements of this act as pertaining to his duties, he shall employ a competent person or persons not objectionable to the operator, to act as his assistant or assistants, who shall act under his instructions, and in all mines where firedamp is generated the said assistant or assistants shall possess a certificate of competency as mine foreman or fire boss.

SEC. 261. A suitable record book, with printed head lines, prepared by and approved by the mine inspector, the same to be provided at the expense of the commonwealth, shall be kept at each mine generating explosive gases, and immediately after each examination of the mine made by the fire boss, or fire bosses, a record of the same shall be entered in said book, signed by the person or persons making such examination, which shall clearly state the nature and location of any danger which he or they may have discovered, and the fire boss or fire bosses shall immediately report such danger and the location of the same to the mine foreman, whose duty it shall be to remove the danger or cause the same to be done forthwith as far as practicable, and the mine foreman shall also each day countersign all reports entered by the fire boss or fire bosses.

SEC. 262. At all mines the mine foreman shall enter in a book provided as above by the mine inspector, a report of the condition of the mine signed by himself, which shall clearly state any danger that may have come under his observation during the day, and shall also state whether he has a proper supply of material on hand for the safe working of the mine, and whether all requirements of the law are strictly complied with. He shall, once each week, enter or cause to be entered plainly, with ink, in said book, a true record of all air measurements required by this act, and such book shall, at all times, be kept at the mine office for examination by the mine inspector of the district and any other person working in the mines.

DUTIES OF MINE SUPERINTENDENTS.

SEC. 263. It shall be the duty of the superintendent, on behalf and at the expense of the operator, to keep on hand at the mines at all times, a full supply of all materials and supplies required to preserve the health and safety of the employees as ordered by the mine foreman and required by this act. He shall, at least once a week, examine and countersign—which countersignature of the superintendent shall be held, under this act, to have no further bearing than the evidence of the fact that the mine superintendent has read the matter entered on the book—all reports entered in the mine record book, and if he finds that the law is being violated in any particular, he shall order the mine foreman to comply with its provisions forthwith. If from any cause he can not procure the necessary supplies or material as aforesaid, he shall notify the mine foreman, whose duty it shall be to withdraw the men from the mine or part of mine until such supplies or material are received.

SEC. 264. The superintendent of the mine shall not obstruct the mine foreman or other officials in their fulfillment of any of the duties required by this act. At mines where superintendents are not employed, the duties that are herein prescribed for the superintendent shall devolve upon the mine foreman.

FANS AND BOILERS INSIDE MINES.

SEC. 265. After the passage of this act, it shall be unlawful to place a main or principal ventilating fan inside of any bituminous coal mine wherein explosive gas has been detected or in which the air current is contaminated with coal dust. No stationary steam boiler shall be placed in any bituminous coal mine, unless said steam boiler be placed within fifty feet from the bottom of an upcast shaft, which shaft shall not be less than twenty-five square feet in area, and after May thirtieth, one thousand eight hundred and ninety-five, no stationary steam boiler shall be permitted to remain in any bituminous coal mine, only as aforesaid.

STABLES IN MINES.

SEC. 266. It shall not be lawful, after the passage of this act, to provide any horse or mule stables inside of the bituminous coal mines, unless said stables are excavated in the solid strata or coal seams and no wood or other combustible material shall be used excessively in the construction of said stables, unless surrounded by or incased by some incombustible material. The air current used for ventilating said stable shall not be intermixed with the air current used for ventilating the working parts of the mine, but shall be conveyed directly to the return air current, and no open light shall be permitted to be used in any stable in any mine.

SEC. 267. No hay or straw shall be taken into any mine, unless pressed and made up into compact bales, and all hay or straw taken into the mines as aforesaid shall be stored in a storehouse excavated in the solid strata or built in masonry for that purpose. After January first, one thousand eight hundred and ninety-four, no horse or mule stable or storehouse, only as aforesaid, shall be permitted in any bituminous coal mine.

OIL AND LUBRICANTS.

SEC. 268. No explosive oil shall be used or taken into bituminous coal mines for lighting purposes, and oil shall not be stored or taken into the mines in quantities exceeding five gallons. The oiling or greasing of cars inside of the mines is strictly forbidden unless the place where said oil or grease is used is thoroughly cleaned at least once every day to prevent the accumulation of waste oil or grease on the roads or in the drains at that point. Not more than one barrel of lubricating oil shall be permitted in the mine at any one time. Only a pure animal or pure cotton-seed oil or oils, that shall be as free from smoke as a pure animal or pure cotton-seed oil, shall be used for illuminating purposes in any bituminous mine. Any person found knowingly using explosive or impure oil, contrary to this section, shall be prosecuted as provided for in section two of article twenty-one of this act.

EXPLOSIVES AND BLASTING.

SEC. 269. No powder or high explosive shall be stored in any mine, and no more of either article shall be taken into the mine at any one time than is required in any one shift, unless the quantity be less than five pounds, and in all working places where locked safety lamps are used blasting shall only be done by the consent and in the presence of the mine foreman, his assistant or fire boss, or any competent party designated by the mine foreman for that purpose; whenever the mine inspector discovers that the air in any mine is becoming vitiated by the unnecessary blasting of the coal, he shall have the power to regulate the use of the same and to designate at what hour of the day blasting may be permitted.

APPROPRIATION OF LAND FOR DRAINAGE, VENTILATION, OR EGRESS.

SEC. 270. If any person, firm or corporation is, or shall hereafter be, seized in his or their own right, of coal lands, or shall hold such lands under lease and shall have opened or shall desire to open a coal mine on said land, and it shall not be practicable to drain or ventilate such mines or to comply with the requirements of this act as to ways of ingress and egress or traveling ways by means of openings on lands owned or held under lease by him, them or it, and the same can be done by means of openings on adjacent lands, he, they or it may apply by petition to the

court of quarter sessions of the proper county, after ten days' notice to the owner or owners, their agent or attorney, setting forth the facts under oath or affimation particularly describing the place or places where such opening or openings can be made and the pillars of coal or other material necessary for the support of such passageway and such right of way to any public road as may be needed in connection with such opening, and that he or they can not agree with the owner or owners of the land as to the amount to be paid for the privilege of making such opening or openings, whereupon the said court shall appoint three disinterested and competent citizens of the county to view the ground designated and lay out from the point or points mentioned in such petition, a passage or passages not more than eighty feet area, by either drift, shaft or slope, or by a combination of any of said methods, by any practicable and convenient route, to the coal of such person, firm or corporation, preferring in all cases an opening through the coal strata where the same is practicable. The said viewers shall, at the same time, assess the damages to be paid by the petitioner or petitioners to the owner or owners of such lands for the coal or other valuable material to be removed in the excavation and construction of said passage, also for such coal or other valuable material necessary to support the said passage, as well as for a right of way not exceeding fifteen feet in width from any such opening to any public road, to enable persons to gain entrance to the mine through such opening or to provide therefrom, upon the surface, a water course of suitable dimensions to a natural water stream to enable the operator to discharge the water from said mine if such right of way shall be desired by the petitioner or petitioners, which damages shall be fully paid before such opening is made. The proceedings shall be recorded in the road docket of the proper county, and the pay of viewers shall be the same as in road cases; if exceptions be filed they shall be disposed of by the court as speedily as possible, and both parties to have the right to take depositions as in road cases. If, however, the petitioner desires to make such openings or roads or waterway before the final disposition of such exceptions, he shall have the right to do so by giving bond, to be approved by the court securing the damages as provided by law in the case of lateral railroads.

SEC. 271. It shall be compulsory upon the part of the mine owner or operator to exercise the powers granted by the provisions of the last preceding section for the procuring of a right of way on the surface from the opening of a coal mine to a public road or public roads, upon the request in writing of fifty miners employed in the mine or mines of such owner or operator: *Provided, however*, That with such request satisfactory security be deposited with the mine owner or operator by said petitioners, being coal miners, to fully and sufficiently pay all costs, damages and expenses caused by such proceedings and in paying for such right of way.

ACCUMULATIONS OF WATER.

SEC. 272. In any mine or mines, or parts thereof, wherein water may have been allowed to accumulate in large and dangerous quantities, putting in danger the adjoining or adjacent mines and the lives of the miners working therein, and when such can be tapped and set free and flow by its own gravity to any point of drainage, it shall be lawful for any operator or person having mines so endangered, with the approval of the inspector of the district, to proceed and remove the said danger by driving a drift or drifts protected by bore holes as provided by this act, and in removing said danger it shall be lawful to drive across property lines if needful. And it shall be unlawful for any person to dam or in any way obstruct the flow of any water from said mine or parts thereof, when so set free, on any part of its passage to point of drainage.

SEC. 273. No operator shall be permitted to mine coal within fifty feet of any abandoned mine containing a dangerous accumulation of water, until said danger has been removed by driving a passageway so as to tap and drain off said water as provided for in this act: *Provided*, That the thickness of the barrier pillars shall be greater, and shall be in proportion of one foot of pillar thickness to each one and one-quarter foot of waterhead, if, in the judgment of the engineer of the property and that of the district mine inspector, it is necessary for the safety of the persons working in the mine.

POSTING OF RULES.

SEC. 274. All operators of bituminous coal mines shall keep posted, in a conspicuous place at their mines, the general and special rules embodied in and made part of this act, defining the duties of all persons employed in or about said mine, which said rules shall be printed in the English language and shall also be printed in such other language or languages as are used by any ten persons working therein. It shall be

the duty of the mine inspector to furnish to the operator printed copies of such rules and such translations thereof as are required by this section, and to certify their correctness over his signature. The cost thereof shall be borne by the State.

EXAMINATION OF MINE INSPECTORS.

SEC. 275. The board of examiners appointed to examine candidates for the office of mine inspectors, under the provisions of the act to which this is a supplement, shall exercise all the powers granted and perform all the duties required by this supplementary act, and at the expiration of their term of office, and every four years thereafter, the governor shall appoint, as hereinafter provided, during the month of January, two mining engineers of good repute and three other persons, who shall have passed successful examinations qualifying them to act as mine inspectors or mine foremen in mines generating firedamp, who shall be citizens of this commonwealth and shall have attained the age of thirty years and shall have had at least five years of practical experience in the bituminous mines of Pennsylvania, and who shall not be serving at that time in any official capacity at mines, which five persons shall constitute a board of examiners, whose duty it shall be to inquire into the character and qualification of candidates for the office of inspector of mines under the provisions of this act.

SEC. 276. The examining board, so constituted, shall meet on the first Tuesday of March following their appointment, in the city of Pittsburg, to examine applicants for the office of mine inspector: *Provided, however,* The examining board shall meet two weeks previous to the aforesaid time for the purpose of preparing questions, et cetera, and when called together by the governor on extra occasions at such time and place as he may designate, and after being duly organized and having taken and subscribed before any officer authorized to administer the same the following oath, namely: "We, the undersigned, do solemnly swear (or affirm) that we will perform the duties of examiners of applicants for the appointment as inspectors of bituminous coal mines to the best of our abilities, and that in recommending or rejecting said applicants we will be governed by the evidence of the qualifications to fill the position under the law creating the same, and not by any consideration of political or personal favor; that we will certify all whom we may find qualified according to the true intent and meaning of the act and none others."

SEC. 277. The general examination shall be in writing and the manuscript and other papers of all applicants, together with the tally sheets and the solution of each question as given by the examining board, shall be filed with the secretary of internal affairs as public documents, but each applicant shall undergo an oral examination pertaining to explosive gases and safety lamps, and the examining board shall certify to the governor the names of all such applicants which they shall find competent to fill this office under the provisions of this act, which names, with the certificates and their percentages and the oaths of the examiners, shall be mailed to the secretary of the commonwealth and be filed in his office. No person shall be certified as competent whose percentage shall be less than ninety per centum, and such certificate shall be valid only when signed by four of the members of the examining board.

SEC. 278. The qualifications of candidates for said office of inspectors of mines to be inquired into and certified by said examiners shall be as follows, namely: They shall be citizens of Pennsylvania, of temperate habits, of good repute as men of personal integrity, and shall have attained the age of thirty years, and shall have had at least five years of practical experience in working of or in the workings of the bituminous mines of Pennsylvania immediately preceding their examination, and shall have had practical experience with firedamp inside the mines of this country, and upon examination shall give evidence of such theoretical as well as practical knowledge and general intelligence respecting mines and mining and the working and ventilation thereof, and all noxious mine gases, and will satisfy the examiners of their capability and fitness for the duties imposed upon inspectors of mines by the provisions of this act. And the examining board shall, immediately after the examination, furnish to each person who came before it to be examined a copy of all questions, whether oral or written, which were given at the examination, on printed slips of paper and to be marked solved, right, imperfect or wrong, as the case may be, together with a certificate of competency to each candidate who shall have made at least ninety per centum.

APPOINTMENT OF INSPECTORS.

SEC. 279. The board of examiners may, also, at their meeting, or when at any time called by the governor together for an extra meeting, divide the bituminous coal regions of the State into inspection districts, no district to contain less than

sixty nor more than eighty mines, and as nearly as possible equalizing the labor to be performed by each inspector, and at any subsequent calling of the board of examiners this division may be revised as experience may prove to be advisable.

