The fourth meeting of the First Restaurant Wage Board was held on Thursday, January 5, 1950, in the Conference Room, 92 Farmington Avenue, Hartford, at 2:00 P.M.

The following were present:

Representing the Public:

- Dr. Millicent Pond
- Dr. W. Harrison Carter

Representing the Employers:

- Mr. Nick Conti
- Mr. Edward FitzGerald
- Mr. William Sledjeski

Representing the Employees:

- Mrs. Mae E. Harrison
- Mr. Neil Celia
- Mr. Peter G. Lallos

Representing the Labor Department:

- Mr. Lawrence Carni
- Mr. Jesse Baldwin

Dr. Russell J. Clinchy, representing the public, was unable to be present. The meeting was called to order by Dr. Carter at 2:00 P.M.

Dr. Carter made note of the various corrections of the minutes of the meeting held on December 12, 1949, and then the minutes were considered approved.
Dr. Pond reminded the Chairman that the minutes of the December 5, 1949, meeting be corrected. However, since the Board members had not read those minutes thoroughly, approval was left for the next meeting.

Dr. Carter explained that Mr. Carni was requested to furnish the Board with an actual breakdown of tips.

The "Definitions" as indicated on the supplementary sheets given to the Board by Mr. Baldwin were then discussed.

Dr. Pond raised the question whether or not musicians and entertainers should be excluded from coverage in view of the fact that their wages and hours, for the most part, were covered by union contracts.

Dr. Carter stated that he questioned the advisability of coverage of executive or administrative employees. After some discussion, it was felt that exemption of administrative or executive employees and musicians and entertainers would eliminate some of the problems of administration. It was agreed that the orchestra and entertainers work on a part time basis and are paid well above the minimum of $.75 an hour. It was also generally agreed that an exemption be made for executives.

(At this point in the meeting, Mr. Ennis appeared.)

The definition of an executive as it is contained in the Federal Fair Labor Standards Act, effective in January 1950 was read by Mr. Baldwin.

Dr. Carter expressed the feeling that one of the reasons for exempting executives was their varying hours of work. Mr. FitzGerald felt that such an exemption should be made to eliminate controversy between management and employees. Some discussion followed by Mr. FitzGerald regarding the amount
of salary to be fixed for such an exemption. Mr. Sledjeski stated that he did
not think there should be an exemption for executives. Dr. Carter stated that
there would be an advantage to such an exemption since it would eliminate a
headache in administration. Mr. Conti felt that there should be an exemption
for executives since such employees receive an amount far in excess of the
minimum. Dr. Pond stated that she felt the employer and employee representative
members should be the ones to make a decision on this matter.

Mr. Celia brought up the point that there are some employees working
with two or more persons under their supervision, yet they are not executives in
the true sense of the word. They are merely foremen or are persons in charge
but are not executives.

Mr. Iallos raised the question regarding two or more persons who were
partners. Dr. Carter explained to him that in that instance all persons claimed
to be partners would be considered exempt as owners or employers.

Mr. Celia brought out that the Maître d'Hôtel would be an executive
and Mr. Sledjeski agreed on this point.

Mr. Ennis brought out the instance where a manager is hired to take
over in an owner's absence. He questioned the feasibility of compensating that
person for long irregular hours. Mr. Ennis went on to explain that under the
provisions of the Connecticut Mercantile Wage Order, there was some difficulty
of administration because in many instances, such as in a large chain concern, a
person might qualify under all the requirements imposed by the definition of an
executive except that provision requiring that an employee spend at least 50% of
his time doing executive work or work that the other employees on the counter do
not perform.
Mr. Baldwin stated that if the amount of salary is made high enough, there would be very little difficulty in interpretation and in administration.

Dr. Carter read the requirements imposed by the definition of an executive as they are contained in the Federal Fair Labor Standards Act, effective January 25, 1950.

Although the members were in accord with most of the requirements set forth in that definition, there was some discussion as to the rate of salary to be fixed. Mr. Baldwin pointed out that $50.00 was not high enough in the mercantile trade. Mr. Celia cited instances in New Haven where more than one person was in charge of an establishment yet none of them would qualify for executive exemption.

Dr. Pond pointed out that it would be advantageous to set a rate of pay that would be high enough to cover any overtime hours that executives usually work since exemption from the provisions of the wage order would disqualify them for payment of overtime.

