Some Wage Legislation in Kansas

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Legislation concerning wages assumes many forms. Programs for social insurance comprise one category and are designed to provide cash payments during sickness, invalidity, old age, unemployment, and dependency resulting from the death of the family supporter, and may be thought of as deferred or emergency wages. Another form includes attempts to regulate directly the size of the income and is represented by minimum wage laws, and by family wage laws which provide supplementary payments based on the number of dependents. A third form is designed to secure the earnings of workers against certain contingencies by extending to them preferences and safeguards. This study is limited to the third of these, describing the development of Kansas legislation for the establishment of preferences and for regulating the time, basis, and medium of payment.

Legislative efforts to safeguard the earnings of workers have been directed along two different lines; mechanics' lien laws and wage preference laws. Perhaps a somewhat different type is represented by a Kansas law of 1872 which provided that any railroad contracting out the construction of its road must take a bond from the contractor adequate to insure the payment of wages, materials and provisions. The mechanic's lien gives one person a hold or claim upon the property of another, as security for a debt. The debt may be for labor or materials. Such laws have generally been passed by American states early in their history. One was adopted by the first Kansas territorial legislature of 1855. Modifications have been made from time to time. But these are only in part labor laws. Nothing more will be said about them here except to point out that an amendment to the Kansas lien law allowing the worker a reasonable attorney's fee, if successful in a civil action, was held unconstitutional on the ground that it violated the equal protection clause of the federal constitution.

4. Revised Statutes, Kansas, 1929, sec. 60-1401, pp. 847, 848.
5. Laws, Kansas, 1889, ch. 168, sec. 2; Atkinson v. Woodmansee, 58 Kan. 71. This section had previously been interpreted as applying only to attorney's fees in trial courts and not to those in the state supreme court. West v. Lumber Co., 56 Kan. 287.

(384)
Wage preference laws, although coming later than lien laws, are also quite common. There are two different types. One is based on the "danger-flag" theory "that if a debtor allow the law to take hold of some of his property by any kind of process, it is a sign of financial distress, and laborers may immediately come in and secure their wages." The other type applies only "to general receiverships in cases of insolvency, and not to supervenient receiverships for limited or special purposes only." The Kansas act is of the second type. It provides that in case of insolvency, wages due employees other than officers accruing within six months immediately preceding the appointment of a receiver or the assignment of property shall be paid from the first moneys coming into the hands of the receiver or assignee. The act has involved some litigation, but its constitutionality has never been questioned.

The usual law of garnishment prevails in Kansas. But wages for a period of three months preceding an order cannot be garnisheed if they are necessary for the use of the debtor’s family, except in the amount of ten percent plus court costs not to exceed four dollars; and if any debtor is prevented from working for more than two weeks because of illness of himself or of a member of his family, none of his wages may be attached for two months after recovery. No earnings of a debtor who is not the head of a family dependent wholly or in part upon him for support are exempt. If a debt is assigned or given for collection to an agency, then neither the assignor nor the assignee has the benefit of this act. Wages earned and payable outside the state are exempt from attachment or garnishment in all cases where the cause of action arises out of the state, unless the debtor is personally served with process.

**Small Debtors’ Courts**

The cost of employing an attorney is an effective barrier to the collection of unpaid wages and of most small debts by legal action. It was to solve this problem that Kansas enacted in 1913 a small debtors’ court law. Under the provisions of that law, county or

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7. Ibid., p. 491.
11. Ibid., 1905, ch. 523.
12. Ibid., 1912, ch. 170.
city authorities are empowered to establish small debtors' courts to collect sums for wages, work or labor, and other debts, not exceeding twenty dollars in amount. Any court so organized is under the jurisdiction of a judge, who serves without pay for a term of office not to exceed four years. Only those who prove themselves financially unable to employ an attorney are authorized to use these courts. Indeed, lawyers are not permitted to "intermeddle in any manner whatsoever" with litigation of this sort. No costs are assessed or charged to either party. It is not necessary to summon witnesses, but the judge may informally consult witnesses and otherwise investigate the controversy. Judgment is conclusive upon the plaintiff; the defendant may appeal to the district court.