SEC. 280. The board of examiners shall each receive ten dollars per day for each day actually employed, and all necessary expenses, to be paid out of the state treasury. Upon the filing of the certificate of the examining board in the office of the secretary of the commonwealth, the governor shall, from the names so certified, commission one person to be inspector of mines for each district as fixed by the examiners in pursuance of this supplementary act, whose commission shall be for a full term of four years from the fifteenth day of May following: *Always provided, however*, The highest candidate or candidates in percentage shall have priority to be commissioned for a full term or unexpired term before those candidates of lower percentage, and in case of a tie in percentage the oldest candidate shall be commissioned.

SEC. 281. As often as vacancies occur in said offices of inspectors of mines, the governor shall commission for the unexpired term, from the names on file, the highest in percentage in the office of the secretary of the commonwealth, until the number shall be exhausted, and whenever this may occur, the governor shall cause the aforesaid board of examiners to meet, and they shall examine persons who may present themselves for the vacant office of mine inspector as herein provided, and the board of examiners shall certify to the governor all persons who shall have made ninety per centum in said examination, one of whom to be commissioned by him according to the provisions of this act for the office of mine inspector for the unexpired term, and any vacancy that may occur in the examining board shall be filled by the governor of this Commonwealth.

INSPECTORS—SALARY, EXPENSES, BOND, ETC.

SEC. 282. Each inspector of mines shall receive for his services an annual salary of three thousand dollars and actual traveling expenses to be paid quarterly by the state treasurer upon warrant of the auditor general, and each mine inspector shall keep an office in the district for which he is commissioned and he shall be permitted to keep said office at his place of residence: *Provided*, A suitable apartment or room be set off for that purpose. Each mine inspector is hereby authorized to procure such instruments, chemical tests and stationery, and to incur such expenses of communication from time to time, as may be necessary to the proper discharge of his duties under this act, at the cost of the State, which shall be paid by the state treasurer upon accounts duly certified by him and audited by the proper department of the State.

SEC. 283. All instruments, plans, books, memoranda, notes and other material pertaining to the office shall be the property of the State, and shall be delivered to their successors in office. In addition to the expenses now allowed by law to the mine inspectors in enforcing the several provisions of this act, they shall be allowed all necessary expenses by them incurred in enforcing the several provisions of said law in the respective courts of the Commonwealth, the same to be paid by the state treasurer on warrants drawn by the auditor general after auditing the same; all such accounts presented by the mine inspector to the auditor general shall be itemized and first approved by the court before which the proceedings were instituted.

SEC. 284. Each mine inspector of bituminous coal mines shall, before entering upon the discharge of his duties, give bond in the sum of five thousand dollars, with sureties to be approved by the president judge of the district in which he resides, conditional for the faithful discharge of his duties to, and take an oath or affirmation to discharge his duties impartially and with fidelity to the best of his knowledge and ability. But no person who shall act as manager or agent of any coal mine, or as a mining engineer, or is interested in operating any coal mine shall, at the same time, act as mine inspector of coal mines under this act.

DUTIES OF INSPECTORS.

SEC. 285. Each inspector of bituminous coal mines shall devote the whole of his time to the duties of his office. It shall be his duty to examine each mine in his district as often as possible, but a longer period of time than three months shall not elapse between said examination, to see that all the provisions of this act are observed and strictly carried out, and he shall make a record of all examinations of mines, showing the condition in which he finds them, especially with reference to ventilation and drainage, the number of persons employed in each mine, the extent to which the law is obeyed and progress made in the improvement of mines, the number of serious accidents and the nature thereof, the number of deaths resulting from injuries received in or about the mines, with the cause of such accident or death, which record completed to the thirty-first day of December of each and every year

shall, on or before the fifteenth day of March following, to be filed in the office of the secretary of internal affairs, to be by him recorded and included in the annual report of his department.

SEC. 286. It shall be the duty of the mine inspector, on examination of any mine, to make out a written or partly written and partly printed report of the condition in which he finds such mine, and post the same in the office of the mine or other conspicuous place. The said report shall give the date of the visit, the number of cubic feet of air in circulation and where measured, and that he has measured the air at the cut-through of one or more rooms in each heading or entry, and such other information as he shall deem necessary, and the said report shall remain posted in the office or conspicuous place for one year, and may be examined by any person employed in or about the mine.

SEC. 287. In case the inspector becomes incapacitated to perform the duties of his office or receives a leave of absence from the same from the governor, it shall be the duty of the judge of the court of common pleas of his district to appoint, upon said mine inspector's application or that of five miners or five operators of said inspector's district, some competent person, recommended by the board of examiners, to fill the office of inspector until the said inspector shall be able to resume the duties of his office, and the person so appointed shall be paid in the same manner as is hereinbefore provided for the inspector of mines.

SEC. 288. That the mine inspectors may be enabled to perform the duties herein imposed upon them, they shall have the right at all times to enter any bituminous coal mine to make examinations or obtain information, and upon the discovery of any violation of this act, they shall institute proceedings against the person or persons at fault under the provisions of section two of article twenty-one of this act. In case, however, where, in the judgment of the mine inspector of the district, any mine or part of mine is in such dangerous condition as to jeopardize life or health, he shall at once notify two of the mine inspectors of the other districts, whereupon they shall at once proceed to the mine where the danger exists and examine into the matter, and if, after full investigation thereof, they shall be agreed in the opinion that there is immediate danger, they shall instruct the superintendent of the mine in writing to remove such condition forthwith, and in case said superintendent shall fail to do so, then they shall apply, in the name of the Commonwealth, to the court of common pleas of the county, or in case the court shall not be in session, to a judge of the said court in chambers in which the mine may be located for an injunction to suspend all work in and about said mine, whereupon said court or judge shall at once proceed to hear and determine speedily the cause, and if the cause appear to be sufficient after hearing the parties and their evidence, as in like cases, shall issue its writ to restrain the working of said mine until all cause of danger is removed, and the cost of said proceedings shall be borne by the owner, lessee or agent of the mine: *Provided*, That if said court shall find the cause not sufficient, then the case shall be dismissed and the costs shall be borne by the county wherein said mine is located.

INVESTIGATION OF ACCIDENTS.

SEC. 289. Whenever by reason of an explosion or other accidents in any bituminous coal mine or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the person having charge of such mine to give notice thereof forthwith to the mine inspector of the district and also to the coroner of the county, if any person is killed.

SEC. 290. If the coroner shall determine to hold an inquest, he shall notify the mine inspector of the district of the time and place of holding the same, who shall offer such testimony as he may deem necessary to thoroughly inform the said inquest of the cause of the death, and the said mine inspector shall have authority at any time to appear before such coroner and jury and question or cross-question any witness, and in choosing a jury for the purpose of holding such inquest it shall be the duty of the coroner to impanel a jury, no one of which shall be directly or indirectly interested.

SEC. 291. It shall be the duty of the mine inspector, upon being notified of any fatal accident as herein provided, to immediately repair to the scene of the accident and make such suggestion as may appear necessary to secure the safety of any persons who may be endangered, and if the results of the accident do not require an investigation by the coroner the said mine inspector shall proceed to investigate and ascertain the cause of the accident and make a record thereof, which he shall file as provided for, and to enable him to make the investigation he shall have power to compel the attendance of persons to testify and to administer oaths or affirmations, and if it is found upon investigation that the accident is due to the violation of any

provisions of this act by any person, other than those who may be deceased, the mine inspector may institute proceedings against such person or persons as provided for in section two of article twenty-one of this act.

SEC. 292. The cost of such investigation shall be paid by the county in which the accident occurred in the same manner as costs of inquests held by the coroners or justices of the peace are paid.

REMOVAL OF INSPECTORS.

SEC. 293. The court of common pleas in any county or district, upon a petition signed by not less than fifteen reputable citizens who shall be miners or operators of mines, and with the affidavit of one or more of said petitioners attached, setting forth that any inspector of mines neglects his duties or is incompetent or that he is guilty of a malfeasance in office, shall issue a citation in the name of the Commonwealth to the said mine inspector to appear on not less than fifteen days' notice, upon a day fixed, before said court, at which time the court shall proceed to inquire into and investigate the allegations of the petitioners.

SEC. 294. If the court find that the said mine inspector is neglectful of his duties or incompetent to perform the duties of his office, or that he is guilty of malfeasance in office, the court shall certify the same to the governor, who shall declare the office of said mine inspector vacant, and proceed in compliance with the provisions of this act to supply the vacancy; the costs of said investigation shall, if the charges are sustained, be imposed upon the mine inspector, but if the charges are not sustained they shall be imposed upon the petitioners.

APPEAL FROM DECISIONS OF INSPECTORS.

SEC. 295. The mine inspector shall exercise a sound discretion in the enforcement of the provisions of this act, and if the operator, owner, miners, superintendent, mine foreman or other persons employed in or about the mine as aforesaid shall not be satisfied with any decision the mine inspector may arrive at in the discharge of his duties under this act, which said decision shall be in writing signed by the mine inspector, the said owner, operator, superintendent, mine foreman or other persons specified above shall either promptly comply therewith, or within seven days from date thereof appeal from such decision to the court of quarter sessions of the county wherein the mine is located, and said court shall speedily determine the questions involved in said decision and appeal, and the decision of said court shall be binding and conclusive.

SEC. 296. The court or the judge of said court in chambers may, in its discretion, appoint three practical, reputable, competent and disinterested persons whose duty it shall be, under instructions of the said court, to forthwith examine such mine or other cause of complaint and report, under oath, the facts as they exist or may have been, together with their opinions thereon, within thirty days after their appointment. The report of said board shall become absolute unless exceptions thereto shall be filed within ten days after the notice of the filing thereof by the owner, operator, mine superintendent, mine foreman, mine inspector and other persons, as aforesaid, and if exceptions are filed the court shall at once hear and determine the same and the decision shall be final and conclusive.

SEC. 297. If the court shall finally sustain the decision of the mine inspector, then the appellant shall pay all costs of such proceedings, and if the court shall not sustain the decision of the mine inspector, then such costs shall be paid by the county: *Provided*, That no appeal from any decision made by any mine inspector which can be immediately complied with shall work as a supersedeas to such decisions during the pendency of such appeal, but all decisions shall be in full force until reversed or modified by the proper court.

EXAMINATION OF MINE FOREMEN AND FIRE BOSSES.

SEC. 298. On the petition of the mine inspector the court of common pleas in any county in said district shall appoint an examining board of three persons, consisting of a mine inspector, a miner and an operator or superintendent, which said miner shall have received a certificate of competency as mine foreman in mines generating explosive gases, and the members of said examining board shall be citizens of this Commonwealth, and the persons so appointed shall after being duly organized take and subscribe before an officer authorized to administer the same the following oath, namely: "We, the undersigned, do solemnly swear (or affirm) that we will perform the duties of examiners of applicants for the position of mine foreman and fire bosses

of bituminous coal mines to the best of our abilities, and that in certifying or rejecting said applicants we will be governed by the evidence of the qualifications to fill the position under the law creating the same and not by any consideration of personal favor; that we will certify all whom we may find qualified and none others."

SEC. 299. The examining board shall examine any person applying thereto as to his competency and qualifications to discharge the duties of mine foreman or fire boss.

SEC. 300. Applicants for mine foreman or fire boss certificates shall be at least twenty-three years of age, and shall have had at least five years practical experience, after fifteen years of age, as miners' superintendent at or inside of the bituminous mines of Pennsylvania, and shall be citizens of this Commonwealth and men of good moral character and of known temperate habits.

SEC. 301. That said board shall be empowered to grant certificates of competency of two grades, namely: certificates of first grade, to persons who have had experience in mines generating explosive gases and who shall have the necessary qualifications to fulfill the duties of mine foreman in such mines; and certificates of second grade, to persons who give satisfactory evidence of their ability to act as mine foreman in mines not generating explosive gases.

SEC. 302. That said board of examiners shall meet at the call of the mine inspector and shall grant certificates to all persons whose examination shall disclose their fitness for the duties of mine foreman as above classified, or fire boss, and such certificates shall be sufficient evidence of the holder's competency for the duties of said position so far as relates to the purposes of this act: *Provided*, That all persons holding certificates of competency granted under the provisions of the act to which this is a supplement shall continue to act under this act: *And provided further*, That any person acting as mine foreman upon a certificate of service under the act to which this is a supplement may continue to act in the same capacity at any mine where the general conditions affecting the health and safety of the persons employed do not differ materially from those at the mine in which he was acting when said certificate was granted: *Provided, however*, That if such mine foreman leaves his present employer and secures employment elsewhere at any mine where in the judgment of the mine inspector of the district the conditions affecting the health and safety of the persons employed do differ materially from those at the mine at which he was employed when his certificate was granted, it shall then be the duty of the mine inspector of the district in which he has secured employment to serve written protest against such mine foreman's employment to the operator of said mine.

SEC. 303. The examining board shall hold their office for a period of four years from their appointment, and shall receive five dollars per day for each day necessarily employed, and mileage at the rate of three cents per mile for each mile necessarily traveled, and all other necessary expenses connected with the examination shall be paid by the Commonwealth. Each applicant before being examined shall pay the examining board the sum of one dollar, and one dollar additional for each certificate granted, which shall be for the use of the Commonwealth. The foregoing examination shall be held annually in each inspection district.

