

# The Minimum Wage Law

(REPUBLIC ACT No. 602)

(Continued from the November issue)

(g) If in a particular industry a Wage Board appointed by the Secretary of Labor within one year after the effective date of this Act recommends that a further extension of time before the application of the full statutory minimum is justified in such industry to avoid undue hardship to the industry, the board may recommend and the Secretary may approve an extension not to exceed six months and at a minimum wage not less than the rate provided to take effect on the effective date of this Act.

(h) With respect to piece-work or contract work, on petition of an interested party, the Secretary of Labor shall use all available devices of investigation to determine whether the work is being compensated in compliance with this Act, and shall issue findings and orders in connection therewith.

## SECTION 3 MINIMUM WAGE

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### Incorporation of statute.

The provisions of this section fixing the minimum measure of the employer's liability to pay for services rendered by an employee must be read into and form a part of every employment contract to which the section applies. *Fletcher v. Grinnell Bros., D. C. Mich. 1946, 64 F. Supp. 778.*

### Employer liable notwithstanding belief of non-liability.

The burden on employer to comply with wage provisions of this section cannot be shifted elsewhere notwithstanding that employer believed he was not covered by this section and was subjected to an unanticipated liability and penalty. *Berry v. 34 Irving Place Corporation, D.C.N.Y. 1943, 52 F. Supp. 875.*

### Reason for minimum wage of ₱3 outside Manila or environs.

The reason for fixing the minimum wage of ₱3 for industrial workers outside of Manila or its environs is explained by the Chairman of the Committee on Labor,

Congressman Espinosa, in the following discussions.

"MR. VELOSO (D). All right. What is the reason of the Committee in fixing at ₱3 the minimum wage for industrial workers outside of Manila or its environs?"

"MR. ESPINOSA (P). The reason is predicated upon the generally accepted fact that the cost of living in Manila is higher than the cost of living in the provinces; besides, in Manila there is a conglomeration of many industries and there is plenty of employment, and, naturally, the industries are flourishing in Manila; business in Manila is given better opportunity to flourish.

"MR. VELOSO (D). That is not my question. My question is, why does the Committee recommend ₱3 as the minimum wage in the provinces when we know very well that the actual . . .

"MR. ESPINOSA (P). (Interposing.) That is a compromise.

"MR. VELOSO (D). Wage is only ₱2. Whereas in Manila the actual wage is ₱5 or ₱6 and you are recommending a lesser wage than that, or ₱4? Why is it that the Committee, when it comes to Manila, recommends a minimum that is less than the actual wage, whereas in the provinces the recommendation is above the actual wage?"

"MR. ESPINOSA (P). The intention is to cure an existing evil that exists in the country today. In Manila we have militant labor organizations; we have practically almost all the facilities whereby working men can be protected to the extent some industries are even paying higher wages than the statutory minimum, and there is still a strong possibility of giving higher wages than the prevailing wages in Manila. But in the provinces there is no such militant spirit; there are no such militant labor organization; they are still in the process of reaching that goal, and we want to provide them with the adequate assistance they need. It is about time that we do so.

"MR. VELOSO (D). Thank you." *Journal of the House of Representatives, Session of March 17, 1951 (Debates on House Bill No. 1732)*

"Manila or its environs", explained.

"MR. LAUREL. In Section 3 of the proposed measure, it is provided that not less than ₱3 shall be given as wages, if the enterprise is located outside of Manila or its environs. When we use the word "environs" do we have any definite geographical area? What are we to understand by the phrase "Manila or its environs"? Are we to know that by a certain geographical measure? Starting from Plaza Goiti, for instance, how are we to determine what we mean in this measure when we speak of "environs"?"

"MR. ESPINOSA (P). The sense of the Committee, when we took up that word "environs", was that it would cover such municipalities of the province of Rizal that are adjacent to Manila. If we did not specify that particular

delimitation it was because there were some fears expressed in the Committee that there may be certain unscrupulous employers who, in order to go around the provisions of this measure, will transfer their place of business to a region adjacent to those municipalities and to the City of Manila, and we thought it wise to leave it to the courts to decide whether such contingency comes within the definition of "environs".