The Kansas small debtors' court law was one of the first of its kind in the United States, being preceded only by that of Cleveland, Ohio. It was, however, developed quite independently of the Cleveland act. Kansas therefore ranks as a pioneer in the development of this form of legislation. And in this connection a misconception regarding the nature of the courts set up under the Kansas law should be corrected. The two authors of the most comprehensive work on American labor legislation say that Kansas debtors' courts are "nothing more than conciliation" bodies. That is not true. Small debtors may sue in such courts and if the judgment is against the defendant the latter must pay or appeal to the district court. Judgment against the plaintiff, as said above, however, is conclusive.

There would seem to be no doubt that small debtors' courts can perform a useful function in the judicial system, especially in the industrial sections of the state. Unfortunately very few of our communities have availed themselves of the provisions of the law. The commissioner of labor reported in 1930 that only a few of the courts existed, and that the effectiveness of these was diminished by the $20 limit. Consequently many requests for assistance in collecting wages continue to be made to the labor commissioner, who, although without legal authority, by using his good offices continues to render valuable assistance.  

14. Ibid.  
16. In 1929, fifty-five claims were submitted to the commissioner and twenty-three settled. A total of $513.44 was collected, or an average of $22.93 per claim. In 1930, seventy-eight claims were submitted and $922.92 collected.—Ibid., 1929, p. 18; Ibid., 1930, p. 26.
TIME OF PAYMENT

It has been said that for many years one of the most persistent demands made by the workingmen of this state was “for the enactment of a law requiring corporations to pay their employees weekly.” Weekly payment of wages was not uncommon at the time the demand was most persistently voiced. In an investigation covering more than 21,000 wage earners it was found that as early as 1888 over seventy percent of the employees in manufacturing and industrial establishments, over sixty-five percent of the packing house workers, and many of the stove foundry and machine shop workers were being paid weekly. Railroad and mine workers, however, were generally paid but once monthly—the wages earned in one month would be paid on the fifteenth or twentieth of the month following. That entailed hardship upon a large number of workers.

After considerable agitation and repeated attempts, an act was finally passed in 1893 which required all private corporations except steam surface railways and corporations producing farm and dairy products to pay not later than Friday of each week all wages earned during the preceding week. In case of violation, the worker was allowed to recover his wages plus damages equal to five percent per month of the wages due for not to exceed six months. The provisions of the act could not legally be waived by the worker. A corporation contracting out its work was made responsible as provided by the law for the payment of wages to the contractor’s employees. Workers entering or maintaining a lawsuit for recovery of wages, if successful, were entitled to a reasonable attorney’s fee. Another act, passed in 1915, required all private corporations to pay wages as often as semimonthly. That act was designed to apply to steam surface railways and farm and dairy corporations, which were not included in the act of 1893. When the general statutes were revised in 1923, the two acts were combined. The law of 1915 was repealed and the original law of 1893 was changed

19. "The worst curse we have is this pay by the month. Pay-day is on the 20th of each month, for work done in the preceding month, thus keeping back twenty days' pay."—Miner's comment, in ibid., First Annual Report, 1888, p. 135.
20. For example, a bill requiring corporations to pay weekly in lawful money, making all earnings due and payable immediately on discharge, and providing penalties, but not to apply to workers receiving an average per diem exceeding $1.50, except miners, was introduced in the 1881 legislature. It passed the house by a substantial majority, but the senate did not get to it.—Ibid., Third Annual Report, pp. 343, 353.
22. Ibid., 1915, ch. 165.
to read that steam surface railway and farm and dairy corporations must pay wages at least semimonthly, while all other private corporations must pay weekly. 23

The problem of requiring payment in full, on dismissal, of all wages earned has also been dealt with. The weekly pay law of 1893 provided that the wages of discharged employees of all private corporations were payable under the same conditions as laid down in that act for the regular payment of wages. Nothing further was done until 1911, when a separate and independent act was passed which required all corporations to pay, within ten days from the termination of his services, the wages of any employee who quit or who was discharged. 24 Payment was to be made at the place of discharge or at any of the corporation's offices in the state designated by the worker. In case of violation, the worker was allowed to recover as damages wages at the same rate until complete settlement for a maximum of sixty days unless action for recovery had been commenced within that time. A further step was taken in 1919 when the discharge provision of the act of 1893 was amended in detail. 25 Wages of a discharged employee were made payable on the day of discharge, and for failure to pay within twenty-four hours after a written demand the employer was penalized by giving the worker a right to collect by court procedure his regular wages until full payment of the original wages due was made. It should be noted that the penalty was in addition to the original one of five percent per month for six months.