SEC. 304. No person shall act as fire boss in any bituminous coal mines, unless granted a certificate of competency by any one of the several examining boards. All applicants applying to any of the examining boards for fire boss certificates shall undergo an oral examination in the presence of explosive gas, and such certificate shall only be granted to men of good moral character and of known temperate habits, and it shall be unlawful for any operator or superintendent to employ any person as fire boss who has not obtained such certificate of competency as required by this act.

SEC. 305. If the mine foreman or fire boss shall neglect his duties, or has incapacitated himself by drunkenness, or has been incapacitated by any other cause for the proper performance of said duties, and the same shall be brought to the knowledge of the operator or superintendent, it shall be the duty of such operator or superintendent to discharge such delinquent at once and notify the inspector of the district of such action, whereupon it shall be the duty of said inspector to inform the court of common pleas of the county, who shall issue a citation in the name of the Commonwealth to the said operator, superintendent, mine foreman or fire boss to appear at not less than fifteen days' notice upon a day fixed before said court, at which time the court shall proceed to inquire into and investigate the allegations. If the court finds that the allegations are true, it shall notify the examining board of such finding and instruct the said board to withdraw the certificate of such delinquent during any period of time that said court may deem sufficient, and at the expiration of such time he shall be entitled to a reexamination.

EMPLOYMENT OF CHILDREN AND WOMEN.

SEC. 306. No boy under the age of twelve years, or any woman or girl of any age, shall be employed or permitted to be in the workings of any bituminous coal mine for the purpose of employment, or for any other purpose; and no boy under the age of sixteen shall be permitted to mine or load coal in any room, entry or other working place, unless in company with a person over sixteen years of age. If the mine inspector or mine foreman has reason to doubt the fact of any particular boy being as old as this act requires for the service which said boy is performing at any mine, it shall be the duty of said mine inspector or mine foreman to report the fact to the superintendent, giving the name of said boy, and the said superintendent shall at once discharge the said boy.

BLANKETS, STRETCHERS, ETC.

SEC. 307. It shall be the duty of operators or superintendents to keep at the mouth of the draft, [drift] shaft or slope, or at such other place about the mine as shall be designated by the mine inspector, a stretcher properly constructed, and a woolen and a waterproof blanket in good condition for use in carrying away any person who may be injured at the mines: *Provided*, That where more than two hundred persons are employed two stretchers and two woolen and two waterproof blankets shall be kept. And in mines generating firedamp a sufficient quantity of linseed or olive oil bandages and linen shall be kept in store at the mines for use in emergencies, and bandages shall be kept at all mines.

REPORT OF MINE OPERATOR.

SEC. 308. On or before the twenty-fifth day of January in each year the operator or superintendent of every bituminous coal mine shall send to the mine inspector of the district in which said mine is located a correct report, specifying with respect to the year ending the thirty-first day of December preceding, the name of the operator and officers of the mine and the quantity of coal mined. The report shall be in such form and give such information regarding said mine as may be from time to time required and prescribed by the mine inspector of the district. Blank forms for such reports shall be furnished by the Commonwealth.

DUTIES OF MINE FOREMEN.

SEC. 309. The mine foreman shall attend personally to his duties in the mine and carry out all the instructions set forth in this act, and see that the regulations prescribed for each class of workmen under his charge are carried out in the strictest manner possible, and see that any deviations from or infringements of any of them are promptly adjusted.

SEC. 310. He shall cause all stoppings along the airways to be properly built.

SEC. 311. He shall see that the entries at such places where road grades necessitate sprags or brakes to be applied or removed shall have a clear level width of not less than two and one-half feet between the side of car and the rib, to allow the driver to pass his trip safely and keep clear of the cars there.

SEC. 312. He shall direct that all miners undermine the coal properly before blasting it, and that blasting shall be done at only such hours as he shall direct, and shall order the miners to set sprags under the coal when necessary for safety while undermining at distances not exceeding seven feet apart, and he shall not allow the improper drawing of pillars.

SEC. 3_3. In mines where firedamp is generated when the furnace fire has been put out, it shall not be relighted, except in his presence or that of his assistant acting under his instructions.

SEC. 314. In case of accidents to a ventilating fan or its machinery, or to the fan itself, whereby the ventilation of the mine would be seriously interrupted, it shall be his duty to order men to immediately withdraw from the mine and not allow their return to their work until the ventilation has been restored and the mine has been thoroughly examined by him or his assistant and reported to be safe.

SEC. 315. He shall see that all dangerous places are properly fenced off and proper danger signal boards so hung on such fencing that they may be plainly seen; he shall also travel all air roads and examine all the accessible openings to old workings as often as is necessary to insure their safety.

SEC. 316. He shall provide a book or sheet to be put in some convenient place, or places, upon which shall be made a place for the numbers used by the miners, with space sufficient to each number so that the miners can write plainly the quantity

of props, their approximate length and the number of caps and other timbers which they require, together with the date of the order. Said book or sheets shall be preserved for thirty days from their date.

DUTIES OF FIRE BOSSES.

SEC. 317. He shall enter the mine before the men have entered it, and before proceeding to examine the same he shall see that the air current is traveling in its proper course, and if all seems right, he shall proceed to examine the workings.

SEC. 318. He shall not allow any person, except those duly authorized, to enter or remain in any part of the mine through which a dangerous accumulation of gas is being passed in the ventilating current from any other part of the mine.

SEC. 319. He shall frequently examine the edge and accessible parts of new falls and old gobs and air courses, and he shall report at once any violation of this act to the mine foreman.

DUTIES OF MINERS.

SEC. 320. He shall examine his working place before beginning work and take down all dangerous slate, or otherwise make it safe by properly timbering the same before commencing to dig or load coal, and in mines where fire bosses are employed, he shall examine his place to see whether the fire boss has left the proper marks indicating his examination thereof, and he shall at all times be very careful to keep his working place in a safe condition during working hours.

SEC. 321. Should he at any time find his place becoming dangerous, either from gas or roof, or from any unusual condition which may have arisen, he shall at once cease working, and inform the mine foreman or his assistant of such danger, and before leaving such place he shall place some plain warning at the entrance thereto to warn others from entering into the danger.

SEC. 322. It shall be the duty of every miner to mine his coal properly and to set sprags under the coal while undermining to secure it from falling, and, after each blast, he shall exercise great care in examining the roof and coal, and shall secure them safely before beginning work.

SEC. 323. When places are liable to generate sudden volumes of firedamp, or where locked safety lamps are used, no miner shall be allowed to fire shots except under the supervision and with the consent of the mine foreman, or his assistant, or other competent person designated by the mine foreman for that purpose.

DUTIES OF DRIVERS.

SEC. 324. When a driver has occasion to leave his trip he must be careful to see that it is left, when possible, in a safe place, secure from cars or other danger, or from endangering drivers of trips following.

SEC. 325. The driver must take great care while taking his trips down grades to have the brakes or sprags so adjusted that he can keep the cars under control and prevent them from running onto himself or others.

SEC. 326. He shall not leave any cars standing where they may materially obstruct the ventilating current, except in case of accident to the trip.

DUTIES OF TRIP RIDERS OR RUNNERS.

SEC. 327. He shall exercise great care in seeing that all hitchings are safe for use and see that all the trip is coupled before starting, and should he at any time see any material defect in the rope, link or chain, he shall immediately remedy such defect, or, if unable to do so, he shall detain the trip and report the matter to the mine foreman.

DUTIES OF ENGINEERS.

SEC. 328. It shall be the duty of the engineer to keep a careful watch over his engine and all machinery under his charge, and see that the boilers are properly supplied with water, cleaned and inspected at proper intervals, and that the steam pressure does not exceed at any time the limit allowed by the superintendent.

SEC. 329. He shall make himself acquainted with the signal codes provided for in this act.

SEC. 330. He shall not allow any unauthorized person to enter the engine house, neither shall he allow any person to handle or run the engine, without the permission of the superintendent.

SEC. 331. When workmen are being raised or lowered he shall take special precautions to keep the engine well under control.

SEC. 332. The locomotive engineer must keep a sharp lookout ahead of his engine and sound the whistle or alarm bell frequently when coming near the partings or landings; he must not exceed the speed allowed by the mine foreman or superintendent. He must not allow any person, except his attendants, to ride on the engine or on the full cars.

DUTIES OF FIREMEN.

SEC. 333. Every fireman and other person in charge of a boiler or boilers for the generation of steam shall keep a careful watch of the same; he shall see that the steam pressure does not at any time exceed the limit allowed by the superintendent; he shall frequently try the safety valve and shall not increase the weight on the same; he shall maintain a proper depth of water in each boiler, and if anything should happen to prevent this, he shall report the same without delay to the superintendent, or other person designated by the superintendent, and take such other action as may, under the particular circumstances, be necessary for the protection of life and preservation of property.

DUTIES OF FAN ENGINEERS.

SEC. 334. The engineer in charge of any ventilating fan must keep it running at such speed as the mine foreman directs in writing. In case of accident to the boiler or fan machinery, not requiring the immediate withdrawal of the men from the mine by reason of serious interruption of the ventilation, he shall invariably notify the mine foreman. If ordinary repairs of the fan or machinery becomes necessary, he must give timely notice to the mine foreman and await his instructions before stopping it. He shall also examine at the beginning of each shift all the fan bearings, stays and other parts, and see that they are kept in proper working order. Should it become impossible to run the fan or necessary to stop it to prevent destruction, he shall then at once stop it and notify the mine foreman immediately and give immediate warning to persons in the mine.

DUTIES OF FURNACE MEN.

SEC. 335. The furnace man must attend to his duties with regularity, and in case he should be likely to be off work for any reason whatever, he must give timely notice to the mine foreman.

SEC. 336. The furnace man must at all times keep a clear, brisk fire, and the fire must not be smothered with coal or slack during working hours, nor shall he allow ashes to accumulate excessively on or under the bars, or in the approaches to the furnace, and ashes shall be cooled before being removed.

SEC. 337. The furnace man must promptly obey the instructions of the mine foreman.

DUTIES OF HOOKERS-ON.

SEC. 338. The hookers-on at the bottom of any slope shall be very careful to see that the cars are properly coupled to a rope or chain, and that the safety catch or other device is properly attached to the cars before giving the signal to the engineer.

DUTIES OF CAGERS.

SEC. 339. The cager at the bottom of any shaft shall not attempt to withdraw the car until the cage comes to rest, and when putting the full car on the cage, he must be very careful to see that the springs or catches are properly adjusted so as to keep the car in its proper place before giving the signal to the engineer.

SEC. 340. At every shaft or slope mine in which provision is made in this act for lowering and hoisting persons, a headman and footman shall be designated by the superintendent or mine foreman, who shall be at their proper places from the time that persons begin to descend until all the persons who may be at the bottom of said shaft or slope, when quitting work, shall be hoisted; such headman and footman shall personally attend to the signals, and see that the provisions of this act in respect to lowering or hoisting persons in shafts or slopes shall be complied with.

SEC. 341. He shall not allow any tools to be placed on the same cage with men or boys, nor on either cage when persons are being hoisted out of the mine or being lowered into the mine, except when for the purpose of repairing the shaft or machinery therein. The men shall place their tools in cars provided for that purpose, which

car, or cars, shall be hoisted or lowered before and after the men shall have been hoisted or lowered. And he shall immediately inform the mine foreman of any violation of this rule.

SEC. 342. He shall also see that no driver, or other person, ascends the shaft with any horse or mule, unless the said horse or mule is secured in a suitable box, or safely penned, and only the driver in charge of said horse or mule shall accompany it in any case.

DUTIES OF TOP MEN.

SEC. 343. The top man of any slope, or incline plane, shall be very careful to close the safety block, or other device, as soon as the cars have reached the landing, so as to prevent any loose or runaway cars from descending the slope, or incline plane, and in no case shall such safety block, or other device, be withdrawn until the cars are coupled to the rope or chain, and the proper signal given. He shall carefully inspect, daily, all the machinery in and about the check house and the rope used for lowering the coal, and promptly report any defect discovered to the superintendent, and shall use great care in attaching securely the wagons or cars to the rope and carefully lower the same down the incline. He shall ring the alarm bell in case of accident, and when necessary, immediately set free to act the drop logs or safety switch.

SEC. 344. The top man of any shaft shall see that the springs or keeps for the cage to rest upon are kept in good working order, and when taking the full car off, he must be careful that no coal or other material is allowed to fall down the shaft.

SEC. 345. He shall be at his proper place from the time that persons begin to descend until all the persons who may be at the bottom of said shaft or slope, when quitting work, shall be hoisted. Such headman and footman shall personally attend to the signals and see that the provisions of this act in respect to lowering and hoisting persons in shafts or slopes shall be complied with.

SEC. 346. He shall not allow any tools to be placed on the same cage with men or boys, nor on either cage when persons are being lowered into the mine, except when for the purpose of repairing the shaft or the machinery therein. The men shall place their tools in cars provided for that purpose, which car or cars shall be lowered before and after the men have been lowered.

SEC. 347. He shall also see that no driver, or other person, descends the shaft with any horse or mule unless the said horse or mule is secured in a suitable box or safely penned, and only the driver in charge of said horse or mule shall accompany it in any case.

GENERAL RULES.