"MR. LAUREL. That is precisely my point. Are we to permit an industrial establishment for instance to go just a foot outside of the confines of Malabon which we might regard to be an environ of the City of Manila to set up its establishment there and then regard that particular place as an environ of the City of Manila?

"MR. ESPINOSA (P.). That is precisely the reason that we placed "environs" instead of making it definitely municipalities adjacent to the City of Manila. We preferred environs because we are giving our courts a chance to decide whether such particular cases, such a situation that you have mentioned, may come within the purview of environs.

"MR. LAUREL. Would it not be better to define the term "environ" in order not to permit abuse, in order not to enable a particular industry or establishment to give not P4 but P3 to its industrial employees? Would it not be better for us to determine what that phrase means, because it seems to me it is vague, instead of giving it future determine to the agents outside of Congress?

"MR. ESPINOSA (P.). I would appreciate an amendment to clarify that point from the gentleman from Batangas." *Journal of the House of Representatives, Session of March 16, 1951. (Debates on House Bill 1732)*

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"MR. VELOSO (D). On page 3, line 17, the words "Manila or its environs" are used. What does this term "or its environs" include? That is quite vague.

"MR. ESPINOSA (P). "Manila or its environs" was intended to mean those municipalities in the province of Rizal which are adjacent or contiguous to Manila.

"MR. VELOSO (D) San Juan, Rizal, is it included?

"MR. ESPINOSA (P.). I am not very certain about the geographical position of the municipalities adjacent to Manila.

"MR. VELOSO (D). What about Caloocan?

"MR. ESPINOSA (P.). If it is adjacent to Manila, yes.

"MR. VELOSO (D). What about Olongapo, Zambales, where the cost of living is very high?

"MR. ESPINOSA (D). What about Cavite, where the U.S. Navy is making the cost of living high?

"MR. ESPINOSA (P.). That is not included." *Journal of the House of Representatives, Session of March 17, 1951 (Debates on House Bill No. 1732).*

Reason for excluding retail and service enterprises regularly employing not more than five employees.

"MR. VELOSO (D). On the same page, line 23, we find the words "does not regularly employ more than five employees." What is the reason of the Committee in requiring five employees? Why not one only?

"MR. ESPINOSA (P).<sup>1</sup> The reason of the Committee in making it five in the City of Manila is that there are minor repair or service establishments capitalized with only, say P20; like the small coffee shops that we see in some remote sections of the city. In those cases, as you know this country is so poor that we have so many small service establishments where people make only a small nominal amount everyday, such undertakings cannot survive the statutory minimum wage as provided in this measure. So it was the sense of the Committee to exclude such service establishments in order to permit them to exist." *Journal of the House of Representatives, Session of March 17, 1951. (Debates on House Bill 1732).*

#### Meaning of retail establishment.

"Retail establishment" as used in subsection (a) (2) of this section means a business making retail sales. *Wall ing v. Consumers Co., C. C. A. Ill. 1945, 149 F. 2d 626.*

A "retail establishment" under this section is one that sells goods in small quantities for profit and a manufacturer engaged primarily in the production of goods does not come within the terms of the exemption. *Collins v. Kidd Dairy & Ice Co., C. C. A. Tex. 1942, 132 F. 2d 79.*

#### Meaning of service establishment.

The term "service establishment" within provision of subsection (a) (2) of this section applies to establishments which sell services instead of goods. *New Mexico Public Service Co., v. Engel, C. C. A. N. M. 1944, 145 F. 2d 636.*

The "service establishments" contemplated by subsection (a) (2) of this section creating exemption in favor of certain operators of retail or service establishments must, on the principle "noscutur a sociis," be of the same sort as the "retail" establishment, that is, one selling services to consumers, and the exemption should be limited to those who serve consumers directly. *Guess v. Montague, C. C. A. S. C. 1943, 140 F. 2d 500.*

A "service establishment" within provision of this section means an establishment which has ordinary characteristics of retail establishments except that services instead of goods are sold, and is an establishment the principal activity of which is to furnish service to the consuming public. *Fleming v. A. B. Kirschbaum Co., C. C. A. Pa. 1941, 124 F. 2d 567, affirmed 62 S. Ct. 1116, 316 U. S. 517, 86 L. Ed. 1638.*

Agricultural employer owning twelve hectares or less is not subject to the Minimum Wage Law.

