“FAIR AND JUST WAGES”: A BRIEF HISTORY OF THE MINIMUM WAGE IN CONNECTICUT

TESTIMONY OF JAMES BHANDARY-ALEXANDER\(^1\)

PRESENTED TO THE LOW-WAGE EMPLOYER ADVISORY BOARD

August 10, 2016

---

\(^1\) James Bhandary-Alexander is the Co-Chair of Low-Wage Employer Advisory Board, Staff Attorney at New Haven Legal Assistance, Inc., and Visiting Clinical Lecturer in Law at Yale Law School.
I. Summary

Since 1931, Connecticut has legislated a minimum wage, in some form or another, in order to ensure the payment of fair and just wages. The process by which the minimum wage was established, who was protected, and the dollar amount have changed over time.

II. Origins of Connecticut Minimum Wage Legislation

Connecticut passed minimum wage legislation for the first time in 1933. The legislature passed this legislation in direct response to the statewide growth of sweatshop labor and the inability of Connecticut residents to make a living on the wages paid for that labor. The legislation passed in Connecticut was shaped and influenced by similar reforms being passed around the country and the world, and its primary purpose was to ensure the payment of “fair and just wages” that allowed working residents of Connecticut to live dignified lives.

A. Larger Context: The rise of Sweatshops and legislative reform

During the 19th and early 20th centuries, countries around the world grappled with problems presented by the growth of the “sweating system.” This system of production was summarized an Illinois state agency in this way:

In practice, sweating consists of the farming out of the competing manufacturers to competing contractors the material for garments, which, in turn, is distributed among competing men and women to be made up. The middle-man, or contractor, is the sweater (although he also may be himself subjected to pressure from above) and his employees are the sweated or oppressed. He contracts to make up certain garments, at a given price per piece and then hires other people to do the work at a less price. His profit lies in the difference between he two prices.2

In other words, the term “sweat” did not refer to literal sweat from hard, physical labor, but to the driving down of worker wages through subcontracting schemes ("sweating"), and the social problems this race to the bottom created.

Sweatshops were an international phenomenon. “Anti-sweating” campaigns developed first in New Zealand and Australia, which led to industry-specific minimum wage legislation being passed in those two countries in the 1890’s.3 This was the modern minimum wage legislation. Similar legislation passed in Great Britain and the first minimum wage in the United States was passed in Massachusetts in 1912. Other states rapidly followed, so that between 1912 and 1923 Oregon, Utah, Washington, Nebraska, Minnesota, Colorado, California, Wisconsin, Kansas, Arkansas, Arizona, North Dakota, South Dakota, Texas, and the District of

Colombia all passed minimum wage laws. Most of the American campaigns in favor of new minimum wage legislation were spearheaded by local chapters the National Consumers League, a reform organization whose mission was to root out sweatshop conditions.

B. Connecticut Conditions

By the early twentieth century, the sweating system had arrived in Connecticut. The state’s Labor Department investigated several sweatshop industries. The Commissioner of that agency explained the system at the birth of Connecticut’s new minimum wage legislation in this way:

“Invariably the headquarters of these shops are in New York. The garments are cut there, shipped by motor truck here to be sewn and shipped back nearly every night to New York, which is the point of distribution. These sweat-shop operators are using every means of evasion, cutting every corner to evade the law. They are here for one purpose, to exploit and gouge these women to benefit themselves from a material standpoint above everyone else.”

During these years, almost 30% of Connecticut’s residents were foreign born, and many were undocumented. According to the 1940 Census, of the 50,000 foreign-born New Haven residents, about a third did not have papers. Another 10% had initiated, but not completed, the naturalization process. Then, as now, immigrant workers and other workers from marginalized communities were particularly prone to unfair exploitation. For example, ninety percent of the workers in the notoriously low-paying lace industry were either Italian or Polish, and most first-generation immigrants.

III. Connecticut’s first minimum wage legislation: The Wage Board System

It was in this context, in which the relative number of low-paying sweatshop jobs was increasing, and in which an international reform movement had established minimum wage legislation around the world, that Connecticut passed its first minimum wage law in 1933.
This law established a procedure to establish industry-specific wage boards that could work with the Commissioner of the Department of Labor to require the payment of fair and just wages. The 1933 legislation did not establish a cross-industry minimum wage like the one we know today.

A. Purpose of the legislation: require payment of fair and just wages.

According to the Connecticut Supreme Court, which reviewed the constitutionality and statutory breadth of the 1933 law several times, the “primary purpose of the minimum wage law is to require the payment of fair and just wages.”