SEC. 348. If any person shall receive any injury in or about the mine and the same shall come within the knowledge of the mine foreman, and if he shall be of opinion that the injured person requires medical, or surgical treatment, he shall see that said injured person receives the same, and in case of inability of such injured person to pay therefor the same shall be borne by the county. The mine foreman shall report monthly to the mine inspector of the district, on blanks furnished by said inspector for that purpose, all accidents resulting in personal injury.

SEC. 349. No unauthorized person shall enter the mine without permission from the superintendent or mine foreman.

SEC. 350. No person in a state of intoxication shall be allowed to go into or loiter about the mine.

SEC. 351. All employees shall inform the mine foreman, or his assistant, of the unsafe condition of any working place, hauling roads or traveling ways, or of damage to doors, brattices or stoppings, or of obstructions in the air passages when known to them.

SEC. 352. No person shall be employed to blast coal, rock or slate, unless the mine foreman is satisfied that such person is qualified by experience to perform the work with ordinary care.

SEC. 353. The mine superintendent, or mine foreman, shall cause to be constructed safety blocks, or some other device, for the purpose of preventing cars from falling into the shaft, or running away on slopes or incline planes; and safety switches, drop logs or other device shall be used on all slopes and incline planes; and said safety blocks, safety switches or other device must be maintained in good working order.

SEC. 354. Every workman employed in the mine shall examine his working place before commencing work, and after any stoppage of work during the shift, he shall repeat such examination.

SEC. 355. No person shall be allowed to travel on foot to or from his work on any incline plane, dilly or locomotive roads, when other good roads are provided for that purpose.

SEC. 356. Any employee or other person who shall willfully deface, pull down or destroy any notice board, danger signal, general or special rules or mining laws, shall be prosecuted as provided for in section two, article twenty-one oı this act.

SEC. 357. No powder or high explosive shall be taken into the mine in greater quantities than required for use in one shift, unless such quantity be less than five pounds, and all powder shall be carried into the mine in metallic canisters.

SEC. 358. Powder in quantities exceeding twenty-five pounds, or other explosives in quantities exceeding ten pounds, shall not be stored in any tipple or any weighing office, nor where workmen have business to visit, and no naked lights shall be used while weighing and giving out powder.

SEC. 359. All persons, except those duly authorized, are forbidden to meddle or tamper in any way with any electric or signal wires in or about the mines.

SEC. 360. No greater number of persons shall be hoisted or lowered at any one time in any shaft than is permitted by the mine inspector, and whenever said number of persons shall arrive at the bottom of the shaft in which persons are regularly hoisted or lowered they shall be furnished with an empty cage and be hoisted, and in cases of emergency, a less number shall be promptly hoisted. Any person or persons crowding or pushing to get on or off the cages shall be deemed guilty of a misdemeanor.

SEC. 361. Each workman, when engaged, shall have his attention directed to the general and special rules by the person employing him.

SEC. 362. Workmen and all other persons are expressly forbidden to commit any nuisance or throw into, deposit, or leave coals or dirt, stones or other rubbish in the air way or road so as to interfere with, pollute or hinder the air passing into and through the mine.

SEC. 363. No one, except a person duly authorized by the mine foreman, shall have in his possession a key or other instrument for the purpose of unlocking any safety lamp in any mine where locked safety lamps are used.

SEC. 364. Every abandoned slope, shaft, air hole or drift shall be properly fenced around or across its entrance.

SEC. 365. No safety lamps shall be intrusted to any person for use in mines until he has given satisfactory evidence to the mine foreman that he understands the proper use thereof and danger of tampering with the same.

SEC. 366. No person shall ride upon or against any loaded car or cage in any shaft or slope in or about any bituminous coal mine; no person other than the trip runner shall be permitted to ride on empty trips on any slope, incline plane or dilly road, when the speed of the cars exceeds six miles per hour. The transportation of tools in and out of the mine shall be under the direction of the mine foreman.

SEC. 367. No persons other than the drivers or trip runners shall be permitted to ride on the full cars.

SEC. 368. In mines where coal dust has accumulated to a dangerous extent, care shall be exercised to prevent said dust from floating in the atmosphere by sprinkling it with water, or otherwise, as far as practicable.

SEC. 369. In cutting of clay veins, spars or faults in entries, or other narrow workings going into the solid coal in mines where explosive gases are generated in dangerous quantities, a bore hole shall be kept not less than three feet in advance of the face of the work, or in advance of any shot hole drilled for a blast to be fired therein.

SEC. 370. The engineer placed in charge of an engine whereby persons are hoisted out of or lowered into any mine shall be a sober and competent person and not less than twenty-one years of age.

SEC. 371. When a workman is about to fire a blast he shall be careful to notify all persons who might be endangered thereby, and shall give sufficient alarm so that any person or persons approaching shall be warned of the danger.

SEC. 372. In every shaft or slope where persons are hoisted or lowered by machinery as provided by this act, a topman and cager shall be appointed by the superintendent or mine foreman.

SEC. 373. Whenever a workman shall open a box containing powder or other explosives, or while in any manner handling the same, he shall first place his lamp not less than five feet from such explosive and in such a position that the air current can not convey sparks to it, and he shall not smoke while handling explosives.

SEC. 374. An accumulation of gas in mines shall not be removed by brushing.

SEC. 375. When gas is ignited by blast or otherwise, the person having charge of the place where the said gas is ignited, shall immediately extinguish it if possible, and if unable to do so shall immediately notify the mine foreman or his assistant of the fact. Workmen must see that no gas blowers are left burning upon leaving their working places.

SEC. 376 All ventilating fans used at mines shall be provided with recording

instruments, by which the number of revolutions or the effective ventilating pressure of the fan shall be registered, and the registration with its date for each and every day shall be kept in the office of the mine for future reference for one year from its date.

SEC. 377. Where the clothing or wearing apparel of the employees becomes wet by reason of working in wet places in the mines, it shall be the duty of the operator or superintendent of each mine, at the request in writing of the mine inspector, who shall make such request upon the petition of any five miners of any one mine in the district working in the aforesaid wet places, to provide a suitable building which shall be convenient to the principal entrances of such mine for the use of the persons employed in wet places therein for the purpose of washing themselves and changing their clothes when entering the mine and returning therefrom. The said building shall be maintained in good order and be properly lighted and heated and shall be provided with facilities for persons to wash. If any person or persons shall neglect or fail to comply with the provisions of this article, or maliciously injure or destroy or cause to be injured or destroyed the said building or any part thereof, or any of the appliances or fittings used for supplying light and heat therein, or doing any act tending to the injury or destruction thereof, he or they shall be deemed guilty of an offense against this act.

SEC. 378. In all shafts and slopes where persons, coal or other material are hoisted by machinery the following code of signals shall be used:

One rap or whistle to hoist coal or other material.

One rap or whistle to stop cage or car when in motion.

Two raps or whistles to lower cage or car.

Three raps or whistles when persons are to be hoisted and for engineer to signal back ready when persons are to be hoisted, after which persons shall get on the cage or car, then one rap shall be given to hoist.

Four raps or whistles to turn on steam to the pumps.

But a variation from the above code of signals may be used by permission of the mine inspector: *Provided*, That in any such case such changed code shall be printed and posted.

SEC. 379. No person or persons shall go into any old shaft or abandoned parts of the mine or into any other place which is not in actual course of working without permission from the mine foreman, nor shall they travel to and from their work except by the traveling way assigned for that purpose.

SEC. 380. No steam pipes through which high pressure steam is conveyed for the purpose of driving pumps or other machinery shall be permitted on traveling or haulage ways, unless they are encased in asbestos, or some other suitable nonconducting material, or are so placed that the radiation of heat into the atmosphere of the mine will be prevented as far as possible.

SEC. 381. Where a locomotive is used for the purpose of hauling coal out of a mine, the tunnel or tunnels through which the locomotive passes shall be properly ventilated and kept free as far as practicable of noxious gases, and a ventilating apparatus shall be provided by the operator to produce such ventilation when deemed necessary and practicable to do so by the mine inspector.

SEC. 382. No inexperienced person shall be employed to mine out pillars unless in company with one or more experienced miners and by their consent.

PENALTIES.

SEC. 383. Any person or persons whomsoever, who shall intentionally or carelessly injure any shaft, safety lamp, instrument, air course or brattice, or obstruct or throw open air ways, or take matches for any purpose, or pipes or other smokers' articles beyond any station inside of which locked safety lamps are used, or injure any part of the machinery, or open a door in the mine and not close it again immediately, or open any door which opening is forbidden, or disobey any order given in carrying out the provisions of this act, or do any other act whatsoever whereby the lives or the health of persons or the security of the miners or the machinery is endangered, shall be deemed guilty of a misdemeanor and may be punished in a manner provided for in this article.

SEC. 384. The neglect or refusal to perform the duties required to be performed by any section of this act by the parties therein required to perform them, or the violation of any of the provisions or requirements hereof, shall be deemed a misdemeanor and shall, upon conviction thereof in the court of quarter sessions of the county wherein the misdemeanor was committed, be punishable by a fine not exceeding five hundred dollars or imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court.

SEC. 385. For any injury to person or property occasioned by any violation of this act, or any failure to comply with its provisions by any owner, operator or superintendent of any coal mine or colliery, a right of action shall accrue to the party injured against said owner or operator for any direct damages he may have sustained thereby, and in case of loss of life by reason of such neglect or failure aforesaid, a right of action shall accrue to the widow and lineal heirs of the person whose life shall be lost for like recovery of damages for the injury they shall have sustained.

DEFINITIONS.

SEC. 386. In this act the term "coal mine" includes the shafts, slopes, adits, drifts or inclined planes connected with excavations penetrating coal stratum or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine railroads over which coal may be delivered to one or more common points outside the mine, when such is operated by one operator.

SEC. 387. The term "excavations and workings" includes all the excavated parts of a mine, those abandoned as well as the places actually being worked, also all underground workings and shafts, tunnels and other ways and openings, all such shafts, slopes, tunnels and other openings in the course of being sunk or driven, together with all roads, appliances, machinery and material connected with the same below the surface.

SEC. 388. The term "shaft" means a vertical opening through the strata, and which is or may be used for the purpose of ventilation or drainage, or for hoisting men or material, or both, in connection with the mining of coal.

SEC. 389. The term "slope" means an incline way or opening used for the same purpose as a shaft.

SEC. 390. The term "operator" means any firm, corporation or individual operating any coal mine or part thereof.

SEC. 391. The term "superintendent" means the person who shall have, on behalf of the operator, immediate supervision of one or more mines.

SEC. 392. The term "bituminous" coal mine shall include all coal mines in the State not now included in the anthracite boundaries.

SEC. 393. The provisions of this act shall not apply to any mine employing less than ten persons in any one period of twenty-four hours.

REVISED MINING LAW OF ILLINOIS.

[Approved April 18, 1899; in force July 1, 1899; Laws of Illinois, 1899, pp. 300–326.]

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:*

MAPS OR PLANS OF MINES.

Maps necessary.—(*a*) That the operator of every coal mine in this State, shall make, or cause to be made, an accurate map or plan of such mine, drawn to a scale not smaller than two hundred feet to the inch, and as much larger as practicable, on which shall appear the name, the state, county and township in which the mine is located, the designation of the mine, the name of the company or owner, the certificate of the mining engineer or surveyor as to the accuracy and date of the survey, the north point and the scale to which the drawing is made.

Surface survey.—(*b*) Every such map or plan shall correctly show the surface boundary line of the coal-rights pertaining to each mine, and all section or quarter-section lines or corners within the same; the lines of town lots and streets; the tracks and side-tracks of all railroads, and the location of all wagon roads, rivers, streams, ponds, buildings, landmarks and principal objects on the surface.

Underground survey.—(*c*) For the underground workings said maps shall show all shafts, slopes, tunnels or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms and cross-cuts; the location of the fan or furnace and the direction of the air currents, the location of pumps, hauling engines, engine planes, abandoned works, fire walls and standing water; and the boundary line of any surface outcrop of the seam.

Map for every seam.—(*d*) A separate and similar map, drawn to the same scale in all cases, shall be made of each and every seam, which, after the passage of this act, shall be worked in any mine, and the maps of all such seams shall show all shafts, inclined planes, or other passageways connecting the same.

Separate map for the surface.—(*e*) A separate map shall also be made of the surface whenever the surface buildings, lines or objects are so numerous as to obscure the details of the mine workings if drawn upon the same sheet with them, and in such case the surface map shall be drawn on transparent cloth or paper, so that it can be laid upon the map of the underground workings, and thus truly indicate the local relation of lines and objects on the surface to the excavations of the mine.

The dip.—(*f*) Each map shall also show by profile drawing and measurements, in feet and decimals thereof, the rise and dip of the seam from the bottom of the shaft in either direction to the face of the workings.

Copies for inspectors and recorders.—(*g*) The originals or true copies of all such maps shall be kept in the office at the mine, and true copies shall also be furnished to the State Inspector of Mines for the district in which said mine is located, and shall be filed in the office of the recorder of the county in which the mine is located, within thirty days after the completion of the same. The maps so delivered to the inspector shall be the property of the State and shall remain in the custody of said inspector during his term of office, and be delivered by him to his successor in office; they shall be kept at the office of the inspector and be open to the examination of all persons interested in the same, but such examination shall only be made in the presence of the inspector, and he shall not permit any copies of the same to be made without the written consent of the operator or the owner of the property.