Mr. Ennis read the definitions of a chef and headwaiter as they contained in the dictionary of occupational titles edited by the United States Employment Service. In the case of a headwaiter and in the case of a chef, both persons would qualify for exemption as executives according to the definitions. Mr. Ennis pointed out that the dictionary was used by all State Employment Service offices in the country and also many private industries throughout the nation.

Dr. Carter suggested that a motion be made to exempt executives. Thereupon Mr. FitzGerald made the motion that executives be considered exempt from the provisions of the Restaurant Wage Order. Mr. Sledjeski seconded that motion.

(The motion was carried unanimously.)

Mr. Ennis pointed out that unless the guaranteed wage is made high enough in the executive definition, the Commissioner would not approve of such
Dr. Carter suggested that a weekly salary be arrived at and then the wording of the definition would be left to Mr. Baldwin.

Mr. Conti stated that there were two men in his establishment -- which would bring up his earnings one who receives $60.00 plus commission/and one who receives $70.00.

Mr. Fitzgerald pointed out that many persons/in an executive capacity receive bonuses at the end of the year.

The Board brought up the question whether a person's monthly earnings could be broken down on a weekly basis in order to reach a decision as to whether or not he met the salary requirement of the definition. A rate of $225.00 a month was suggested. Some discussion followed on this point.

Dr. Pond made a motion that a rate of $60.00 a week as a minimum salary be set up. Mr. Celia seconded the motion.

Some discussion followed on this motion.

(At this point in the discussion, Mr. Ennis left.)

In response to Mr. Conti's query if the $60.00 figure would exclude or include meals, Mr. Baldwin replied that since executive employees would be exempt from the other provisions of the wage order, the question of meals would not enter the picture.

Mr. Lallos wanted to / in a case where three or four persons worked as bar tenders, one person would have to be considered an executive. Mr. Lallos was advised that if a person did just bartending, he would not be considered an executive simply because he fulfilled the salary requirement.

(As a result of vote taken on Dr. Pond's motion, all were unanimously in favor of it.)

The discussion resumed with the reading by the Chairman of the
following four sections of the Executive Definition as it is contained in the Federal Fair Labor Standards Act, effective January 25, 1950:

"1. His primary duty must consist of the management of (a) the enterprise in which he is employed or (b) a customarily recognized department or subdivision thereof.

"2. He must customarily and regularly direct the work of two or more other employees. This means that he must regularly supervise two full time employees or the equivalent—four half-time employees, for example.

"3. He must have authority to hire or fire other employees or to make recommendations as to hiring and firing, and the advancement, promotion or other changes of employees. Such recommendations, of course, must be given particular weight by those who carry them out.

"4. He must customarily and regularly exercise discretionary powers. The work he performs, for example, must not be so routine as to require no exercise of discretion."

All Board Members were in favor of the above sections. However, a lengthy discussion followed on the question regarding the percentage of time to be spent on non-executive and executive work.

Mr. Sledjeski suggested a percentage of 50%.

Dr. Pond suggested that the wording be in the affirmative rather than in the negative.

Dr. Carter read the fifth section, with Mr. Sledjeski's suggestion, as follows:

"5. He must devote at least 50% of the hours he works during the week to activities which are directly and closely related to the performance of his exempt work."

Mr. Sledjeski made a motion that the Board accept the above five sections as quoted herein and Mr. Celia seconded the motion.

(Since no discussion followed, a vote was taken and all members were in favor of this motion.)
The attention of the Board was then directed to the first two definitions typed on the supplementary sheet furnished by the Labor Department. No discussion was held in regard to the definition "restaurant occupation".

In regard to definition #2, Dr. Pond suggested that the words "boarding houses and tourist homes, serving food," should be included in the definition. Mr. Baldwin suggested that added to that the phrase "serving five or more persons per meal" should be written in.

Dr. Carter then amended the definition to read after the word "colleges" boarding houses or tourist homes serving five or more guests per meal and camps.

Some discussion was held regarding the inclusion of camps such as boy scout camps, monasteries, convents, etc.

Mr. Fitzgerald brought up the instance of fraternity houses where students prepare their own meals, wait on tables and do not receive any wages.

Dr. Pond suggested that under definition #3, the words "students in educational institutions and young persons receiving special benefits in camps may be permitted to work for value received other than money. It was decided to leave this point for future consideration and continue with the discussion on the definition of "restaurant establishment". Dr. Pond also pointed out that the words "male or female" should be inserted after the word "person" in definition #3.