"MR. ABORDO. I am not against the bill, but I just want to be clarified on certain points. Now, coming to the provision of Section 3, especially paragraph (b), referring to employers who operate farm enterprises, do I get from the gentleman from Iloilo that in order that the minimum wage law may be applicable that the employer must own no less than twelve hectares?

"MR. ESPINOSA (P.). In this particular provision

<sup>1</sup> Congressman Espinosa is the Chairman of the House Committee on Labor. Author's note.

we exempt from the operation of the statutory minimum wage employers in agricultural and industrial enterprises who have only twelve hectares.

"MR. ABORDO. So that, in other words, even if the owner of an agricultural enterprise or employer thereof owning twelve hectares is employing during the kaingin season, for example, or during the planting season, more than six or seven men, the fact is that they do not fall under this minimum wage law?

"MR. ESPINOSA (P). That is right.

"MR. ABORDO. Thank you." *Journal of the House of Representatives, Session of March 16, 1951. (Debates on House Bill No. 1732).*

Domestic servants and tenants are not covered by the law.

#### PREGUNTAS DEL SEN. FRANCISCO

EL SEN. FRANCISCO. Señor Presidente, para algunas preguntas al ponente.

EL PRESIDENTE. El ponente puede contestar si le place.

EL SEN. TORRES.<sup>1</sup> Con gusto.

EL SEN. FRANCISCO. El título del proyecto dice así: "An act to provide for the establishment of minimum wages for agricultural and other employees, and for the enforcement of the provisions thereof and for other purposes," y el Art. 2, sobre definiciones usadas, párrafo (c) dice: "Employee" includes any individual employed by an employer." ¿Podría decirnos ahora si este proyecto incluye a los domésticos, a la servidumbre en una casa privada?

EL SEN. TORRES. Si trabajan en una casa privada, no están incluidos en este proyecto.

EL SEN. FRANCISCO. ¿Y que dice Vuestra Señoría con respecto a los choferes?

EL SEN. TORRES. Si estos choferes trabajan en empresas industriales y agrícolas y se dedican a acarrear efectos, están incluidos en el proyecto.

SEN. FRANCISCO. ¿Y si prestan servicio exclusivamente a personas particulares?

EL SEN. TORRES. No están incluidos.

EL SEN. FRANCISCO. Los jardineros, y cocineros, ¿están incluidos?

EL SEN. TORRES. Si trabajan en casas privadas, no sirven más que una familia particular, no están incluidos.

EL SEN. FRANCISCO. Parece que intención del proyecto es excluir a los choferes y a los domésticos que no prestan servicios en las industrias.

EL SEN. TORRES. Así es.

#### PREGUNTAS DEL SEN. SUMULONG

EL SEN. SUMULONG. Señor Presidente, para algunas preguntas al ponente.

EL PRESIDENTE. El ponente puede contestar, si le place.

EL SEN. TORRES. Con gusto.

EL SEN. SUMULONG. Yo quisiera saber de Vuestra

Señoría si los aparceros que trabajan en terrenos de otros están incluidos en este proyecto de ley.

EL SEN. TORRES. No, esos aparceros caen bajo las disposiciones de la Ley de Aparcería.

*Senate Journal No. 17, Session of January 5, 1951. (Debates on Senate Bill No. 202).*

Laborers hired by tenants are subject to the law.

"MR. CUENCO. Immediately after the last word of the amendment of Congressman Macapagal that was carried out, add a new sub-section (c): "PROVIDED THAT THIS ACT SHALL NOT APPLY TO TENANCY OR CROP-SHARING CONTRACTS COVERED BY EXISTING LAW."

"MR. MACAPAGAL. I move to amend the amendment by deleting the word 'Provided, That.'

"THE SPEAKER. Is there any objection?

"MR. CONFESOR. Objection, Mr. Speaker.