Annual surveys.—(*h*) An extension of the last preceding survey of every mine in active operation shall be made once in every twelve months prior to July 1 of every year, and the results of said survey, with the date thereof, shall be promptly and accurately entered upon the original maps and all copies of the same, so as to show all changes in plan or new work in the mine, and all extensions of the old workings to the most advanced face or boundary of said workings, which have been made since the last preceding survey. The said changes and extensions shall be entered upon the copies of the maps in the hands of the said inspector and recorder, within thirty days after the last survey is made.

Abandoned mines.—(*i*) When any coal mine is worked out or is about to be abandoned or indefinitely closed, the operator of the same shall make or cause to be made a final survey of all parts of such mine, and the results of the same shall be duly extended on all maps of the mine and copies thereof, so as to show all excavations and the most advanced workings of the mine, and their exact relation to the boundary or section lines on the surface.

Special survey.—(*j*) The State Inspector of Mines may order a survey to be made of the workings of any mine, and the results to be extended on the maps of the same and the copies thereof, whenever, in his judgment, the safety of the workmen, the support of the surface, the conservation of the property or the safety of an adjoining mine requires it.

Penalty for failure.—(*k*) Whenever the operator of any mine shall neglect or refuse, or, for any cause not satisfactory to the mine inspector, fail, for the period of three months, to furnish to the said inspector and recorder, the map or plan of such mine or a copy thereof, or of the extensions thereto, as provided for in this act, the inspector is hereby authorized to make or cause to be made, an accurate map or plan of such mine at the expense of the owner thereof, and the cost of the same may be recovered by law from the said operator in the same manner as other debts by suit in the name of the inspector and for his use, and a copy of the same shall be filed by him with said recorder.

THE MAIN SHAFT.

§ 2. *Sinking subject to inspection.*—(*a*) Any shaft in process of sinking, and any opening projected for the purpose of mining coal, shall be subject to the inspection of the State Inspector of Mines for the district in which said shaft or opening is located.

Passage-way around the bottom.—(*b*) At the bottom of every shaft and at every caging place therein, a safe and commodious passage-way must be cut around said landing place to serve as a traveling way by which men or animals may pass from one side of the shaft to the other without passing under or on the cage.

Gates at the top.—(*c*) The upper and lower landings at the top of each shaft, and the opening of each intermediate seam from or to the shaft, shall be kept clear and free from loose materials, and shall be securely fenced with automatic or other gates, so as to prevent either men or materials from falling into the shaft.

General equipment.—(*d*) Every hoisting shaft must be equipped with substantial cages fitted to guide-rails running from the top to the bottom. Said cages must be safely constructed; they must be furnished with suitable boiler-iron covers to protect persons riding thereon from falling objects; they must be equipped with safety catches. Every cage on which persons are carried must be fitted up with iron bars or rings in proper place and sufficient number to furnish a secure hand-hold for every person permitted to ride thereon. At the top-landing, cage supports, where necessary, must be carefully set and adjusted so as to act automatically and securely hold the cages when at rest.

THE ESCAPEMENT SHAFT.

§ 3. *Two places of egress.*—(*a*) For every coal mine in this State, whether worked by shaft, slope or drift, there shall be provided and maintained, in addition to the hoisting shaft, or other place of delivery, a separate escapement shaft or opening to the surface, or an underground communicating passage-way between every such mine and some other contiguous mine, such as shall constitute two distinct and available means of egress to all persons employed in such coal mine.

The time allowed for completing such escapement shaft or making such connections with an adjacent mine, as is required by the terms of this act, shall be three months for shafts 200 feet or less in depth, and six months for shafts less than 500 feet and more than 200 feet, and nine months for all other mines, slopes or drifts or connections with adjacent mines. The time to date in all cases from the hoisting of coal from the main shaft.

Unlawful to employ more than ten men.—(*b*) It shall be unlawful to employ at any one time more men than in the judgment of the inspector is absolutely necessary, for speedily completing the connections with the escapement shaft or adjacent mine; and said number must not exceed ten men at any one time for any purpose in said mine until such escapement or connection is completed.

Passage-ways to escapement.—(*c*) Such escapement shaft or opening, or communication with a contiguous mine as aforesaid, shall be constructed in connection with every seam of coal worked in such mine, and all passage-ways communicating with the escapement shaft or place of exit, from the main hauling ways to said place of exit, shall be maintained free of obstruction at least five feet high and five feet wide. Such passage-ways must be so graded and drained that it will be impossible for water to accumulate in any depression or dip of the same, in quantities sufficient to obstruct the free and safe passage of men. At all points where the passage-way to the escapement shaft, or other place of exit, is intersected by other roadways or entries, conspicuous sign boards shall be placed, indicating the direction it is necessary to take in order to reach such place of exit.

Distance from main shaft.—(*d*) Every escapement shaft shall be separated from the main shaft by such extent of natural strata as may be agreed upon by the inspector of the district and the owner of the property, but the distance between the main shaft and escapement shaft shall not be less than 300 feet without the consent of the inspector, nor more than 300 feet without the consent of the owner.

Buildings on the surface.—(*e*) It shall be unlawful to erect any inflammable structure or building in the space intervening between the main shaft and the escapement shaft on the surface, or any powder magazine, in such location or manner as to jeopardize the free and safe exit of the men from the mine, by said escapement shaft, in case of fire in the main shaft buildings.

Stairways or cages.—(*f*) The escapement shaft at every mine shall be equipped with safe and ready means for the prompt removal of men from the mine in time of danger, and such means shall be a substantial stairway set at an angle not greater than forty-five degrees, which shall be provided with hand-rails and with platforms or landings at each turn of the stairway.

In any escapement shaft which may, at the time of the passage of this act, be equipped with a cage for hoisting men, such cage must be suspended between guides and be so constructed that falling objects can not strike persons being hoisted upon it. Such cage must also be operated by a steam hoisting engine, which shall be kept available for use at all times, and the equipment of said hoisting apparatus shall include a depth indicator, a brake on the drum, a steel or iron cable and safety catches on the cage.

Obstructions in shaft.—(*g*) No accumulations of ice, nor obstructions of any kind shall be permitted in any escapement shaft, nor shall any steam, or heated or vitiated air be discharged into said shaft; and all surface or other water which flows therein shall be conducted by rings or otherwise to receptacles for the same, so as to keep the stairway free from falling water.

Weekly inspections.—(*h*) All escapement shafts and the passage-ways leading thereto, or to the works of a contiguous mine, must be carefully examined at least once a week by the mine manager, or a man specially delegated by him for that purpose, and the date and findings of such inspection must be duly entered in the record book in the office at the mine. If obstructions are found, their location and nature must be stated together with the date at which they are removed.

Communication with adjacent mine.—(*i*) When operators of adjacent mines have, by agreement, established underground communication between said mines, as an escapement outlet for the men employed in both, the roadways to the boundary on either side shall be regularly patrolled and kept clear of every obstruction to travel by the respective operators, and the intervening door shall remain unlocked and ready at all times for immediate use.

When such communication has once been established between contiguous mines, it shall be unlawful for the operator of either mine to close the same without the consent both of the contiguous operator and of the State Inspector for the district. *Provided*, that, when either operator desires to abandon mining operations, the expense and duty of maintaining such communication shall devolve upon the party continuing operations and using the same.

THE ENGINE AND BOILER HOUSE.

§ 4. *Location.*—(*a*) Any building erected after the passage of this act, for the purpose of housing the hoisting engine or boilers at any shaft, shall be substantially fire-proof, and no boiler house shall be nearer than sixty feet to the main shaft or opening or to any building or inflammable structure connecting therewith.

Brake on drum.—(*b*) Every hoisting engine shall be provided with a good and sufficient brake on the drum, so adjusted that it may be operated by the engineer without leaving his post at the levers.

Flanges.—(*c*) Flanges shall be attached to the sides of the drum of any engine used for hoisting men, with a clearance oı not less than four inches when the whole rope is wound on the drum.

Cable fastenings.—(*d*) The ends of the hoisting cables shall be well secured on the drum, and at least two and a half laps of the same shall remain on the drum when the cage is at rest at the lowest caging place in the shaft.

Indicator.—(*e*) An index dial or indicator, to show at all times the true position of the cages in the shaft, shall be attached to every hoisting engine for the constant information and guidance of the engineer.

Signals.—(*f*) The code of signals as provided for in this act, shall be displayed in conspicuous letters at some point in front of the engineer when standing at his post.

Gauges.—(*g*) Every boiler shall be provided with a steam gauge, except where two or more boilers are equipped and connected with a steam drum, properly connected with the boilers to indicate the steam pressure, and another steam gauge shall be attached to the steam pipe in the engine house, the two to be placed in such positions that both the engineer and fireman can readily see what pressure is being carried. Such steam gauges shall be kept in good order and adjusted and be tested as often at least as every six months.

Safety valves.—(*h*) Every boiler or battery of boilers shall be provided with a safety valve of sufficient area for the escape of steam, and with weights and springs properly adjusted.

Inspection of boilers.—(*i*) All boilers used in generating steam in and about coal mines shall be kept in good order, and the operator of every coal mine where steam boilers are kept in use shall have said boilers thoroughly examined and inspected by a competent boiler-maker or other qualified person, not an employé of said operator, as often as once in every six months, and oftener if the inspector shall deem it necessary, and the result of every such inspection shall be reported on suitable blanks to said inspector.

THE POWDER HOUSE.

§ 5. All blasting powder and explosive material must be stored in a fire-proof building on the surface, located at a safe distance from all other buildings.

THE STATE MINING BOARD.

§ 6. *Manner and purpose of appointment.*—(*a*) For the purpose of securing efficiency in the mine inspection service, and a high standard of qualification in those who have the management and operation of coal mines, the State Commissioners of Labor shall appoint a board of examiners, to be known as the State Mining Board, whose duty it shall be to make formal inquiry into and pass upon the practical and tech-

nical qualifications and personal fitness of men seeking appointments as State Inspectors of Mines, and of those seeking certificates of competency as mine managers, as hoisting engineers and as mine examiners. This board shall be composed of five members, two of whom shall be practical coal miners; one an expert mining engineer, and who shall, when practicable, be also a hoisting engineer, and two shall be coal operators.

Date and term of appointment.—(*b*) Their appointment shall date from July 1, 1899, and they shall serve for a term of two years, or until their successors are appointed and qualified; they shall organize by the election of one of their number as president, and some suitable person, not a member, as secretary, after which they shall all be sworn to a faithful performance of their duties.

Supplies furnished by secretary of state.—(*c*) The secretary of state shall assign to the use of the board suitably furnished rooms in the State House for such meetings as are held at the capitol, and shall also furnish whatever blanks, blank-books, printing and stationery the board may require in the discharge of its duties.

Frequency of meetings.—(*d*) The board shall meet at the capitol in regular session on the second Tuesday in September of the year 1899, and bi-ennially thereafter, for the examination of candidates for appointment as State Inspectors of Mines. For the examination of persons seeking certificates of competency as mine managers, hoisting engineers and mine examiners, the board shall hold meetings at such times and places within the State as shall, in the judgment of the members, afford the best facilities to the greatest number of probable candidates. Special meetings may also be called by the Commissioners of Labor, whenever, for any reason, it may become necessary to appoint one or more inspectors. Public notice shall be given through the press or otherwise, announcing the time and place at which examinations are to be held.

Rules of procedure.—(*e*) The examinations herein provided for shall be conducted under such rules, conditions and regulations as the members of the board shall deem most efficient for carrying into effect the spirit and intent of this act. Such rules, when formulated, shall be made a part of the permanent record of the board, and such of them as relate to candidates shall be published for their information and governance prior to each examination; they shall also be of uniform application to all candidates.

EXAMINATIONS.

§ 7. *For inspectors.*—(*a*) Persons coming before the State Mining Board as candidates for appointment as State Inspectors of Mines must produce evidence satisfactory to the board that they are citizens of this State, at least thirty years of age, that they have had a practical mining experience of ten years, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass an examination as to their practical and technical knowledge of mining engineering and mining machinery and appliances, of the proper development and operation of coal mines, of ventilation in mines, of the nature and properties of mine gases, of the geology of the coal measures in this State and of the laws of this State relating to coal mines.

Names certified to the governor.—(*b*) At the close of each examination for inspectors the board shall certify to the Governor the names of all candidates who have received a rating above the minimum fixed by the rules of the board as properly qualified for the duties of Inspectors.

Inspectors appointed.—(*c*) From those so named the Governor shall select and appoint seven State inspectors of mines, that is to say, one inspector for each of the seven inspection districts provided for in this act, or more, if, in the future, additional inspection districts shall be created, and their commissions shall be for a term of two years from October first: *Provided*, that any one who has satisfactorily passed two of the State examinations for inspectors, and who has served acceptably as State Inspector for two full terms, upon making written application to the board setting forth the facts, shall also be certified to the Governor as a person properly qualified for appointment. But no man shall be eligible for appointment as a State Inspector of Mines who has any pecuniary interest in any coal mine, either as owner or employé.