Mrs. Harrison asked if State institutions and hospitals would be covered under definition #2. Mr. Baldwin replied that he would check into this phase of coverage further.

Discussion then followed on the definitions of a service and non-service employee. Some members felt that counter help should be classified as service rather than non-service employees.

At this point, Dr. Carter called on Mr. Carni to give the Board the
breakdown or general distribution of tips.

Mr. Carni stated that according to size of establishment, for the firms having between one and three employees, the average or median tip received was $5.00 a week. The waitress or waiter in an establishment having one to three employees received an average of $6.00 a week. The data covered only sixty-four people who reported tips and of that number, forty-eight were waitresses. That group covers only the persons who received tips.

In an establishment employing four to nine persons, the average tip for all employees receiving tips was $6.00 a week. The waiters and waitresses received $9.00 a week.

In an establishment employing ten to nineteen persons, the average tip for all employees receiving tips was $12.00 a week. Waiters and waitresses received $15.00 a week.

In an establishment employing twenty and over, the average tip was $24.00 and the waiters and waitresses received $25.00 a week.

Mr. Carni continued with an explanation in detail of these figures.

Mr. FitzGerald brought out the fact in accordance with the Liquor Control Act in Connecticut, taverns and bars which ordinarily are not considered restaurants still have to maintain food in their ice boxes in order to comply with the law. Therefore, in making our survey for the Restaurant Wage Board, he felt that we should not have taken figures from such establishments. Mr. Carni assured Mr. FitzGerald that little or no data was obtained from such establishments.

Considerable discussion followed regarding the figures presented by Mr. Carni. Mr. Carni stressed the point that if the survey were made at some other time or season of the year or if other people were questioned, the data received would be totally different. However, the information would differ only in respect to tips and not wages. Wages would remain fairly constant.
Mr. FitzGerald asked if the Board would consider the possibility of setting up three different categories of employees: service, non-service and semi-service.

Dr. Carter stated that because only a very small percentage of the counter help included in the survey received tips, by eliminating them from the non-service category, the majority of such help would receive less than the minimum wage set since they receive no gratuities to supplement their basic earnings. Therefore, some protection should be given such persons.

Mr. Celia cited the instance where some employees rotate -- one day on the counter and one day on tables. In that case, it would be difficult to classify them.

Mr. FitzGerald clarified that situation by quoting the definition as it is contained in the Pennsylvania Restaurant Wage Order.

Dr. Carter brought out that such a problem would be taken care of by number ten of the Administrative Regulations. When segregation is possible, the applicable rate would apply. When segregation cannot be made, then the higher rate would prevail.

Dr. Pond suggested that since the figures indicate that the amount of tips received varied according to the size of an establishment, that a minimum rate be set according to the size of establishment.

Mr. Carni stated that the change in the size of an establishment as far as employment is concerned would change from day to day and that it would be almost impossible to enforce different minimum rates for different sizes of establishments.

Dr. Carter suggested a full time rate of $24.00 a week for service employees or $.50 an hour. Mr. FitzGerald, in response to such statement, remarked
that such a rate would throw most restaurants out of business. Mr. Sledjeski agreed with Mr. FitzGerald. Mr. Conti stated that it was at least two or three times more than the average rate set. Mrs. Harrison remarked that in many small establishments where there are practically no tips received, some service is rendered. Mr. Sledjeski stated in such establishments the wages are higher since the employee has many tasks assigned to him in addition to waiting on tables. Therefore, he would receive more than the minimum in actual wages to compensate for the lack of tips.

Dr. Pond remarked that a figure of $24.00 would be jolting and referred the Board to Table X in the survey.

Dr. Carter brought out that the Board has to set a wage which would insure at least a living wage.

Mr. FitzGerald maintained that a different rate be set for different sizes of establishments. He felt that the rate suggested by Dr. Carter would result in a great deal of layoffs.

Dr. Carter replied that the small restaurant operators would be penalized by being forced to pay higher wages for the same help employed in a larger type of restaurant. The small restaurant operator would be placed under an additional burden.

Mr. Sledjeski pointed out that the National Restaurant Association assesses dues on the basis of restaurant income. The larger the volume of business, the larger the amount of dues paid. However, as Dr. Carter pointed out, it would work inversely in the particular case under consideration.

Mr. Baldwin pointed out that the same rate prevailed in Meriden and that it had no adverse affect on business. In Meriden the minimum is $22.50 and in New York it is $30.00.