"MR. MACAPAGAL. Does the gentleman from Cebu accept the amendment to the amendment?

"MR. ESPINOSA (P). The amendment is accepted, Mr. Speaker.

"MR. CONFESOR. I withdraw my objection.

"MR. CASES. Mr. Speaker, for a clarification. How would that stand with the viewpoint of the gentleman from Pangasinan that the tenants are employing laborers? Granting that there are 3 hectares under cultivation by a tenant, those 3 hectares cannot be worked by that one tenant alone so he has to hire laborers according to the gentleman from Pangasinan. In that case, those laborers will not be covered by any minimum wage law?

"MR. CUENCO. I refer to persons who are working as tenants; that is, they are compensated with participation in the products.

"MR. CASES. That is true, but there are big tenants occupying a big tract of land and these tenants by necessity will have to employ laborers to help them carry on the work in the farm. Now, will they be free to employ laborers, to keep laborers without the benefit of this law?

"MR. CUENCO. The Committee of which I am a humble member is not called upon to answer for the gentleman from Pangasinan.

"MR. CASES. No; but here is a very good question because even if a tenant can employ a laborer, is he exempted from the provisions of this bill?

"MR. CUENCO. The word "tenancy" and 'crop sharing contract' are words that have legal acceptance in this country.

"MR. CASES. I know but a tenant can also be an employer if he occupies a big tract of land, like a sugarcane planter.

"For example, I get ten hectares of land on the basis of the 30-70. I give the owner of the land 30% and I keep the 70%. But in order to work on these 10 hectares, I have to hire laborers, even 20 or 30 laborers. Now, will these laborers be beyond the protection of this law, if your amendment is inserted?

"MR. CUENCO. In my humble opinion, the question will be this: How will the employee be compensated? Will

<sup>1</sup> Senator Torres was the Chairman of the Senate Committee on Labor. Author's note.

it be through the participation in the products of the land or not? If he has participation, then he is a tenant.

"MR. CASES. If he has a share in the crop or product of the land, he is a tenant. But he may be compelled to employ additional labor in order to work on the land he has leased from the landlord.

"MR. CUENCO. If those workers hired by the tenant do not have participation in the crop but are compensated with a daily wage, then they should be considered as agricultural workers, and therefore, they are covered by this Act.

"MR. CASES. Therefore, the amendment of the gentleman from Cebu is not necessary, if that is the explanation given to it.

"MR. CUENCO. It is necessary.

"MR. CASES. I do not see any connection there.

"MR. CUENCO. It is necessary because the word 'tenancy' or 'contrato de arrendamiento' are provided for in different laws.

"MR. CASES. It is unnecessary because that is already provided in the 'tenancy law'.

"MR. CUENCO. Well, that is a question of interpretation, and at least my humble self will not presume to give the definition of tenancy.

"MR. CASES. Now, why is it that this law proposes to cover something that has already been covered by the Tenancy Law which we have passed long time ago?

"MR. CUENCO. Yes, because with this amendment of the gentleman from Tarlac and the gentleman from Iloilo and my humble self, the farm workers under tenancy basis will be excluded from this Minimum Wage Law.

"MR. CASES. No, it is already covered by previous laws; this is only supplementary.

MR. CUENCO. I will give the floor to the gentleman from Tarlac.

"MR. ROY. I do not think there will be any inconsistency with respect to the rights of tenants in the crop-sharing system if wage shares will be included in this provision here to clarify doubts as to the rights of the tenants to the fruits of his toil when entering into a partnership with the landlord. Now, if a tenant employs laborers, naturally he falls under this provision of the proposed amendment. We have to include this amendment because there is that relation between tenant and landlord. With respect to the laborer receiving wages, because he receives his wages in the form of share of the crop, from the definition of wage here and remuneration, it can be expressed in money and it will be considered as wages under the provision of this law. So, there is really doubt whether the share of the tenants may be considered as wages. Hence the necessity of including them in here; anyway, there is no harm in putting that here.

"MR. CASES. The share of the tenant is a remuneration of his labor, and the meaning of the word *wage* is but a remuneration of his labor.

"MR. ROY. Right.