For mine managers.—(*d*) Persons coming before the board for certificates of competency as mine managers must produce evidence satisfactory to the board that they are citizens of this State, at least twenty-four years of age, that they have had at least four years' practical mining experience, and that they are men of good repute and temperate habits; they must also submit to and satisfactorily pass such an examination as to their experience in mines and in the management of men, their knowledge of mine machinery and appliances, the use of surveying and other instruments, the properties of mine gases, the principles of ventilation and the specific duties and responsibilities of mine managers, as the board shall see fit to impose.

For hoisting engineers.—(*e*) Persons seeking certificates of competency as hoisting engineers must produce evidence satisfactory to the board that they are citizens of the United States, at least twenty-one years of age, that they have had at least two years' experience as fireman or engineer of a hoisting plant, and are of good repute and temperate habits. They must be prepared to submit to and satisfactorily pass an examination as to their experience in handling hoisting machinery, and as to their practical and technical knowledge of the construction, cleaning and care of steam boilers, the care and adjustment of hoisting engines, the management and efficiency of pumps, ropes and winding apparatus, and their knowledge of the laws of this State in relation to signals and the hoisting and lowering of men at mines.

For mine examiners.—(*f*) Persons seeking certificates of competency as mine examiners must produce evidence satisfactory to the board that they are citizens of this State, at least twenty-one years of age, and of good repute and temperate habits. They must be prepared to submit to and satisfactorily pass an examination as to their experience in mines generating dangerous gases, their practical and technical knowledge of the nature and properties of fire-damp, the laws of ventilation, the structure and uses of the safety lamp, and the laws of this State relating to safeguards against fires from any source in mines.

CERTIFICATES.

§ 8. *Issued by the board.*—(*a*) The certificates provided for in this act shall be issued under the signatures and seal of the State Mining Board, to all those who receive a rating above the minimum fixed by the rules of the board; such certificates shall contain the full name, age and place of birth of the recipient, and the length and nature of his previous service in or about coal mines.

Register to be preserved.—(*b*) The Board shall make and preserve a record of the names and addresses of all persons to whom certificates are issued, and at the close of each examination shall make report of the same to the Commissioners of Labor, who shall cause a permanent register of all certificated persons to be made and kept for public inspection in the office of the State Bureau of Labor Statistics in the State capitol.

Effect of certificates.—(*c*) The certificates provided for in this act shall entitle the holders thereof to accept and discharge the duties for which they are thereby declared qualified, at any mine in this State, where their services may be desired.

Foreign certificates.—(*d*) The board may exercise its discretion in issuing certificates of any class, but not without examination, to persons presenting, with proper credentials, certificates issued by competent authority in other States.

Unlawful to employ other than certificated mine managers.—(*e*) It shall be unlawful for the operator of any coal mine to employ, or suffer to serve, as mine manager at his mine, any person who does not hold a certificate of competency issued by a duly authorized Board of Examiners of this State: *Provided*, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated mine manager, he may place any trustworthy and experienced man, subject to the approval of the State Inspector of the district, in charge of his mine, to act as temporary mine manager for a period not exceeding thirty days.

Unlawful to employ other than certificated hoisting engineer.—(*f*) It shall be unlawful for the operator of any mine to employ, or suffer to serve, as hoisting engineer for said mine, any person who does not hold a certificate of competency issued by a duly authorized Board of Examiners of this State, or permit any other to operate his hoisting engine except for the purpose of learning to operate it, and then only in the presence of the certificated engineer in charge, and when men are not being hoisted or lowered: *Provided*, that whenever any exigency arises by which it is impossible for any operator to secure the immediate services of a certificated hoisting engineer, he may place any trustworthy and experienced man, subject to the approval of the State Inspector of the district, in charge of his engines, to act as temporary engineer, for a period not to exceed thirty days.

Unlawful to employ other than certificated mine examiners.—(*g*) It shall be unlawful for the operator of any mine to employ, or suffer to serve, as mine examiner, any person who does not hold a certificate of competency issued by the State Mining Board: *Provided*, that any one holding a mine manager's certificate may serve as mine examiner. Any one holding a certificate as fire boss, on presentation of the same to the State Mining Board, may have it exchanged for a mine examiner's certificate.

Cancellation of certificates.—(*h*) The certificate of any mine manager, hoisting engineer or mine examiner, may be cancelled and revoked by the State Mining Board whenever it shall be established to the satisfaction of said board that the

holder thereof has become unworthy of official endorsement, by reason of violations of the law, intemperate habits, manifest incapacity, abuse of authority, or for other causes satisfactory to said board: *Provided*, that any person against whom charges or complaints are made shall have an opportunity to be heard in his own behalf. And he shall have thirty days' notice in writing of such charges.

FEES FOR EXAMINATIONS.

§ 9. An applicant for any certificate herein provided for, before being examined, shall register his name with the secretary of the board, and file with him the credentials required by this act, to-wit: An affidavit as to all matters of fact establishing his right to receive the examination, and a certificate of good character and temperate habits signed by at least ten of the citizens who know him best in the place in which he lives.

Each candidate, before receiving the examination, shall pay to the secretary of the board the sum of one dollar as an examination fee, and those who pass the examination for which they are entered, before receiving their certificates, shall also pay to the secretary the further sum of two dollars each as a certificate fee. All such fees shall be duly accounted for by the board, and covered into the State treasury at the close of each fiscal year.

PAY OF THE BOARD.

§ 10. The members of the State Mining board shall receive as compensation for their services the sum of five dollars each per day, for a term not exceeding one hundred days in any one year, and whatever sums are necessary to reimburse them for such traveling expenses as may be incurred in the discharge of their duties.

The salary of the secretary shall be determined by the board, but shall in no case exceed the sum of one thousand dollars per annum, and he shall be reimbursed for any amounts expended for actual and necessary traveling expenses in the discharge of his duties. All such salaries and expenses of the board and of its secretary shall be paid upon vouchers duly sworn to by each and approved by the president of the board and by the Governor, and the Auditor of Public Accounts is hereby authorized to draw his warrants on the State Treasurer for the amounts thus shown to be due, payable out of any money in the treasury not otherwise appropriated.

INSPECTION DISTRICTS.

§ 11. *Boundaries defined.*—(*a*) The State shall be divided into seven inspection districts, as follows:

The first district shall be composed of the counties of Boone, McHenry, Lake, DeKalb, Kane, DuPage, Cook, LaSalle, Kendall, Grundy, Will, Livingston, and Kankakee.

The second district shall be composed of the counties of Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, Whiteside, Lee, Rock Island, Henry, Bureau, Mercer, Stark, Putnam, Marshall, Peoria, and Woodford.

The third district shall be composed of the counties of Henderson, Warren, Knox, Hancock, McDonough, Schuyler, Fulton, Adams, and Brown.

The fourth district shall be composed of the counties of Tazewell, McLean, Ford, Iroquois, Vermilion, Champaign, Piatt, DeWitt, Macon, Logan, Menard, Mason, and Cass.

The fifth district shall be composed of the counties of Pike, Scott, Morgan, Sangamon, Christian, Shelby, Moultrie, Douglas, Coles, Cumberland, Clark, Edgar, Montgomery, Macoupin, Green, Jersey, and Calhoun.

The sixth district shall be composed of the counties of Monroe, St. Clair, Madison, Bond, Clinton, Fayette, Marion, Effingham, Clay, Jasper, Richland, Crawford, and Lawrence.

The seventh district shall be composed of the counties of Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Johnson, Massac, Union, Alexander, and Pulaski.

How changes may be made.—(*b*) Provided, that the Commissioners of Labor, may, from time to time, make such changes in the boundaries of said districts as may, in their judgment, be required in order to distribute more evenly the labors and expenses of the several inspectors of mines, but this provision shall not be construed as authorizing the board to increase the number of districts.

DUTIES OF INSPECTORS.

§ 12. *Bond.*—(*a*) Those who receive appointment as State Inspector of Mines must, before entering upon their duties as such, take an oath of office, as provided for by the constitution, and enter into a bond to the State in the sum of five thousand (5,000) dollars, with sureties to be approved by the Governor, conditioned upon the faithful performance of their duties in every particular, as required by this act; said bond, with the approval of the Governor endorsed thereon, together with the oath of office, shall be deposited with the Secretary of State.

Instruments.—(*b*) For the more efficient discharge of the duties herein imposed upon them, each inspector shall be furnished at the expense of the State with an anemometer, a safety lamp, and whatever other instruments may be required in order to carry into effect the provisions of this act.

Examinations of mines.—(*c*) State Inspectors of Mines shall devote their whole time and attention to the duties of their office, and make personal examination of every mine within their respective districts, and shall see that every necessary precaution is taken to insure the health and safety of the workmen employed in such mines, and that the provisions and requirements of all the mining laws of this State are faithfully observed and obeyed, and the penalties for the violation of the same promptly enforced.

Authority to enter.—(*d*) It shall be lawful for State Inspectors to enter, examine and inspect any and all coal mines and the machinery belonging thereto, at all reasonable times, by day or by night, but so as not to obstruct or hinder the necessary workings of such coal mine, and the operator of every such coal mine is hereby required to furnish all necessary facilities for making such examination and inspection.

Procedure in case of objection.—(*e*) If any operator shall refuse to permit such inspection or to furnish the necessary facilities for making such examination and inspection, the inspector shall file his affidavit, setting forth such refusal, with the judge of the circuit court in said county in which said mine is situated, either in term time or vacation, or, in the absence of said judge, with the master in chancery in said county in which said mine is situated, and obtain an order on such owner, agent or operator so refusing as aforesaid, commanding him to permit and furnish such necessary facilities for the inspection of such coal mine, or to be adjudged to stand in contempt of court and punished accordingly.

Notices to be posted.—(*f*) The State Inspector of Mines shall post up in some conspicuous place at the top of each mine visited and inspected by him, a plain statement of the condition of said mine, showing what in his judgment is necessary for the better protection of the lives and health of persons employed in said mine; such statement shall give the date of inspection and be signed by the inspector. He shall also post a notice at the landing used by the men, stating what number of men will be permitted to ride on the cage at one time, and at what rate of speed men may be hoisted and lowered on the cages. He must observe especially that a proper code of signals between the engineer and top man and bottom man is established and conspicuously posted for the information of all employés.

Sealer of weights.—(*g*) State Inspectors of Mines are hereby made *ex-officio* sealers of weights and measures in their respective districts, and as such are empowered to test all scales used to weigh coal at coal mines. Upon the written request of any mine owner or operator, or of ten coal miners employed at any one mine, it shall be his duty to try and prove any scale or scales at such mine against which complaint is directed, and if he shall find that they or any of them do not weigh correctly he shall call the attention of the mine owner or operator to the fact, and direct that said scale or scales be at once overhauled and readjusted so as to indicate only true and exact weights, and he shall forbid the further operation of such mine until such scales are adjusted. In the event that such tests shall conflict with any test made by any county sealer of weights, or under and by virtue of any municipal ordinance or regulation, then the test by such mine inspector shall prevail.

Test weights.—(*h*) For the purpose of carrying out the provisions of this act each inspector shall be furnished by the State with a complete set of standard weights suitable for testing the accuracy of track scales, and of all smaller scales at mines; said test weights to be paid for on bills of particulars, certified by the Secretary of State and approved by the Governor. Such test weights shall remain in the custody of the inspector for use at any point within his district, and for any amounts expended by him for the storage, transportation or handling of the same, he shall be fully reimbursed upon making entry of the proper items in his quarterly expense voucher.

Inspectors' annual reports.—(*i*) Each State Inspector of Mines shall, at the close of the official year, to-wit: after June 30, of every year, prepare and forward to the

Secretary of the Bureau of Labor Statistics a formal report of his acts during the year in the discharge of his duties, with any recommendations as to legislation he may deem necessary on the subject of mining, and shall collect and tabulate upon blanks furnished by said Secretary all desired statistics of mines and miners within his district to accompany said annual report.

Reports to be published.—(*j*) On the receipt of said inspectors' reports the Secretary of the Bureau of Labor Statistics shall proceed to compile and summarize the same as a report of said bureau, to be known as the Annual Coal Report, which shall be duly transmitted to the Governor for the information of the General Assembly and the public. The printing and binding of said reports shall be provided for by the Commissioners of State Contracts in like manner and in like number as they provide for the publication of other official reports to the Governor.

The Secretary of State shall furnish to said inspectors, upon the requisition of the Secretary of the State Bureau of Labor Statistics, whatever instruments, blanks, blank books, stationery, printing and supplies may be required by said inspectors in the discharge of their official duties; said instruments to be paid for on bills of particulars, certified by the Secretary of State and approved by the Governor.

It shall be the duty of every coal operator and every employer of labor in this State to afford to the State Commissioners of Labor, or their representatives, every facility for procuring statistics of the wages and conditions of their employés for the purpose of compiling and publishing statistics of labor and of social and industrial conditions within the State as required by law. Any person who shall hinder or obstruct the investigation of the agents of the commissioners, or shall neglect or refuse, for a period of ten days, to furnish the information called for by the schedules of the commissioners as provided above, shall be adjudged guilty of a misdemeanor and be subjected to a fine of one hundred dollars.

PAY OF INSPECTORS.