The act of 1893 requiring weekly payment of wages was declared void. An attack was first made upon the section allowing an attorney's fee, and the section was declared unconstitutional on the ground that the exception of steam and surface railways and farm and dairy corporations constituted discriminatory classification and consequently violated the equal protection clause of the federal constitution. 26 That decision foreshadowed the ultimate fate of the act. A broadside attack on the law was made in the Livingston case in 1923. 27 In that case it was held that the entire act violated the federal constitution by excepting steam railroads, farm and dairy corporations. We have already noted that the law of 1915 which required all private corporations to pay wages at least semi-

23. Ibid., 1923, ch. 144; Revised Statutes, Kansas, 1923, sec. 44-301, p. 687.
25. Ibid., 1919, ch. 221.
monthly was repealed when the general statutes were revised in 1923. The Livingston decision therefore left Kansas without any law regulating time of payment. The deficiency was remedied in 1931 when a law requiring all private corporations to pay at least twice monthly was enacted.\textsuperscript{28}

The discharge provision of the law of 1893, as amended in 1919, was also declared unconstitutional on the ground of discriminatory classification.\textsuperscript{29} Furthermore, the additional penalty of daily wages until settlement, was held by the court to be not punitive damages, but a fine, and as such had, according to the state constitution, to go into the school fund and not to the worker.\textsuperscript{30} Again, the court found that the amended act applied to any "firm or person," but that its title did not indicate the fact and the act therefore violated the provision of the state constitution requiring the title of an act to indicate every subject therein.

The state supreme court found the act of 1911, which requires all private corporations to pay employees leaving their services within ten days, constitutional.\textsuperscript{31} The penalty provided in that act—daily wages until settlement, but not to exceed sixty days unless action for recovery has started—was considered to be essentially compensatory. In justification of its decision upholding the discharge provision of this act, the court said:

'It is a private wrong to turn off a workman without his pay. It is particularly a grievous thing for a corporation to do so. A corporation is an intangible entity, with many officials and functionaries. A laborer is oft-times mystified in attempting to deal with its numerous responsible heads. He may go from superintendent to manager and from manager to president, if these can be reached, only to be put off or sent on tedious or fruitless journeys to see other functionaries of the corporation before he can get his pay. With an individual employer, the ordinary case is different. The latter, with whom the contract of employment was made, is the individual who discharges the employee, and so is ordinarily at hand or readily accessible to pay when the employee is discharged, and if the laborer's wages are not forthcoming with his discharge, the employee knows at once that he must invoke the aid of the law to collect his due.'\textsuperscript{32}

\textsuperscript{28} \textit{Laws}, Kansas, 1931, ch. 215.
\textsuperscript{29} Livingston v. Oil Co., 113 Kan. 702.
\textsuperscript{30} State constitution, Art. 6, sec. 6.
\textsuperscript{31} \textit{Laws}, Kansas, 1911, ch. 219; Livingston v. Oil Co., 113 Kan. 702.
\textsuperscript{32} Livingston v. Oil Co., 113 Kan. 702, 707. Interest at the rate of six percent per annum is made payable by law for "monthly employees, from and after the end of each month, unless the same shall be paid within fifteen days thereafter."—\textit{Laws}, Kansas, 1889, ch. 164, sec. 1. The rate had been seven percent.—\textit{General Statutes}, Kansas, 1868, ch. 51.
BASIS OF PAYMENT

The two basic units used in computing wage payments are piece rates and time rates. Legislation affecting the use of both has been enacted in Kansas. The regulation of wages by the industrial court is too extensive to be discussed in this study, and the law requiring the “prevailing” rate of wages on public work is more properly discussed in connection with legislation regulating hours of labor. However, it is possible to discuss here the Kansas laws affecting piece rates.