"MR. CASES. And the gentleman from Tarlac is the author of the Tenancy Law which provided for 70-30 crop sharing.

"MR. ROY. Yes, are you going to include that under the provision of this law now?

"MR. CASES. No more.

"MR. ROY. Precisely, that is the purpose of this amendment.

"MR. CASES. Do you think this law nullifies the tenancy law or supplements it?

"MR. ROY. This supplements the tenancy law with respect to those laborers employed by tenants who are lazy to work on their own farm, so they hire laborers to work. This amendment will clarify the doubt, because it clearly states that such laborers fall under the provisions of this law.

"MR. CASES. So any laborer employed by a tenant is covered by this Act?

"MR. ROY. Yes; that's right.

"THE SPEAKER. Is there any objection on the part of the House? (*After a pause*) The Chair does not hear any. The amendment to the amendment is approved." *Journal of the House of Representatives, Session of March 17, 1951. (Debates on House Bill No. 1732).*

Minimum wage for crew of vessels of Philippine Registry regularly calling at Manila.

"MR. CUENCO. I have another amendment. This is in connection with another section of the Macapagal amendment. I move that after the last word of the Macapagal amendment, the following proviso be inserted, a new sub-section (d) "PROVIDED, FURTHER, THAT THE CREW OF VESSELS OF PHILIPPINE REGISTRY CALLING REGULARLY AT MANILA SHALL BE SUBJECT TO THE MINIMUM WAGE FOR NON-AGRICULTURAL WORKERS IN MANILA, AS PROVIDED FOR IN THIS ACT."

"MR. ESPINOSA. (P.) I accept the amendment.

"MR. MACAPAGAL. Amendment to the amendment. Delete the words: "Provided, further, That."

"MR. CUENCO. Accepted.

"THE SPEAKER. Is there any objection to the amendment to the amendment on the part of the House? (*After a pause.*) The Chair does not hear any. Approved.

"MR. CALO. Please restate the amendment.

"MR. CUENCO. That was already approved. Just insert this sub-section 'd). THE CREW OF VESSELS OF PHILIPPINE REGISTRY CALLING REGULARLY AT MANILA SHALL BE SUBJECT TO THE MINIMUM WAGE FOR NON-AGRICULTURAL WORKERS IN MANILA AS PROVIDED FOR IN THIS ACT."

"MR. CONFESOR. Mr. Speaker, I register my objection to the amendment presented by the gentleman from Cebu. The amendment of the gentleman from Cebu is a reproduction of the last sentence that has been amended already by the amendment which has been presented by the gentleman from Pampanga. And I cannot see any justification for presenting that amendment again, unless the gentleman from Cebu wants to present a motion for the reconsideration of the amendment presented by the gentleman from Pampanga: That particular amendment that the gentleman from Cebu has presented, as I have said, is a reproduction of the part of the bill that

has been substituted by the amendment that has been presented and approved by the House. That has been amended already; that has been taken out from the bill by virtue of the amendment presented by the gentleman from Pampanga. What is the purpose of the gentleman from Cebu in presenting the amendment?

"MR. CUENCO. Mr. Speaker, I am proposing a new subsection after the Macapagal amendment which has been approved. The distinguished Members of this Chamber are aware that the Macapagal amendment has two rates of wages: one for agricultural workers and another for non-agricultural workers. Now, the shipping business is considered as an industry the laborers of which are non-agricultural laborers or industrial laborers. The Macapagal amendment provides a minimum wage of four pesos for Manila and a minimum wage of three pesos on the effectivity of this Act, for places outside of Manila. There are vessels of Philippine registry that have as their home ports any place outside of Manila. For example, take the case of the vessel SS. Don Julio. That vessel has for its home port the port of Iloilo, but that vessel calls regularly at Manila. It is but just for the crew of this vessel that they be given the rate of wage for industrial workers for Manila, that is, four pesos.

"MR. CONFESOR. Do I understand that the crew of this vessel of Philippine registry that calls at Manila should be given a minimum wage for agricultural workers outside of Manila or in Manila?