§ 13. Each State Inspector of Mines shall receive as compensation for his services, the sum of eighteen hundred dollars per annum, and for his traveling expenses the sum actually expended for that purpose, in the discharge of his official duties, both to be paid quarterly by the State Treasurer, on warrants of the Auditor of Public Accounts, from the funds in the treasury not otherwise appropriated; said expense vouchers shall show the items of expenditures in detail, with sub-vouchers for the same so far as it is practicable to obtain them. Said voucher shall be sworn to by the inspector and be approved by the Secretary of the Bureau of Labor Statistics and the Governor.

REMOVAL OF INSPECTORS.

§ 14. Upon a petition signed by not less than three coal operators, or ten coal miners, setting forth that any State Inspector of Mines neglects his duties, or that he is incompetent, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, it will be lawful for the Commissioners of Labor of this State to issue a citation to the said inspector to appear, at not less than fifteen days' notice on a day fixed, before them, when the said commissioners shall proceed to inquire into and investigate the allegations of the petitioners; and if the said commissioners find that the said inspector is neglectful of his duty, or that he is incompetent to perform the duties of said office, or that he is guilty of malfeasance in office, or guilty of any act tending to the injury of miners or operators of mines, the said commissioners shall declare the office of inspector of said district vacant, and a properly qualified person shall be duly appointed, in the manner provided for in this act, to fill said vacancy.

COUNTY INSPECTORS.

§ 15. The County Board of Supervisors, or of Commissioners in counties not under township organization, of any county in which coal is produced, upon the written request of the State Inspector of Mines for the district in which said county is located, shall appoint a County Inspector of Mines as assistant to such State Inspector; but no person shall be eligible for appointment as County Inspector who does not hold a State certificate of competency as mine manager, and the compensation of such County Inspector shall be fixed by the county board at not less than three dollars per day, to be paid out of the county treasury.

The State Inspector may authorize any County Inspector in his district to assume and discharge all the duties and exercise all the powers of a State Inspector in the county for which he is appointed, in the absence of the State Inspector; but such

authority must be conferred in writing and the County Inspector must produce the same as evidence of his powers upon the demand of any person affected by his acts; and the bond of said State Inspector shall be holden for the faithful performance of the duties of such assistant inspector.

DUTIES OF MINE MANAGERS AND MINERS.

§ 16. (*a*) The mine managers shall instruct employés as to their respective duties, and shall visit and examine the various working places in the mine as often as practicable. He shall always provide a sufficient supply of props, caps and timber delivered on the miners' cars at the usual place when demanded, as nearly as possible, in suitable lengths and dimensions for the securing of the roof by the miners, and it shall be the duty of the miner to properly prop and secure his place with materials provided therefor.

Ventilation.—(*b*) It shall be the duty of the mine manager to see that cross-cuts are made at proper distances apart to secure the best ventilation at the face of all working places, and that all stoppings along air-ways are properly and promptly built. He shall keep careful watch over all ventilating apparatus and the air-currents in the mine, and in case of accident to fan or machinery by which the currents are obstructed or stopped, he shall at once order the withdrawal of the men and prohibit their return until thorough ventilation has been re-established.

Air-currents and outlet passage-ways.—(*c*) He shall measure or cause to be measured the air-current with an anemometer at least once a week at the inlet and outlet, and shall keep a record of such measurements for the information of the inspector. Once a week he shall make a special examination of the roadways leading to the escapement shaft or other opening for the safe exit of men to the surface, and shall make a record of any obstructions to travel he may encounter therein, together with the date of their removal.

Handling explosives.—(*d*) He shall give special attention to and instructions concerning the proper storage and handling of explosives in the mine, and concerning the time and manner of placing and discharging the blasting shots, and it shall be unlawful for any miner to fire shots except according to the rules of the mine. In dusty mines he must see that all hauling roads are frequently and thoroughly sprinkled. He must also see that all dangerous places, above and below, are properly marked, and that danger signals are displayed wherever they are required.

Care of ropes, cages, etc.—(*e*) The mine manager or superintendent must have special attention given to the condition of the hoisting ropes; they must be carefully and frequently scrutinized. Before the men are lowered in the morning the soundness of the ropes must be tested by hoisting the cages. He must also have the cages, safety catches, pumps, sumps and stables examined frequently; he must have the mine examined every morning by the mine examiner before the men are allowed to go to work, and know that the top man and bottom man are on duty, and that sufficient lights are maintained at the top and bottom landings when the men are being hoisted and lowered.

Early and late duty.—(*f*) The mine manager or his agent shall be at his post at the mine when the men are lowered into the mine in the morning for work; he shall by some device keep a record of the number of men lowered either for a day or night shift, and he or his agent shall remain at night until all the men employed during the day shall have been hoisted out.

May have assistants.—(*g*) In mines in which the works are so extensive that all the duties devolving on the mine manager can not be discharged by one man, competent persons may be designated and appointed as assistants to the mine manager who shall exercise his functions, under his instructions.

DUTIES OF HOISTING ENGINEERS.

§ 17. *Constant attendance.*—(*a*) The hoisting engineer at any mine shall be in constant attendance at his engine or boilers at all times when there are workmen underground.

Outsiders excluded.—(*b*) The engineer shall not permit any one to enter or loiter in the engine room, except those authorized by their position or duties to do so, and he shall hold no conversation with any officer of the company or other person while the engine is in motion or while his attention is occupied with the signals. A notice to this effect shall be posted on the door of the engine house.

Care of engine and boilers.—(*c*) The engineer or some other properly authorized employé must keep a careful watch over the engine, boilers, pumps, ropes and winding apparatus. He must see that his boilers are properly supplied with water,

cleaned and inspected at frequent intervals, and that the steam pressure does not exceed the limit established by the boiler inspector; he shall frequently try the safety valves and shall not increase the weights on the same; he shall observe that the steam and water gauges are always in good order, and if any of the pumps, valves or gauges become deranged or fail to act he shall promptly report the fact to the proper authority.

Signals.—(*d*) The engineer must thoroughly understand the established code of signals, and these must be delivered in the engine room in a clear and unmistakable manner, and when he has the signal that men are on the cage he must work his engine only at the rate of speed hereafter specified in this act.

Handling of engine.—(*e*) The engineer shall permit no one to handle or meddle with any machinery under his charge, nor suffer any one who is not a certified engineer to operate his engine, except for the purpose of learning to operate it, and then only in the presence of the engineer in charge, and when men are not on the cage.

DUTIES OF MINE EXAMINERS.

§ 18. *To enter and examine all places.*—(*a*) A mine examiner shall be required at all mines. His duty shall be to visit the mine before the men are permitted to enter it, and, first, he shall see that the air-current is traveling in its proper course and in proper quantity. He shall then inspect all places where men are expected to pass or to work, and observe whether there are any recent falls or obstructions in rooms or roadways, or accumulations of gas or other unsafe conditions. He shall especially examine the edges and accessible parts of recent falls and old gobs and air-courses. As evidence of his examination of all working places, he shall inscribe on the walls of each, with chalk, the month and the day of the month of his visit.

To post danger notices.—(*b*) When working places are discovered in which accumulations of gas, or recent falls, or any dangerous conditions exist, he shall place a conspicuous mark thereat as notice to all men to keep out, and at once report his finding to the mine manager.

No one shall be allowed to remain in any part of the mine through which gas is being carried into the ventilating current, nor to enter the mine to work therein, except under the direction of the mine manager, until all conditions shall have been made safe.

To make daily record.—(*c*) The mine examiner shall make a daily record of the conditions of the mine, as he has found it, in a book kept for that purpose, which shall be preserved in the office for the information of the company, the inspector and all other persons interested, and this record shall be made each morning before the miners are permitted to descend into the mine.

VENTILATION.

§ 19. Throughout every coal mine there shall be maintained currents of fresh air sufficient for the health and safety of all men and animals employed therein, and such ventilation shall be produced by a fan, or some other artificial means.

Amount of air required.—(*a*) The quantity of air required to be kept in circulation and passing a given point shall be not less than 100 cubic feet per minute for each person, and not less than 600 cubic feet per minute for each animal in the mine, measured at the foot of the downcast, and this quantity may be increased at the discretion of the inspector whenever, in his judgment, unusual conditions make a stronger current necessary. Said currents shall be forced into every working place throughout the mine, so that all parts of the same shall be reasonably free from standing powder smoke and deleterious air of every kind.

Measurements.—(*b*) The measurement of the currents of air shall be taken with an anemometer at the foot of the downcast, at the foot of the upcast, and at the working face of each division or split of the air-current. And a record of such measurements shall be made and preserved in the office, as elsewhere provided for in this act.

Air currents to be split.—(*c*) The main current of air shall be so split, or subdivided, as to give a separate current of reasonably pure air to every 100 men at work, and the inspector shall have authority to order separate currents for smaller groups of men, if, in his judgment, special conditions make it necessary.

Ventilation of stables.—(*d*) The air-current for ventilating the stable shall not pass into the intake air-current for ventilating the working parts of the mine.

Self-closing doors.—(*e*) All permanent doors in mines, used in guiding and directing the ventilating currents, shall be so hung and adjusted as to close automatically.

Trappers.—(*f*) At all principal door-ways, through which cars are hauled, an attendant shall be employed for the purpose of opening and closing said doors when

trips of cars are passing to and from the workings. Places for shelter shall be provided at such door-ways to protect the attendants, from being injured by the cars, while attending to their duties.

Cross-cuts.—(*g*) Cross-cuts shall be made not more than sixty feet apart, and no room shall be opened in advance of the air current.

Stoppings.—(*h*) When it becomes necessary to close cross-cuts connecting the inlet and outlet air-courses in mines generating dangerous gases, the stoppings shall be built in a substantial manner with brick or other suitable building material laid in mortar or cement, if practicable, but in no case shall they be built of lumber, except for temporary purposes.

Authority of inspector.—(*i*) Whenever the inspector shall find men working without sufficient air, he shall at once give the mine manager or operator notice and a reasonable time in which to restore the current, and upon his or their refusal or neglect to act promptly, the inspector may order the endangered men out of the mine.

POWDER AND BLASTING.

§ 20. No blasting powder or other explosives shall be stored in any coal mine, and no workman shall have at any time more than one twenty-five pound keg of black powder in the mine, nor more than three pounds of high explosives.

Place and manner of storing.—(*a*) Every person who has powder or other explosives in a mine, shall keep it or them in a wooden or metallic box or boxes securely locked, and said boxes shall be kept at least ten feet from the track, and no two powder boxes shall be kept within fifty feet of each other, nor shall black powder and high explosives be kept in the same box.

Manner of handling.—(*b*) Whenever a workman is about to open a box or keg containing powder or other explosive, and while handling the same, he shall place and keep his lamp at least five feet distant from said explosive and in such position that the air current can not convey sparks to it, and no person shall approach nearer than five feet to any open box containing powder or other explosive with a lighted lamp, lighted pipe or other thing containing fire.

Copper tools.—(*c*) In the process of charging and tamping a hole no person shall use any iron or steel pointed needle. The needle used in preparing a blast shall be made of copper and the tamping bar shall be tipped with at least five inches of copper. No coal dust nor any material that is inflammable or that may create a spark shall be used for tamping, and some soft material must always be placed next to the cartridge or explosive.

Use of squibs.—(*d*) A miner who is about to explode a blast with a manufactured squib shall not shorten the match, saturate it with mineral oil nor ignite it except at the extreme end; he shall see that all persons are out of danger from the probable effects of such shot, and shall take measures to prevent any one approaching, by shouting "fire!" immediately before lighting the fuse.

Not more than one shot at a time.—(*e*) Not more than one shot shall be ignited at the same time in any one working place, unless the firing is done by electricity or by fuses of such length that neither of the shots will explode in less than three minutes from the time they are lighted. When successive shots are to be fired in any working place in which the roof is broken or faulty, the smoke must be allowed to clear away and the roof must be examined and made secure between shots.

Missed shots.—(*f*) No person shall return to a missed shot until five minutes have elapsed, unless the firing is done by electricity, and then only when the wires are disconnected from the battery.

Dusty mines.—(*g*) In case the galleries, roadways or entries of any mine are so dry that the air becomes charged with dust, the operator of such mine must have such roadways regularly and thoroughly sprayed, sprinkled or cleaned, and it shall be the duty of the inspector to see that all possible precautions are taken against the occurrence of explosions which may be occasioned or aggravated by the presence of dust.

PLACES OF REFUGE.

§ 21. *Engine planes.*—(*a*) On all single track hauling roads wherever hauling is done by machinery, and on all gravity or inclined planes in mines, upon which the persons employed in the mine must travel on foot to and from their work, places of refuge must be cut in the side wall not less than three feet in depth and four feet wide, and not more than twenty yards apart, unless there is a clear space of at least three feet between the side of the car and the side of the road, which space shall be deemed sufficient for the safe passage of men.

On every such road which is more than 100 feet in length a code of signals shall be established between the hauling engineeer and all points on the road.

A conspicuous light must be carried on the front car of every trip or train of pit cars moved by machinery, except when such trip is on an incline plane.

Mule roads.—(*b*) On all hauling roads or gangways on which the hauling is done by draft animals, or gangways whereon men have to pass to and from their work places of refuge must be cut in the side-wall at least two and a half feet deep, and no more than twenty yards apart; but such places shall not be required in entries from which rooms are driven at regular intervals not exceeding twenty yards, and wherever there is a clear space of two and one-half feet between the car and the rib, such space shall be deemed sufficient for the safe passage of men.