One of the most persistent demands made by the coal miners of Kansas was for a law requiring that coal be weighed before being screened.33 In the 1880’s dissatisfaction with the practice of screening coal before weighing it was so widespread and the discussion and agitation so considerable that a joint meeting of the miners and operators of Cherokee and Crawford counties—the principal coal mining counties of the state—was held. At that meeting it was agreed that a uniform screen in two possible sizes, with an area not to exceed eighty-four superficial feet and with openings not to exceed seven-eighths of an inch would be used in screening coal before weighing it.34 This quieted matters for some time. It is said, however, that the operators did not adhere to their agreement, and dissatisfaction again developed.35 Numerous complaints were made that some operators were crushing the coal before it was screened, that others were using screens of larger dimensions than those agreed upon, and that still others were using larger screen openings. In the early 1890’s the demand for an antiscreen law was practically unanimous on the part of the miners. Many meetings, conventions and demonstrations were held, and many petitions sent to the legislature.36 Indeed, for years every legislative representative elected from the mining districts was instructed to try to secure a mine-run law, and miners kept paid lobbyists in Topeka to further their cause.37 It was not unusual, however, for successful candidates to make absolutely no attempt to secure the enactment of this legislation.

33. Kansas Bureau of Labor, Third Annual Report, p. 320. The advantages claimed for a law of this kind were that it would eliminate much of the friction caused by badly regulated and dilapidated screens, and would benefit the miners financially. As one miner put it: “If we had our coal weighed before it is screened, it would be a large item in our pockets.”—Ibid., First Annual Report, p. 136.
35. Ibid.
36. Ibid., p. 143.
37. Ibid., 1893, p. 119.
Finally, in 1893, a screen law was enacted. It was made unlawful to screen any valuable part of the coal of miners employed at quantity rates before weighing it and crediting this weight to the employees concerned. Miners were empowered to employ at their own expense a check weighman, who was to have the same rights of weighing coal as the regular weighman, who was to take the same oath—"to do justice between employer and employee"—and to be subject to the same penalty for its violation. Penalties were provided for using fraudulent scales or fraudulent devices. Any agreement to waive, modify or annul the provisions of the act was declared to be null and void.

At first the operators opposed the bill. Later they offered an amendment to make it effective three months before the date set in the act. After its passage, they posted prices for mine-run coal, effective four months before the law became effective. The summer price was to be forty-seven cents and the winter price fifty-three cents per ton. The miners claimed that the prices were too low, and would reduce their earnings. A general meeting of miners was called, and it was agreed that if the rates were enforced a strike would be called. That led to a meeting of miners' and operators' representatives, but no agreement was reached. The rates were enforced, and the strike of 1893 was precipitated. A compromise was effected shortly afterwards, resulting in a settlement. But a demand was made that the workers sign "yellow-dog" contracts. That caused further trouble, until the operators finally withdrew their demand.

Many operators completely ignored the law. Injunctions and prosecutions finally placed the act before district courts. In some it was declared to be unconstitutional on the ground that it deprived citizens of the freedom of contract.

38. Laws, Kansas, 1893, ch. 188.
39. It should be noted that contracts for the payment of wages based on the quantity of screened coal produced were not prohibited.—See State v. Wilson, 51 Kan. 32.
40. A bill, identical in language with this act, except that the section providing penalties for fraudulent scales and weighing included the words, "proceedings to be instituted in any court of competent jurisdiction," was introduced in the 1887 legislature—House bill 301. This bill, followed rather closely the Missouri law, and was prepared by the labor committee of the house. It passed the house, sixty-six to twenty-three, with thirty-six absent or not voting. The senate committee recommended its reference to the committee of the whole and suggested that it be passed. A petition signed by 196 citizens of Cherokee county was presented in the senate. An attempt was made to have the bill advanced on the calendar to third reading, but this failed and the bill was not reached on the regular calendar.—Kansas Bureau of Labor, Third Annual Report, p. 320.
42. Ibid., Sixth Annual Report, 1893, pp. 151-157.
43. The State v. A. B. Kirkwood, in the district court of Crawford county: The State v. David Mackie, in the district court of Cherokee county. The opinion in the latter case will be found in the mine inspector's Report for 1885, pp. 139-140. The former case was appealed to the state supreme court, but was never argued.
Crawford county, W. L. Simons, however, upheld the law as a valid exercise of the police power. That case was carried to the Kansas court of appeals. There it was argued that the act violated section one of the Kansas Bill of Rights, which states that "all men are possessed of equal and inalienable natural rights, among which are life, liberty and the pursuit of happiness," and that it violated the due process and equal protection clauses of the federal constitution.44 But the act was upheld as a valid exercise of the police power.