"MR. CUENCO. My amendment is that these crew of vessels of Philippine registry that have for their home ports outside of Manila but calling regularly at Manila be given wages for industrial workers in Manila. In other words, my amendment improves the lot of these workers.

"MR. CONFESOR. Does the gentleman mean not agricultural wages?

"MR. CUENCO. My amendment is to the effect that these crew should be given a minimum wage for industrial workers in Manila.

"MR. CONFESOR. Mr. Speaker, I withdraw my objection.

"THE SPEAKER. The House will now vote again on the amendment of the gentleman from Cebu as amended. Is there any objection? (After a pause.) The Chair does not hear any. Approved." *Journal of the House of Representatives, Session of March 17, 1951. (Debates on House Bill No. 1732).*

#### Allowance for two meals or more.

"MR. CALO. Mr. Speaker, on page 4, Section 3, subsection (c), I should like to find out from the Committee whether under this sub-section, (c) which is still intact, there can be allowance for two meals?

"MR. ESPINOSA (P). Why not?

"MR. CALO. Supposing the laborer is supplied with two meals or more?

"MR. ESPINOSA (P). Yes.

"MR. CALO. I should like to propose this amend-

ment that on line 8, delete the word 'one' before the word 'meal' and add 's' to the word 'meal', so that it would be 'meals'. And then on line 9, between 'centavos' and 'for', insert the words 'per meal'.

"MR. ESPINOSA (P). The Committee accepts the amendment.

"THE SPEAKER. Is there any objection? (After a pause.) The Chair does not hear any. The amendment is approved." *Journal of the House of Representatives, Session c; March 17, 1951. (Debates on House Bill No. 1732).*

**Reason for the provision fixing the amount allowed for meals.**

"MR. VELOSO (D). Very good. On page 4, we find that the value of the meal to be furnished by the employer to the employee is only thirty centavos. Does not the gentleman think that that is very small? Why do we not make it fifty centavos, so that the laborer will be given a better meal by the landowner? I think thirty centavos is very miserable.

"MR. ESPINOSA (P). We placed the amount of thirty centavos as the value of one meal for agricultural employees. . .

"MR. VELOSO (D). One egg costs thirty centavos.

"MR. ESPINOSA (P). . . . and forty centavos for non-agricultural employees, because we have in mind not only the existing, actual, current conditions; but also that this will have some permanent effect. All these prevailing high prices are simply caused by temporary conditions. Before the war a thirty centavo meal will entitle you to eat in a first class restaurant, even in Manila. That is the intention of your Committee." *Journal of the House of Representatives, Session of March 17, 1951. (Debates on House Bill No. 1732).*

**SEC. 4. Wage investigation: Appointment of Wage Board.**—(a) The Secretary of Labor shall have the power, and it shall be his duty upon petition of six or more employees in any industry, to cause an investigation to be made of the wages being paid to the employees in such industry and their living conditions, to ascertain if any substantial number of such employees are receiving wages which are less than sufficient to maintain them in health, efficiency and general well-being. If, after such investigation, the Secretary of Labor is of the opinion that any substantial number of such employees are receiving such wages, he shall appoint a Wage-Board to fix a minimum wage for such industry.

(b) A minimum wage to be established under this Act shall be as nearly adequate as is economically feasible to maintain the minimum standard of living necessary for the health, efficiency, and general well-being of employees. In the determination of a minimum wage, the Secretary of Labor and a Wage Board shall, among other relevant factors, consider the following:

- (1) The cost of living;
- (2) The wages established for work of like or comparable character by collective agreements or arbitration awards;

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- (3) The wages paid for work of like or comparable character by employers who voluntarily maintain reasonable standard; and
- (4) Fair return of the capital invested.
- (c) The Secretary of Labor shall make rules and regulations governing the appointment of a Wage Board, its public hearings and mode of procedure, consonant with the requirements of due process of law.
- (c) The appointment of Wage Board shall not preclude the Secretary of Labor from subsequently appointing new Wage Board for the same industry.
- (e) The Secretary may appoint a Wage Board for any industry, whether it is named in section three of this Act or not.

