

THEORETICAL ASPECTS OF WAGE REGULATION, WITH A PRACTICAL
APPLICATION OF THE FAIR LABOR STANDARDS ACT OF
1938 TO SMALL DAILY NEWSPAPERS OF KANSAS

by

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INTRODUCTION

Introduction into the Seventy-Fifth Congress of a bill to provide for the "establishment of fair labor standards in employments in and affecting interstate commerce" raised anew in this country an issue which had been the subject of much controversy among economists the world over for many years. Supporters of the bill claimed the establishment of legal minimum wages and maximum hours would increase the total wage income of the laboring class without any material decrease in employment or other detriment to society. Opponents charged it would result in a decrease in employment and a reduction of the total wage of labor. Less than three years has passed since the enactment of the Fair Labor Standards Act of 1938--or the Wage-and-Hour act, as it is more popularly known--and little of a conclusive nature may be said at this time concerning the effects of the legislation.¹ Indeed, the actual effects which the law has exercised upon total employment and wage income may never be known precisely, for in attempting to determine the results of most economic developments the corrupting influence of economic changes which come normally with the passage of time dilutes the strength of conclusions. The difficulty of isolating conditions and forces in the study of economics complicates the differentiation

1. Fair Labor Standards Act of 1938, 75th Congress, 3rd Session, S. 2475, June 25, 1938; U. S. Statutes at Large, Public Laws, Ch. 676.

between sequence and consequence. To determine, for example, the effect of wage regulation upon wages and employment, it would be necessary to evaluate the influence of all other factors which affected these two things directly or indirectly, including general business conditions during the period under consideration, fluctuation of population, and many other forces.

It would seem possible, however, to approach the problem by the inductive method and thus establish what the effects of wage regulation will be according to accepted principles of economics. One difficulty which this approach presents arises from the fact that economic doctrine appears to be in a transitional stage. A belated recognition is being accorded the fact that the postulates of perfect competition upon which the classical theories of value and distribution were constructed no longer are entirely applicable to the economic system. Only in the past few years have economists begun to adapt theory to the basic economic changes which began as long ago as the industrial revolution.

It was the threefold purpose of this study, first, to apply wage theory to the general issue of wage regulation; second, to make the same application in regard to the economy of the small daily newspaper; and, third, to study some of the effects of and problems created by the Act as it concerns the small newspaper. It should be noted here that the Act embodies more than a mere establishment of a legal minimum wage. The law's restrictions of child labor will be discussed only briefly as they relate to general problems of wage policy and regulation. For the most

part, the limitation of working hours will be considered as a phase of wage regulation, since it operates to increase the price of labor; in a few instances, in which regulation of hours poses special problems and may exercise independent effects upon wages and employment, the phase of the Act dealing with working hours will receive special attention.

The writer found a dearth of recent literature by recognized economists dealing with the application of wage theory to the question of wage regulation, although earlier economists, who limited their discussion to strict classical theory, treated the subject abundantly--if not realistically. Virtually every recent text on general economics includes at least a few paragraphs devoted to the issue, but few of these books submit definite conclusions as to the effect of such legislation, and none treat the subject in detail. Perhaps one recent book which discusses the subject at some length and a recent journal article merit special attention.

In his *Theory of Wages*, Professor J. R. Hicks devotes a section to the issue of wage regulation and finds it impossible to believe such action will improve the position of labor as a group.² Professor Paul Douglas, on the other hand, writes in an *International Labour Review* article that under certain conditions a legal minimum wage might be expected to increase wages without causing a reduction in employment.³ Professor Douglas, however,

2. J. R. Hicks, The Theory of Wages (London, c. 1935) 179.

3. Paul H. Douglas, "Wage Theory and Wage Policy," International Labour Review, 39:319-59, March, 1939.

does not attempt to say how widespread are these conditions or to predict the effects of wage regulation upon the position of labor as a class. These treatments of the subject cannot be discussed at length without a preliminary review of wage theory.

No literature was found which dealt specifically with the theoretical aspects of wage regulation as it affects newspapers.

Discussions relating to the third phase of this study have been limited almost entirely to vocal and printed protests by publishers that the Act was not intended to apply to newspapers. For this reason the student sought to obtain from publishers of small Kansas newspapers frank statements concerning the effects of the Act and the problems it created for them. A questionnaire and a letter were sent to 48 such publishers in Kansas. Only 16 answers were received, but in view of the unsettled status of the newspaper under the Act⁴, this was not considered an unsatisfactory response. The statements regarding the effects which the Act has exercised upon the newspaper economy obviously may not be accepted without reservation, for the publishers who supplied them--extremely fairminded though they may be--are in no position to contemplate the act with complete impartiality. The legislation was intended to improve the position of labor at the probable sacrifice of profits by entrepreneurs, and for that reason employers cannot be expected to view it with complete favor. The publishers' discussions of problems which the Act creates for them, in the opinion of this student--based upon

4. See Appendix A.

newspaper experience--are on the whole accurate and frank. They concern conditions peculiar to the newspaper economy which tend to make compliance with the Act difficult--in some instances virtually impossible--without a sacrifice of vital service to newspaper readers.