All places of refuge must be kept clear of obstructions, and no material shall be stored nor be allowed to accumulate therein.

BOYS AND WOMEN.

§ 22. No boy under the age of fourteen years, and no woman or girl of any age shall be permitted to do any manual labor in or about any mine, and before any boy can be permitted to work in any mine he must produce to the mine manager or operator thereof an affidavit from his parent or guardian or next of kin, sworn and subscribed to before a justice of the peace or notary public, that he, the said boy, is fourteen years of age.

SIGNALS.

§ 23. At every mine operated by shaft and by steam power, means must be provided for communicating distinct and separate signals to and from the bottom man, the top man and the engineer. The following signals are prescribed for use at mines where signals are required:

From the Bottom to the Top. One bell shall signify to hoist coal or the empty cage, and also to stop either when in motion.

Two bells shall signify to lower cage.

Three bells shall signify that men are coming up; when return signal is received from the engineer, men will get on the cage and the cager shall ring one bell to start.

Four bells shall signify to hoist slowly, implying danger.

Five bells shall signify accident in the mine and a call for a stretcher.

Six bells shall call for a reversal of the fan.

From the Top to the Bottom. One bell shall signify: All ready, get on cage.

Two bells shall signify: Send away empty cage.

Provided, that the operator of any mine may, with the consent of the inspector, add to this code of signals in his discretion, for the purpose of increasing its efficiency or of promoting the safety of the men in said mine, but whatever code may be established and in use at any mine, must be conspicuously posted at the top and at the bottom and in the engine room for the information and instruction of all persons concerned.

WEIGHING AND WEIGHMEN.

§ 24. *Scales.*—(*a*) The operator of every coal mine where miners are paid by the weight of their output, shall provide at such mine suitable and accurate scales of standard manufacture for the weighing of such coal, and a correct record shall be kept of all coal so weighed, and said record shall be open at all reasonable hours to the inspection of miners and others interested in the product of said mine.

Weighman.—(*b*) The person authorized to weigh the coal and keep the record as aforesaid shall, before entering upon his duties, make and subscribe to an oath before some person duly authorized to administer oaths, that he will accurately weigh and carefully keep a true record of all coal weighed, and such affidavit shall be kept conspicuously posted at the place of weighing.

Check-weighman.—(*c*) It shall be permitted to the miners at work in any coal mine to employ a check-weighman at their option and at their own expense, whose duty it shall be to balance the scales and see that the coal is properly weighed, and that a correct account of the same is kept, and for this purpose he shall have access at all times to the beam box of said scales, and be afforded every facility for verifying the weights while the weighing is being done. The check-weighman so employed by the miners, before entering upon his duties, shall make and subscribe to an oath before some person duly authorized to administer oaths, that he will faithfully discharge his duties as check-weighman, and such oath shall be kept conspicuously posted at the place of weighing.

BOUNDARIES.

§ 25. *Ten-foot limit.*—(*a*) In no case shall the workings of any mine be driven nearer than ten feet to the boundary line of the coal rights pertaining to said mine, except for the purpose of establishing an underground communication between contiguous mines, as provided for elsewhere in this act.

Approaching old works.—(*b*) Whenever the workings of any part of a mine are approaching old workings, believed to contain dangerous accumulations of water or of gas, the operator of said mine must conduct the advances with narrow work, and maintain bore holes at least twenty feet in advance of the face of the work, and such side holes as may be deemed prudent or necessary.

NOTICE TO INSPECTORS.

§ 26. Immediate notice must be conveyed to the inspector of the proper district by the operator interested:

First. Whenever an accident occurs whereby any person receives serious or fatal injury.

Second. Whenever it is intended to sink a shaft, either for hoisting or escapement purposes, or to open a new mine by any process.

Third. Whenever it is intended to abandon any mine or to reopen any abandoned mine.

Fourth. Upon the appearance of any large body of fire damp in any mine, whether accompanied by explosion or not, and upon the occurrence of any serious fire within the mine or on the surface.

Fifth. When the workings of any mine are approaching dangerously near any abandoned mine, believed to contain accumulations of water or of gas.

Sixth. Upon the accidental closing or intended abandonment of any passage-way to an escapement outlet.

ACCIDENTS.

§ 27. *Duty of inspector.*—(*a*) Whenever loss of life or serious personal injury shall occur by reason of any explosion, or of any accident whatsoever, in or connected with any coal mine, it shall be the duty of the person having charge of said mine to report that fact, without delay, to the inspector of the district in which the mine is located, and the said inspector shall, if he deem necessary from the facts reported, and in all cases of loss of life, immediately go to the scene of said accident and render every possible assistance to those in need.

It shall moreover be the duty of every operator of a coal mine to make and preserve for the information of the inspector, and upon uniform blanks furnished by said inspector, a record of all injuries sustained by any of his employés in the pursuance of their regular occupations.

Coroner's inquest.—(*b*) If any person is killed by any explosion, or other accident, the operator must also notify the coroner of the county, or in his absence or inability to act, any justice of the peace of said county, for the purpose of holding an inquest concerning the cause of such death. At such inquest the inspector shall offer such testimony as he may be possessed of, and may question or cross question any witness appearing in the case.

Investigation by inspector.—(*c*) The inspector may also make any original or supplemental investigation which he may deem necessary, as to the nature and cause of any accident within his jurisdiction, and shall make a record of the circumstances attending the same, and of the result of his investigations, for preservation in the files of his office. To enable him to make such investigation he shall have power to compel the attendance of witnesses, and to administer oaths or affirmations to them, and the cost of such investigations shall be paid by the county in which such accident has occurred, in the same manner as the costs of coroners inquests are paid.

MEN ON CAGES.

§ 28. *Top man and bottom man.*—(*a*) At every shaft operated by steam power, the operator must station at the top and at the bottom of such shaft, a competent man charged with the duty of attending to signals, preserving order, and enforcing the rules governing the carriage of men on cages. Said top man and bottom man shall be at their respective posts of duty at least a half hour before the hoisting of coal begins in the morning, and remain for half an hour after hoisting ceases for the day.

Lights on landings.—(*b*) Whenever the hoisting or lowering of men occurs before daylight or after dark, or when the landing at which men take or leave the cage is

at all obscured by steam or otherwise, there must always be maintained at such landing a light sufficient to show the landing and surrounding objects distinctly. Likewise, as long as there are men underground in any mine, the operator shall maintain a good and sufficient light at the bottom of the shaft thereof, so that persons coming to the bottom may clearly discern the cage and objects in the vicinity

Speed of cages and other regulations.—(*c*) Cages on which men are riding shall not be lifted nor lowered at a rate of speed greater than six hundred feet per minute, except with the written consent of the inspector. No person shall carry any tools, timber or other materials with him on a cage in motion, except for use in repairing the shaft, and no one shall ride on a cage containing either a loaded or empty car. No cage having an unstable or self-dumping platform shall be used for the carriage of men or materials, unless the same is provided with some convenient device by which said platform can be securely locked, and unless it is so locked whenever men or materials are being conveyed thereon. No coal shall be hoisted in any shaft while men are being lowered therein.

Rights of men to come out.—(*d*) Whenever men who have finished their day's work, or have been prevented from further work, shall come to the bottom to be hoisted out, an empty cage shall be given them for that purpose, unless there is an available exit by slope or by stairway in an escapement shaft, and providing there is no coal at the bottom ready to be hoisted.

SAFETY LAMPS.

§ 29. *Operator must furnish.*—(*a*) At any mine where the inspector shall find that fire-damp is being generated so as to require the use of a safety lamp in any part thereof, the operator of such mine, upon receiving notice from the inspector that one or more such lamps are necessary to the safety of the men in such mine, shall at once procure and keep for use such number of safety lamps as may be necessary.

Mine manager must care for.—(*b*) All safety lamps used for examining mines or for working therein shall be the property of the operator, and shall remain in the custody of the mine manager, or other competent person, who shall clean, fill, trim, examine and deliver the same, locked and in a safe condition, to the men, upon their request, when entering the mine, and shall receive the same from the men at the end of their shift. But miners shall be responsible for the condition and proper use of safety lamps when in their possession.

STRETCHERS AND BLANKETS.

§ 30. At every mine where fifty men are employed underground it shall be the duty of the operator thereof to keep always on hand, and at some readily accessible place, a properly constructed stretcher, a woolen and waterproof blanket, and a roll of bandages in good condition and ready for immediate use for binding, covering and carrying any one who may be injured at the mine. When two hundred or more men are employed in any mine, two stretchers and two woolen and two waterproof blankets, with a corresponding supply of bandages, shall be provided and kept on hand. At mines where fire-damp is generated there shall also be provided and kept instore, a suitable supply of linseed or olive oil, for use in case men are burned by an explosion.

CAUTION TO MINERS.

§ 31. It shall be unlawful for any miner, workman or other person knowingly or carelessly to injure any shaft, safety lamp, instrument, air-course or brattice, or to obstruct or throw open any air-way, or carry any open lamp or lighted pipe or fire in any form into any place worked by the light of safety lamps, or within five feet of any open powder, or to handle or disturb any part of the hoisting machinery, or open any door regulating an air-current and not close the same, or to enter any part of the mine against caution, or to use other than copper needles and copper-tipped tamping bars, or to disobey any order given in pursuance of this act, or to do any wilful act whereby the lives or health of persons working in mines or the security of the mine or the machinery thereof is endangered.

§ 32. It shall be the duty of every operator to post, on the engine house and at the pit top of his mine, in such manner that the employés in the mine can read them, rules not inconsistent with this act, plainly printed in the English language, which shall govern all persons working in the mine. And the posting of such notice, as provided, shall charge all employés of such mine with legal notice of the contents thereof.

PENALTIES.

§ 33. Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this act, on the part of the person or persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any inspector in the discharge of the duties herein imposed upon him, or any refusal to comply with the instructions of an inspector given by authority of this act, shall be deemed a misdemeanor punishable by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months or both, at the discretion of the court: *Provided*, that in addition to the above penalties, in case of the failure of any operator to comply with the provisions of this act in relation to the sinking of escapement shafts and the ventilation of mines, the State's attorney for the county in which such failure occurs, or any other attorney, in case of his neglect to act promptly, shall proceed against such operator by injunction without bond, to restrain him from continuing to operate such mine until all legal requirements shall have been fully complied with.

Any inspector who shall discover that any section of this act, or part thereof, is being neglected or violated, shall order immediate compliance therewith, and in case of continued failure to comply, shall, through the State's attorney, or any other attorney, in case of his failure to act promptly, take the necessary legal steps to enforce compliance therewith through the penalties herein prescribed.

If it becomes necessary, through the refusal or failure of the State's attorney to act, for any other attorney to appear for the State in any suit involving the enforcement of any provision of this act, reasonable fees for the services of such attorney shall be allowed by the board of supervisors, or county commissioners, in and for the county in which such proceedings are instituted.

For any injury to person or property, occasioned by any wilful violations of this act, or wilful failure to comply with any of its provisions, a right of action shall accrue to the party injured for any direct damages sustained thereby; and, in case of loss of life by reason of such wilful violation or wilful failure as aforesaid, a right of action shall accrue to the widow of the person so killed, his lineal heirs or adopted children, or to any other person or persons who were, before such loss of life, dependent for support on the person or persons so killed, for a like recovery of damages for the injuries sustained by reason of such loss of life or lives, not to exceed the sum of five thousand dollars.

DEFINITIONS.

§ 34. *Mine.*—(*a*) In this act the words "mine" and "coal mine," used in their general sense, are intended to signify any and all parts of the property of a mining plant, on the surface or underground, which contribute, directly or indirectly, under one management, to the mining or handling of coal.

Excavations or workings.—(*b*) The words "excavations" and "workings" signify any or all parts of a mine excavated or being excavated, including shafts, tunnels, entries, rooms and working places, whether abandoned or in use.

Shaft.—(*c*) The term "shaft" means any vertical opening through the strata which is or may be used for purposes of ventilation or escapement, or for the hoisting or lowering of men and material in connection with the mining of coal.

Slope or drift.—(*d*) The term "slope" or "drift" means any inclined or horizontal way, opening or tunnel to a seam of coal to be used for the same purposes as a shaft.

Operator.—(*e*) The term "operator" as applied to the party in control of a mine in this act, signifies the person, firm or body corporate who is the immediate proprietor as owner or lessee of the plant, and, as such, responsible for the condition and management thereof.

Inspector.—(*f*) The term "inspector" in this act signifies the State Inspector of Mines, within and for the district to which he is appointed.

Mine manager.—(*g*) The "mine manager" is the person who is charged with the general direction of the underground work, or both the underground and outside work of any coal mine, and who is commonly known and designated as "mine boss," or "foreman," or "pit boss."

Mine examiner.—(*h*) The "mine examiner" is the person charged with the examination of the condition of the mine before the miners are permitted to enter it, and who is commonly known, and has been designated in former enactments as the "fire-boss."

Approved April 18, 1899, in force July 1, 1899.

O

UNIVERSITY OF CALIFORNIA
AT
LOS ANGELES
LIBRARY

Univers
Sou
Lil