### SECTION 4

#### WAGE INVESTIGATION: APPOINTMENT OF WAGE BOARD

Several wage boards may be established.  
Reason for requiring at least six petitioners.  
Minimum wage law involving delegation of legislative power.  
Test of a reasonable wage.  
"Fair return of the capital invested", explained.  
Purpose of provision providing for adoption of regulations governing creation of Wage Board.

#### Several wage boards established.

"MR. CALO. Now, I should like to proceed. Is it the sense of this bill to establish several wage boards in certain localities where there are several industries?"

"MR. ROY. Mr. Speaker, I now yield the floor to the gentleman from Illinois.

"MR. ESPINOSA (P). It depends upon the presence of various industries in the different regions. It depends upon the existence of industries which will need the assistance of the wage board for the implementation of the provisions of this law.

"MR. CALO. Is it obligatory upon the Department of Labor to establish right away a wage board in every locality?"

"MR. ESPINOSA (P). No. The language of the measure provides the powers of the wage board. . . .

"MR. CALO. Upon petition.

"MR. ESPINOSA (P). That is one. And even if there is no petition, it has the power to create the wage board if it finds out that a substantial number of employees are not receiving adequate wages to maintain their efficiency and general well-being, then it becomes mandatory to create a wage board?"

"MR. CALO. So, it is not mandatory?"

"MR. ESPINOSA (P.). No; it is not mandatory, but it is within its power." *Journal of the House of Representatives, Session of March 17, 1951. (Debates on House Bill No. 1732.)*

#### Reason for requiring at least six petitioners.

"MR. VELOSO (D). Now, in Section 4, page 5, line 24, the petition, in order to merit the attention of the Department of Labor should be signed by six or more em-

ployees in any industry. Why do we require six, and not only one?"

"MR. ESPINOSA (P). The reason is that in retail establishments there are only five employees exempted, or not included in the operation of this law. So we have to require six petitioners, because if we exempt five in retail establishments, to harmonize or to be in consonance with that exception, this must at least be six because if the number is less than six that cannot harmonize with that particular provision wherein we exempt retail establishments with employees numbering not more than five." *Journal of the House of Representatives Session of March 17, 1951. (Debates on House Bill No. 1732.)*

#### Minimum wage law involving delegation of legislative power.

A minimum wage law under which the wage standard is fixed by an administrative board or commission does not involve an unconstitutional delegation of legislative power. But a statute delegating the power to fix minimum wages, without any standards or limitations, to a part of the concerns engaged in an industry, and compelling the minority to submit thereto, is a legislative delegation of power in its most obnoxious form. *31 Am. Jur., Sec. 503, p. 1081.*

#### Test of a reasonable wage.

It was held that in determining what is fair and reasonable in fixing a minimum wage, there is no standard more appropriate than the normal needs of the average employee regarded as a human being living in a civilized community. *State v. Crowe, 130 Ark. 272, 197 SW 4, L.R.A. 1918A 567. Ann. Cas. 1918D 460.*

#### "Fair return of the capital invested", explained.

"MR. VELOSO (D). What is the meaning of "fair return of the capital invested?"

"MR. ESPINOSA (P). "Fair return of the capital invested" is a necessary safeguard to the management of an enterprise. Naturally, we must admit the premise that people who invest in industries have in their minds the return or profit from their investment. This is not all exclusive; it is only one of the factors to be considered in the determination because if we do not put it there, we might fix the minimum wage in such a way as to disregard the inherent right of an investor to gain from his investment.

"MR. VELOSO (D). What is considered by the Committee as a fair return of the capital? Is it ten per cent, or twenty per cent, or thirty per cent?"

"MR. ESPINOSA (P). From what I know there are established and recognized practices in the evaluation of fair return of capital invested.

"MR. VELOSO (D). No, but I should like to have a categorical answer to this point because, if we do not define that phrase, it will not enlighten the parties concerned. That point is very important here.

"MR. ESPINOSA (P). Yes, I am aware of that.

"MR. VELOSO (D). What is considered by the Committee as a fair return of capital invested?

"MR. ESPINOSA (P). There are many factors involved in determining what is a fair return of the invested capital. The amount of capital invested, the risk involved in the industry, whether the business is new or old, and many other similar matters.