Mr. Conti asked Mr. Lallos what percentage of restaurants were unionized and Mr. Lallos stated that the majority of restaurants belonged to the
union.

Mr. Fitzgerald corroborated Mr. Sledjeski's statements that costs have gone up so high during the last few years that the point has almost been reached where costs cannot go up any higher. However, Mr. Baldwin reminded him that the employee should not have to be the one to suffer on account of such facts. He also remarked that the small restaurant operator would be done a great injustice.

Dr. Carter asked for other suggestions regarding a rate to be set for service employees.

Dr. Pond stated that if we wrote a $.60 an hour rate, 28% of employees would have their rate affected, that is, their rate would be increased. If $24.00 would be set, a great deal more employees would be affected. Therefore, it would not be consistent with what was done previously.

Dr. Carter stressed the fact that in California and in Oregon there is no differential between service and non-service employees.

Mr. Carni read a breakdown of comparative earnings for all employees, including service and non-service. In the case of females who make up the majority of the waiter-waitress group, 8.4% received hourly earnings/less than $.25 an hour. 91.6% would be affected by a $.25 rate. Under $.40 an hour, 32.2% received less than that amount an hour which would mean that 67% or 2/3 would be affected.

Dr. Pond brought out that the lower paid group rather than the larger group would be affected.

In response to Mr. Baldwin's question if waiters work ordinarily as many as forty-eight hours a week, Mr. Sledjeski stated that they are on the job
for forty-eight hours or eight hours a day. During that eight hours, they have
two or three meals so that only six or seven hours are actual working hours.

Mr. FitzGerald stated that it is of more advantage to have a
waiter than a waitress since men can work more hours legally than a woman. When
extra parties are held, a waiter must be on the premises to handle the work which
usually extends beyond the legal daily limitation of hours set for women in
restaurants. In that case, the man receives additional tips only rather than
additional wages from the establishment. In such case, the waiter usually works
fifty-four hours a week.

Mr. Baldwin asked Mr. FitzGerald what the normal work week is
for a waiter when there are no extra parties and Mr. FitzGerald stated that it
was forty-eight hours.

Mr. Baldwin suggested an hourly rather than a weekly rate and
Mr. Sledjeski felt that an hourly rate might be better than a weekly rate.

Mr. FitzGerald felt that it might work to disadvantage to an
employee in that instance because if his work day was up at nine o'clock and if
that waiter was handling an extra party, the employer might tell him to leave.
Therefore, the waiter would lose his tip by not staying until the party was over
and waiting to receive his tip. However, Mr. FitzGerald was assured that in such
a case, the employer would have the waiter stay on the premises of the establish­
ment until he did receive his tip rather than order him to go home early.

Mr. FitzGerald suggested a rate of $12.00 a week.

Dr. Carter remarked that in establishments employing less than
twenty persons, about three-fourths of the waiters would receive less than the
minimum wage.
Mrs. Harrison stated that at the present time she is getting about $27.00 a week, including tips and three meals a day. Her salary is $15.00 a week or about $2.00 a day. In the summertime, her earnings averaged $46.00 a week with a salary of $20.00, including two meals -- breakfast and lunch.

Mr. Sledjeski stated that he was in favor of Mr. FitzGerald's suggested rate of $12.00. However, Mr. Celia stated that he himself could not live on such a rate.

Dr. Carter explained that compared to California which has a $.65 rate, our rate would be $.25 an hour. The differential in the other states seemed to be $.10 to $.15. However, our differential would be about $.35 between service and non-service employees.

Mr. FitzGerald stated that his girls work forty-two hours a week, six seven hour days which includes eating time.

Mr. Celia stated that where he works, the employees work from ten until two o'clock and from five to nine o'clock with no eating time.

Dr. Carter expressed doubt as to how a lower rate in Connecticut could be justified compared to the rates established in other states throughout the country.

Mr. Baldwin read several paragraphs regarding tips contained in a letter received from the United States Labor Department at the time that a model wage order was forwarded to this office.

Mr. FitzGerald stated that if a girl had to be paid $36.00 a week,
a sign would be put up by the employers, indicating that no tipping would be allowed.

Dr. Carter brought out that the rates established in other states did not affect employees adversely as far as tipping is concerned.

Mr. Carni stressed the fact that regardless of the amount of tips received, a woman needs a certain minimum amount to live on.

Mr. FitzGerald stated that the union rates in New Haven were established at $16.00 a week. However, Mr. Celia stated that these rates were not being revised pending the outcome of the present restaurant wage board's deliberations.