B. How the Wage Board Worked

The original Connecticut Minimum Wage Act granted tremendous power to the Labor Commissioner to investigate, consider, and order minimum wage rates on an industry-specific basis. As the Supreme Court explained:

"The Act provides generally that the labor commissioner, on his own motion or on the petition of fifty or more residents of the state, may investigate the wages being paid in any occupation to ascertain whether any substantial number of persons is receiving less than a fair wage as defined by the act. If it is determined that less than a fair wage is being paid, a wage board is appointed to report on the establishment of minimum fair wage rates. The commission if he accepts the report, must publish it, together with such administrative regulations as he deems appropriate, and give notice of a public hearing. After the hearing, the commissioner must approve or disapprove the report. If he approves it, he is required to make an order defining minimum fair wage rates in the occupation concerned." [Citations Omitted]

Wage boards consisted of three representatives of employers, three representatives of the employees, and no more than three members representing the public. However, that Board simply advised the Labor Commissioner, who had the power to accept or reject the Board’s findings, including the power to order a higher minimum fair wage than that recommended by the Board.

Between 1933 and 1957, many wage boards were formed, including for lace-makers, beauty shops, laundries, cleaning and dyeing, mercantile workers, and restaurants, among others. The boards mandated hourly, daily, or weekly minimum wages on an industry-specific

---

13 Attuia v. Attruia, 140 Conn. 73, pp. 74-75 (1953).
14 Supra note 11, §912(c).
basis. Steadily, conditions in all of those industries improved throughout this period because of state focus on basic workplace conditions and the spread of collective bargaining because of increased union density, but the wage board system itself proved almost impossible to administer.

C. The Problems of the Wage Board System

The Wage Board system had problems. First, the Department of Labor struggled to find wage board members to adequately represent different points of view. Responsible employers, local attorneys, religious leaders, and public employees could serve without too much trouble. But employees were unable to take time off of work or serve without pay on a wage board, and in many industries there were few workers who understood enough English to understand the workings of the boards. The "lack of acquaintance and the fear of losing their places on account of their services on the boards make them reluctant to serve, and timid in conference." Another problem with the wage board system was the length of the process. Wage Boards could take years to make findings, and ensured that "the establishment of minimum wage rates is a long and fairly complicated process." Finally, enforcement was a major problem then as it is now. There were too many establishments to effectively monitor and wage enforcement was underfunded to carry out its mandates. By 1951, the legislature had seen enough and passed an across-the-board minimum wage modelled after the federal Fair Labor Standards Act.

IV. The Enactment of a Statutory Minimum Wage
A. Passage of the Fair Labor Standards Act

In May of 1937, President Franklin Roosevelt urged a federal response to the problem of unfair and unjust wages, the Fair Labor Standards Act. In his statement to Congress President Roosevelt stated:

Our nation so richly endowed with natural resources and with a capable industrious population should be able to devise ways and means of insuring to all our able-bodied working men and women a fair day's pay for a fair day's work. A self-supporting and

16 A fuller discussion of this issue can be found in Jacob Goldberg's paper, Regoverning the Workplace through Administrative Process, on file with the author.
17 Commons & Andrews, 190.
18 Commons & Andrews, 188.
19 Tone Seeks Public Aid on Wage Act, THE HARTFORD COURANT, Jan. 8, 1936.

5
self-respecting democracy can plead no justification for the existence of child labor, no economic reason for chiseling workers’ wage or stretching workers’ hours.

Enlightened business is learning that competition ought not to cause bad social consequences which inevitably react upon the profits of business itself. All but the hopelessly reactionary will agree that to conserve our primary resources of manpower, Government must have some control over maximum hours, minimum wages, the evil of child labor, and the exploitation of unorganized labor.\(^\text{20}\)

The first version of the bill, introduced in 1937, included a provision for a five-member wage board, modeled after the system in states like Connecticut.\(^\text{21}\) However, labor leaders and civil rights groups opposed a wage board system for the federal law, and a statutory minimum was enacted instead.\(^\text{22}\) The federal statutory minimum began at .25 per hour, reached its peak purchasing power in 1968 at $10.69 (2013 dollars) per hour, which constituted 54% of the average hourly wages for all workers. The federal minimum is now $7.25, which in 2013 constituted 36% of the average hourly wages for all workers.\(^\text{23}\)

B. Connecticut Passed its own cross-industry “minimum fair wage” legislation in 1951

In 1951, Connecticut passed new minimum wage legislation modeled on the provisions of the Fair Labor Standards Act, setting a cross-industry “minimum fair wage” of $.75 per hour. The legislation did not eradicate the wage board provisions of the statute, but were meant to compliment the work of the wage boards (which could recommend a higher minimum wage on an industry-by-industry basis), and compliment collective bargaining between employers and their employees.

However, the creation of a cross-industry minimum fair wage, whose purpose was to create a “fair and just” living wage, meant that the tedious work of the wage boards was less necessary, and only a few were enabled after the passage of the 1951 law. The Connecticut minimum wage rate was established at $.75 in 1951 and will be at $10.10 in 2017.

V. Exemptions and Exceptions to the Connecticut Minimum Wage

Although the 1951 legislation protected many of Connecticut’s working people, some types of work were exempted from its protections. The most important original exemptions


\(^{21}\) US DEPT OF LABOR, FIRST ANNUAL REPORT OF THE WAGE AND HOUR DIVISION FOR 1939.

\(^{22}\) The FLSA also regulates child labor, maximum hours (overtime), notice-posting, record-keeping, and contains other technical requirements.

were for agricultural and domestic workers. These exemptions were modeled after exemptions contained in the Fair Labor Standards Act.