Appeal was taken to the state supreme court.45 The arguments advanced against the validity of the act were the same as in the lower court. The supreme court also upheld the act as a valid exercise of the police power. The act, it held, did not interfere at all with the right of contract, even to contracting for payment of wages on the basis of screened coal. And the court found it useful in several ways: both miners and operators would have information as a basis for bargaining; deception and fraud would be rendered impossible; and data on the coal production of the state would be useful to the public. One justice dissented, holding that the act was intended by the legislature to regulate the wages of miners, and as such was unconstitutional.

It was nevertheless some time after this decision before all mining companies weighed coal before screening it. The mine inspector was forced to take drastic action to compel some operators to install scales for this purpose. Some companies continued for a while to pay on a screen basis.46 By the end of 1900, however, the minerun basis of payment had been universally accepted.47

Two other related matters should be taken up at this point. The first concerns the testing of scales. There has always been a strong feeling among miners that the scales will, whenever possible, be "doctored" in favor of the operator. To guard against any tampering with the scales, the miners long sought to have the mine inspector make an official scale inspector and tester. A bill was introduced in the legislature of 1899 to make the mine inspector ex-officio inspector of weights and measures, but it failed of passage. In 1903, the mine inspector was made ex-officio inspector of weights, measures and scales used at coal mines, and was required to test

44. Mine inspector, Report, 1899, pp. 144, 149 ff; State v. Wilson, 7 K. A. 428.
45. State v. Wilson, 61 Kans. 32.
47. Ibid., 1900, pp. 66-69.
scales once every six months, and authorized to do so oftener. The other matter relates to the numbers placed by miners on the cars they load with coal as a means of identification. It is unlawful to "change, exchange, substitute, alter or remove" any such "check number" with the intent to cheat or defraud, or to place any number upon any other miner's loaded car with the same intent.

The industrial welfare commission never established piece rates. Two special provisions inserted in the factory and laundry decrees of 1922 by the industrial court, however, should be noted here. It was provided in the factory decree that the earnings of workers on piece rates were to be not less than the minimum weekly wage established for that class of workers, and in the laundry decree that workers not employed full time should be paid the full minimum wage, provided in each case that the worker accepted all work or time offered and was subject to the employer's call at least five days each week.

**MEDIUM OF PAYMENT**

Several attempts to regulate the medium of wage payment were made by the Kansas legislature. The demand for such legislation came largely from the coal mining regions, where many of the miners were at one time compelled to trade at so-called "pluck me"—company—stores. A special investigator sent into mining communities in 1886 by the state labor commissioner reported that the system of paying wages in scrip during the interval between pay days had grown to such proportions in Cherokee and Crawford counties "that a large majority of the population, business and working men alike—in fact nearly every person, except those directly benefited—demand that some means be taken to abolish the evil."

Miners, it was said, received in cash somewhat more than half of their earnings, the remainder being drawn in the form of scrip and generally spent in the company store. Some reports place

48. Laws, Kansas, 1905, ch. 544. The following complaint is illuminating: "Scale testing is one of the most onerous and distasteful of the duties of the mine inspection department. No less than four hundred sets of scales have been tested by the inspectors during the past year. In only a very few instances have any of these scales been found incorrect. Having tested weights from one mine to another, sometimes under very unfavorable road conditions, and then to find the scales absolutely correct when you test them, and later on to be called back to the same mine within ten days, and in some instances sooner, to make another test, and again to find the scales weighing correctly; in short, to be hounded from post to pillar by everyone concerned in the scales, at all the different mines, is among the joys of this particular end of the mine inspector's duties in this state."—Mine inspector, Report, 1913-1914, pp. 10, 11.

49. Laws, Kansas, 1905, ch. 214.

50. Kansas Bureau of Labor, Second Annual Report, 1886, p. 200. Two facsimiles of scrip are reproduced on page 204 of this report.