Mr. Lallos stated that in Meriden the rate was $22.50 a week.

Dr. Carter called the Board's attention to the fact that under the law they were to eliminate unfair and oppressive wages and that if a rate is set at $.20 or $.25 an hour, such a condition would exist. For the purpose of discussion, Dr. Carter then suggested a rate of $20.00. However, Mr. FitzGerald stated that it would be too high.

Mr. Sledjeski asked if a public hearing would be held and Mr. Baldwin stated that by law after the recommendations are submitted to the Commissioner, a public hearing has to be held to which all interested parties are asked to attend and voice their opinion. Notice of the date of the public hearing and the recommendations that are submitted to the Commissioner are published throughout the State before the public hearing is held.

Dr. Carter pointed out that if the Board wished to call a public hearing in addition to the one required by law, it could do so.
Dr. Pond brought out that when the survey was made, $15.00 was the median weekly wage for waiters and waitresses and that if that $15.00 was raised considerably higher, it would be a disruptive thing. Yet Dr. Carter felt that if we did not, we would be setting a wage that would be unfair and oppressive.

At this point, Dr. Carter read a letter received by the Labor Department containing a copy of a letter written to the editor of the Hartford Courant.

Dr. Carter
When completed the reading of the above letter, Mr. Sledjeski suggested a rate of $.45 an hour for a forty-eight hour week.

Mr. Celia stated that he did not believe any management had raised his prices because of labor but rather because of food costs and other increases in costs.

Mr. Conti stated that a $.45 an hour rate would be agreeable to him.

Mr. Celia stated that he could not see how we could set a rate that would be less than the lowest minimum that has already been set by this State, that is, $22.00. Mr. Celia thersupon made a motion that a rate of $22.00 be set for full time service employees working between thirty-six and forty-eight hours per week. Mr. Lallos seconded that motion.

(As a result of a vote taken, all members present voted in favor of the above motion with the exception of Mr. Fitzgerald who did not vote in the affirmative. The motion was passed.)

Dr. Carter continued the discussion regarding the part time rate which would be set for hours under thirty-six a week for service employees.
Mr. Celia moved that a rate of $.60 an hour for service employees working under thirty-six hours a week be set. Dr. Pond seconded that motion.

A discussion then followed on this motion.

Mr. Sledjeski and Mr. Conti felt that it should be less than $.60 an hour.

Dr. Carter asked the Board Members how many hours a waiter working on a part time basis would work and Mr. Sledjeski and Mr. Conti stated that such part time workers usually work as many as thirty hours a week.

(Deep to train schedule, Mrs. Harrison left the meeting.)

However, before Mrs. Harrison left the meeting, a vote was taken on Mr. Celia's motion, establishing a part time rate of $.60 an hour and the following persons voted in favor of the motion:

- Mrs. Harrison, Mr. Celia, Dr. Pond, Dr. Carter and Mr. Lallos.

The following were opposed to the motion and voted in the negative:

- Mr. Conti, Mr. Sledjeski and Mr. Fitzgerald.

(Since a majority vote was taken in favor of the motion, it was passed.)

Dr. Carter resumed the discussion on the overtime rates for service employees.

Mr. Lallos stated that in Meriden the overtime rate was time and one-half after forty-eight hours a week for men. In New Haven, Mr. Celia stated that it was $.50 an hour for full time employees.

Dr. Pond moved that a rate of $.60 an hour be established for overtime worked from forty-eight to fifty-four hours a week and a rate of $.75 an
hour above fifty-four hours for service employees. Dr. Pond stated that her reason for making that motion was that a pattern had been set for non-service employees. Mr. Lallos seconded that motion.

(As a result of a vote taken of all members present, the following were in favor: Dr. Pond, Dr. Carter, Mr. Lallos, Mr. Celia, Mr. Conti.)

(Mr. Sledjeski and Mr. FitzGerald voted against the motion.)

However, since a majority vote was taken, the motion was passed.

It was then decided that the Administrative Regulations be studied before further consideration is taken at the time of the next meeting.

It was agreed to hold the next wage board meeting in the Conference Room of the Labor Department on January 12, 1950, at 1:00 P.M.

The meeting then adjourned at 7:30 P.M.
This is to certify that this is a true and accurate copy of the minutes of the fourth meeting of the First Restaurant Wage Board held on January 5, 1950.

Ulysses L. Range
Stenographer

April 27, 1950

Frederick C. Heiring
Notary