"MR. VELOSO (D). How much profit, on percentage basis, is considered as a fair return of the capital invested?

"MR. ESPINOSA (P). As I said, it depends on the nature of the business.

"MR. VELOSO (D). Can not the gentleman give a definite percentage?

"MR. ESPINOSA (P). That is what I said. Along these lines we have established practices and precedents governing precisely this particular phrase. There are decisions in our Supreme Court, in our Court of Industrial Relations, as well as in the United States, which have a persuasive effect in the determination of such matter." *Journal of the House of Representatives, Session of March 17, 1951. (Debates on House Bill No. 1732).*

**Purpose of provision providing for adoption of regulations governing creation of Wage Board.**

"MR. VELOSO (D). Again, in the succeeding letter (c), "the Secretary of Labor shall make rules and regulations governing the appointment of a Wage Board and its mode of procedure." Why do you put this provision here, since in the preceding section we have already provided for the constitution of the Wage Board.

"MR. ESPINOSA (P). But it cannot be denied that in the composition and actual operation of the Wage Board there will be matters in which we need to facilitate the work of that body, and the person best qualified to assist in that is the Secretary of Labor. The fact that the Department is in an advantageous position to do, makes it advisable and necessary but ask that Department to assist the Wage Board.

"MR. VELOSO (D). I think that refers to the procedure to be followed in the hearing of cases involving wages but not in the creation of the board, for the creation of the Board is already provided here.

"MR. ESPINOSA (P). Yes, that is provided here and the law will have its way." *Journal of the House of Representatives, Session of March 17, 1951. (Debates on House Bill No. 1732).*

**SEC. 5. Wage Board; Powers and duties: Recommendation.**—(a) A Wage Board appointed under the provisions of this Act shall be composed of a member representing the public who shall act as chairman of the Board, two representatives of employees in the industry, and two representatives of employers in the same industry.

The representatives of the employees and employers shall be selected from nominations submitted by employees and employers, or organizations thereof, in such industry. Three members of a Wage Board shall constitute a *quorum* and its recommendations shall require a vote of not less than a majority of all its members. The members of a Wage Board shall not be entitled to compensations except to *per diem*: not exceeding seven pesos for each day of actual attendance and shall be reimbursed for all necessary travelling expenses incurred in the performance of their duties. The chairman, if a government employee, shall not be entitled to any *per diem*.

(b) The Secretary of Labor shall present to a Wage Board all the evidence and information in his possession relating to the wages in the industry for which the Wage Board was appointed and all other information which he deems relevant to the establishment of a minimum wage for such industry and shall cause to be brought before the Board any witness when he deems material. A Wage Board may summon other witnesses or call upon the Secretary to furnish additional information to aid in its deliberations.

(c) Within thirty days of its organization, a Wage Board shall submit to the Secretary of Labor its recommendations as to a minimum wage to be paid by employers in the industry or for the various branches of the industry considered.

The Wage Board shall not recommend for any agricultural or non-agricultural industry a minimum wage of less than the prevailing wage obtaining on the effective date of this Act, and in no case less than the minimum wage rates set in section three of this Act. These wages may include minimum wages varying with localities, if in the judgment of the Board conditions make such local differentiation proper and necessary to effectuate the purpose of this Act and such differentiation does not give an undue competitive advantage to any locality; and may include terms and conditions relating to part-time employment and suitable treatment of other cases or classes of cases which, because of the nature and character of the employment, in the judgment of the Board, justify special treatment, including, in the case of persons employed as industrial homeworkers, the highest minimum rate which is economically feasible and which will not result in substantial curtailment of employment opportunities for such employees, and which shall not be less than seventy-five per cent of the minimum wage rates established in three of this Act. Home industries covered by this Act shall include apparel, embroidery, other needle trades, shoes, weaving, basketry and other handicrafts. The Secretary may add specific home industries to the coverage of this Act by regulation, when he deems it necessary to further the purposes of this Act. If the report of the Wage Board is not submitted within thirty days, the Secretary of Labor may appoint a new Wage Board.

(To be continued)