51. For a detailed but limited analysis of this, see ibid., 1892, pp. 31-67.
the percentage of wages paid in scrip as high as 72.\textsuperscript{52} An example of one method of compelling miners to "draw" scrip was given by an ex-mine foreman. "The first of each month the mine foreman is given a list of employees classed into groups, 'good,' 'fair,' and 'bad,' with regard to their custom of drawing scrip during the month, and if he is a wise foreman he sees to it that the miner marked 'bad,' and drawing the smallest amount of scrip during the month, is punished for his negligence . . . ".\textsuperscript{53} Perhaps that example was not typical of conditions as they existed in Kansas coal mining camps at that time, but it does reveal a kind of pressure that was not infrequently brought to bear in many primitive mining communities.\textsuperscript{54}

When scrip was used to purchase goods in the company store, it passed at face value. Frequently, however, the miner wanted cash for other purposes. To secure this cash before the regular pay day, it was customary to draw scrip and to sell it at a discount to anyone willing to purchase it. The camp saloon keeper usually performed the service, and that constituted another serious evil of the system. Estimates of the discount on scrip vary from five to thirty-five percent.\textsuperscript{55} Complaint was universally made that the practice appreciably increased the miner's cost of living, the argument being that miners were compelled to pay higher prices at the company store or take a heavy discount on their scrip.

Legislation designed to remedy the situation was soon adopted. An act of 1887 made it unlawful to give in payment of wages, directly or indirectly, any scrip, token, check, draft, order, or other evidence of indebtedness, payable otherwise than at the date of issue and in lawful money.\textsuperscript{56} The prohibition extended also to advances of wages earned but not yet due. To check the abuses involved in compulsory trading at company stores, it was made unlawful for employers to compel their employees to trade at any particular place of business. Violation was punishable by fine or imprisonment. Apparently the legislature was not willing to uproot completely the entire system, for it provided that any person could, at

\textsuperscript{52} Ibid., 1897, p. 318.

\textsuperscript{53} Ibid., p. 317.

\textsuperscript{54} A recent case is reported from Harlan county, Kentucky. A coal operator there reported that the practice of issuing scrip is widespread. "Asked whether there was any compulsion to make the miners trade at his stores, Mr. Bradley said: 'Well, I just told my miners, 'Now boys, if you don't want to trade with me you can move along.'" When asked about the prices charged in his stores as compared with ordinary stores, he is said to have replied: "Of course my prices are a little higher." --J. C. Byars, Jr., "Harlan County: Act of God?" in The Nation, v. 134, No. 3493 (June 16, 1933), p. 673.

\textsuperscript{55} Kansas Bureau of Labor, Thirteenth Annual Report, 1897, p. 818.

\textsuperscript{56} Laws, Kansas, 1887, ch. 171.
the solicitation of an employee, give orders on any business house, provided he himself was not directly or indirectly interested in the business. And contracts between farmers and their employees were excepted from the provisions of the act. Ten years later this act was amended. It was made to apply only to corporations or trusts that employed ten or more persons.57 The provision allowing employers to give orders on a business house in which they were not interested, at the employee's request, and that excepting contracts between farmers and their workers were dropped.

Almost immediately the constitutionality of the amended act was challenged. A mining company was convicted in the district court for giving a "punch-check" for wages earned but not yet due and payable.58 The case was taken to the court of appeals, and there the constitutionality of the act was affirmed.59 It was held by the court of appeals that the act applied only to corporations, and the decision holding the act constitutional was made to rest on the right of the legislature to amend corporate charters. The section regarding coercing employees to trade at particular stores, however, was held invalid on the ground that it was not within the scope of the act as indicated by its title. One judge dissented, holding that the title of the act was narrower than the text and that therefore the entire act was in violation of the state constitution.

An appeal was taken to the state supreme court. There the decision of the court of appeals was reversed, and the entire act was declared unconstitutional.60 Many defects in the act were found by the state supreme court. The title contained not even a hint that corporate charters were affected, and that was required by the state constitution. The act applied not only to corporations, but also to trusts, and a trust might be composed of persons or firms associated together and might or might not be incorporated. Thus the main contention of the lower court was rejected. Furthermore, the court did not hesitate to say that the act violated the fourteenth amendment to the federal constitution, for the provision limiting the act to corporations or trusts that employ ten or more workers was discriminatory classification and thus denied the equal protection of