These exemptions were political concessions that had the intent and effect of removing African-American workers from the protections of these laws. Sixty-five percent of gainfully employed African-Americans worked in the agricultural or domestic sectors of the economy.24

Southern white legislators did not beat around the bush. Senator “Cotton” Ed Smith from South Carolina tied the minimum wage to anti-lynching legislation:

Antilynching, two-thirds rule, and, last of all, this unconscionable—I shall not attempt to use the proper adjective to designate, in my opinion, this bill [the FLSA]! Any man on this floor who has sense enough to read the English language knows that the main object of this bill is, by human legislation, to overcome the splendid gifts of God to the South.25

Representative Mark J. Wilcox took paternalistic racism to its extreme in arguing, much as some minimum wage opponents do today, that protecting African-American workers through minimum wage protections would actually be unfair to them.

Then there is another matter of great importance in the South, and that is the problem of our Negro labor. There has always been a difference in the wage scale of white and colored labor. So long as Florida people are permitted to handle the matter, this delicate and perplexing problem can be adjusted; but the Federal Government knows no color line and of necessity it cannot make any distinction between the races. We may rest assured, therefore, that . . . it will prescribe the same wage for the Negro that it prescribes for the white man . . . . [T]hose of us who know the true situation know that it just will not work in the South. You cannot put the Negro and the white man on the same basis and get away with it. Not only would such a situation result in grave social and racial conflicts but it would also result in throwing the Negro out of employment and in making him a public charge. There just is not any sense in intensifying this racial problem in the South, and this bill cannot help but produce such a result.

As a result of the need for Southern support for minimum age legislation, many African-American workers were excluded from its protections.

---

24 https://www.ssa.gov/policy/docs/ssb/v70n4/v70n4p49.html
There is a claim made today that minimum wage legislation was intended to privilege white workers at the expense of African-American workers. This is not accurate. What actually happened is that groups like the NAACP fought for a more expansive and stronger minimum wage, and Southern Senators fought successfully to exclude the bulk of African-American workers, men and women, from its protections through the exclusion of agricultural and domestic workers. To the extent the FLSA was influenced by white supremacy, it was in excluding the bulk of black workers from the protections of a “fair and just wage.” Unfortunately, Connecticut recreated these exemptions in their own laws. Thankfully, minimum wage rights were subsequently extended to both these classes of workers, although agricultural workers are still excluded from overtime protections.

There are other categories of workers who may still legally be paid sub-minimum wages under Connecticut law. For example, tipped workers may be legally paid a portion of their wages through gratuities from consumers. This exemption also has its roots in the economics of Jim Crow.

One special feature of Connecticut is that there is a regulatory break given to employers for hiring low-skilled teenagers. Currently in Connecticut, Minors between 16-18 can be paid at a sub-minimum wage for their first 200 hours of employment, as can learners and apprentices, with permission from the state Department of Labor.

VI. Rhetoric and Issues around the Minimum Wage: Yesterday and Today

As part of preparing this report, I looked carefully at the legislative history of Connecticut’s minimum wage, including every major revision since 1933. Much of this information is available at the Connecticut State Law Library. This is a long-standing debate. For example, just in preparing for today, I looked at legislative debates from 1951, 1957, 1959, 1961, 1967, 1971, 1973, 1980, 2000, 2002, 2004, 2008, 2013, and 2014. There are a few questions that constantly recur when talking about minimum wage issues:

1) How are working people at the bottom of the income distribution surviving?
2) How do people live a dignified life if they are not making a living wage?
3) What does it take to pay for life’s necessities in Connecticut?
4) Would a raise in the minimum wage only help teenagers?

27 Sec. 31-6-2.
29 Sec. 31-60-6.
30 Sec. 31-60-7, 60-8.
5) Would legislators have to pay their babysitters the minimum wage if it were enacted?
6) Would increasing the minimum wage hurt job creation?
7) Does increasing wage inequality hurt job creation?
8) Who will buy local goods and services if wages at the bottom are stagnant?
9) Is productivity going up or down?
10) Is it OK for productivity to go up and up while wages remain stagnant?

These are the questions that legislators have dealt with in the past. Some of these questions have factual answers, and some of them are moral judgments. The business associations have often predicted dire negative consequences from increases in the minimum wage, while social welfare groups, non-profits, civil rights organizations, and labor unions have stressed the benefits to low-wage workers of a raise. But whatever our point of view, these are also the types of questions we are asking and answering as individuals and as a group.

Sincerely,

James Bhandary-Alexander

---

31 I was personally quite struck with the testimony against the minimum wage increase presented in Bridgeport by a medium-sized employer that he wanted his employees to be paid well, but that they needed to suffer a bit in order build up their characters. For most us who are wage-earners, of course, the point of our work is to avoid suffering, not to endure it. I do not believe that any non-delusional wage-earner could accept that very low wages are “good” or “moral” because they make us suffer, or that low wages themselves drive us to seek and achieve success. Nevertheless, for this employer, who had become successful, this was an important consideration.