57. Ibid., 1897, ch. 145.
58. The following copy of this "punch-check" is taken from State v. Haun, 61 Kan. 146, 149.
the laws. It was "class legislation of the most pronounced character." 61 The act was regarded not only as bad law, but also as bad economics. Such legislation treats the laborer as a ward of the government, and discourages the employment of those talents which lead to success in the fields of commercial enterprise. . . . Those who seek to put a protector over labor reflect upon the dignity and independence of the wage-earner, and deceive him by the promise that legislation can cure all the ills of which he may complain. Such legislation suggests the handiwork of the politician, rather than of the political economist. 62

The chief justice dissented. It was his contention that the act amended corporate charters, and that its title need not state the fact in so many words. "The doctrine of the majority of the court reduced to a finality," he said, "is that . . . corporations are not required to take notice of the general body of the statute law. . . ." 63 And admitting for the sake of argument that the legislature did not have the right to impose the regulations on individuals, partnerships and trusts, it had the right as to corporations, and that part of the act could be segregated from the rest. Furthermore, the chief justice held that limiting the act to corporations or trusts employing ten or more persons was not discriminatory classification. 64

Thus the first attempt to compel the payment of wages in lawful money proved to be unsuccessful. A second attempt was made in 1899. 65 The new act extended not only to corporations and trusts, but also to any person or firm, and required that time-checks, due bills, orders, etc., issued in payment of wages, be payable in lawful money, not at the date of issue as did the previous law, but fifteen days after date, and then only at the option of the holder. Punitive damages of double the amount involved plus a reasonable attorney's fee were made recoverable by the worker. This act was superseded by one of 1917, which makes undated due bills, scrip, etc., payable at the holder's option in lawful money, and dated due bills payable not more than fifteen days after date of issue. 66 Punitive damages and attorney's fee are no longer recoverable.

The constitutionality of the act of 1899, and the modification of 1917, has not been questioned in the courts. The decision which in-

61. Ibid., pp. 154, 155.
62. Ibid., p. 150.
63. Ibid., pp. 164-170.
64. Ibid., pp. 170-178.
65. Laws, Kansas, 1899, ch. 152.
66. Ibid., 1917, ch. 229.
validated the previous act was one of the last cases of the century in this country in which antiscip legislation was held to be in violation of the principle of freedom of contract. In Kansas the constitutional philosophy of the judges of the supreme court, insofar as labor legislation is concerned, appears to have changed considerably in the past thirty years. Indeed, since the date of the decision discussed above, the U. S. supreme court has upheld the constitutionality of an antiscip law. It would therefore appear that the constitutionality of the Kansas act would be upheld by the courts. The abuses against which the legislation was directed have disappeared.

It may be well to take up at this point a related problem. In the coal mining regions of southeast Kansas regular pay days come twice monthly. It has long been customary, however, for miners to draw on their earnings between pay days. For this privilege the companies have as a rule discounted the cash drawn by ten percent. Assuming that the average length of time for which these earnings were advanced was one week, the discount amounted to 520 percent per annum.

The court of industrial relations discovered this practice in an investigation of the coal industry made in 1920 and 1921. Recognizing that some expense was involved in extending the privilege, still the court thought the discount too high. It therefore ordered the following practice. A minimum charge of twenty-five cents was allowed, to cover the expense of making and recording the payments. Where sums drawn exceeded a nominal amount, "like ten or fifteen dollars," a maximum of two percent could be added to the minimum charge. Expressed in terms of rates, the maximum was raised from 570 to 1,700 percent, and the minimum lowered from 570 to approximately 150 percent on large advances. The court realized that this arrangement involved a high discount, but thought it would tend to have a beneficial effect in discouraging workers "from drawing between pay days," which it considered as being "not a frugal, prudent way to do," but necessary in certain circumstances. Since it was customary for miners to draw small sums for odd purposes, the practical effect of the order was to deprive them of the privilege by making the cost prohibitive. Some companies altogether discontinued the practice of making advances in cash after the order.

68. "Orders of Court of Industrial Relations," Docket No. (3859) 1, pp. 1A and 1B, MS.
Conclusion

The problems of time, basis and medium of wage payments have been solved reasonably satisfactorily in Kansas. Improvements in detail could, of course, be made, and some of the detail is important. For example, wage preference laws are of little use when a bankrupt employer's assets are negligible. The principal wage problems now confronting Kansas are different in character and more complex than those herein discussed. But legislation extending preferences and safeguards to wages will continue to be of basic importance.