THE MARGINAL PRODUCTIVITY THEORY AND WAGE REGULATION

Examination of the Theory

Before we can turn to a consideration of the effects of wage regulation, it will be necessary to discuss briefly the marginal productivity theory of wages, upon which the theoretical aspects of this study will be based.⁵ This body of economic doctrine has supplanted earlier wage theories--such as the subsistence theory, propounded by English classicists during the first quarter of the nineteenth century, and the wages-fund theory, which gained its widest recognition in England during the second quarter of the nineteenth century--not because the theory is unassailable or a complete answer in itself, but because it seems to provide the most logical and complete explanation of the basic forces which operate to determine wages in our economic system.⁶

5. For a more detailed discussion of the theory, see any standard general economics text, or treatment of distribution, e.g., T. N. Carver, The Distribution of Wealth (New York, c. 1921).

6. For a treatment of these wage theories, consult any reliable history of economic thought, e.g., Charles Gide and Charles Rist, A History of Economic Doctrines, tr. by R. Richards (New York); or William A. Scott, The Development of Economics (New York, c. 1933).

The marginal productivity theory, it should be noted at the outset, is predicated on the assumption of perfect competition. Implicit in that assumption are further postulates: (1) that there exists free and complete competition among employers for the services of labor; (2) that labor is mobile; (3) that labor is homogeneous; (4) that there exists free and complete competition among laborers for work; (5) that labor is infinitely divisible; and (6) that employers are able to estimate the marginal productivity of the labor they employ.⁷ These assumptions are made in order to disclose basic forces and determine how these forces may be expected to operate if they are left unrestricted. Once these strong tendencies have been revealed, the economist may recognize that the assumptions made in order to isolate basic forces are not entirely realistic and that the forces do not operate with complete freedom, after which recognition necessary modifications may be made in his conclusions. For the present we shall disregard any elements of unreality in our assumptions. Later we shall have occasion to examine them critically.

In any study of wage determination, ultimate actions in industries and in the economy as a whole are of paramount importance, since they determine the total demand for labor. However, the total demand for labor is the sum of the demand schedules of all the individual business units, and hence the motives which

7. It may be shown that the theory implies other assumptions. For the purposes of this study, however, it will not be necessary to discuss others.

condition the action of the individual firms serve to explain the nature of demand for labor as a whole. It will be necessary, therefore, to turn our attention, from time to time, to the operations of the individual firm. In the following treatment of wage determination, it will be well to keep two other principles in mind. The first is that under the conditions of perfect competition which we have assumed, the individual firm faces a demand curve (for its product) of infinite elasticity, whereas the demand curve for the industry as a whole is negatively inclined. It follows from this that the individual firm, which is an infinitely small part of the industry, has no control over the price of the commodity it produces. It can, however, market at the prevailing price any quantity which it finds convenient or profitable to produce. The second principle is that for the individual firm the supply curve of labor is of infinite elasticity, whereas for the industry it is positively inclined. The individual entrepreneur, therefore, is able to employ at the prevailing wage all the labor he needs, whereas an expansion of labor force by the industry itself may be effected only with the offer of a higher wage.⁸

As a starting point, let us suppose that a given quantity of labor is equipped with fixed quantities of the other factors

8. For a more detailed discussion of the effects of these principles, see any recent treatment of value determination from the standpoint of the individual firm and from that of the industry. e.g., A. M. McIsaac and J. G. Smith, Introduction to Economic Analysis (Boston, 1937) Chapters VI and XI.

of production--land and capital. From this combination we may expect a specific physical product. An increase of the quantity of labor, while the other factors are held constant, may be expected to result in an increase in the product, but, since we cannot escape the effects of the law of diminishing returns, successive additions of labor units will tend to result in successively smaller additions to the total product.⁹ These increments of output constitute the diminishing marginal product--the amount by which one unit, more or less, of the factor will alter the total product.

The employer of this hypothetical labor force, the entrepreneur who has supplied the land and capital with which it is equipped, wants the labor for just one purpose: to obtain its product, which he hopes to sell. Obviously, the return from that sale determines what he can afford to pay his workers. In deciding whether to hire another laborer, or group of laborers, he attempts to estimate the value of the increase in product which would result and weigh this increment against the wages he must pay the additional labor. He cannot afford to pay labor more than its marginal product, for any such excess would have to come out of other functional shares, or--more likely--out of the employer's profits. If he decides the value of the increase in product will be sufficient to pay the additional wage costs, he

9. This is only one aspect of the general principle of diminishing returns. For a more detailed discussion of the principle, see Fred R. Fairchild, E. S. Furniss, and Norman S. Buck, Elementary Economics (New York, c. 1939) p. 354.

will add the extra worker, or group of workers. We shall assume he does.

It now becomes apparent to the employer that he need not pay any of his laborers a wage greater than that necessary to attract the last laborer. It follows from our assumption of perfect competition that the individual manager can hire additional labor without affecting the price of that labor; hence, if his workers are unwilling to work for the wage of the marginal worker, the employer can replace them with other laborers who will accept that wage. On the other hand, wages in the firm will not long remain below marginal productivity. That is not to say that in such a situation the employer will raise wages. He will effect an adjustment by altering the size of his labor force. Since the existence of a wage below marginal productivity means that the employer is buying labor at a price lower than the contribution which marginal labor is making to the total product, it obviously will be profitable for him to take on more workers. This process will continue till the diminishing marginal product equals the prevailing wage. Hence, we conclude that the wage prevailing in the plant will tend to equal the marginal productivity of the labor employed in it.

When we apply this principle to an industry or to the economic system, we observe other competitive forces operating to equilibrate wages and marginal productivity. We saw earlier that the industry faces a positively inclined supply curve for labor, and consequently a higher average wage must be offered if

more labor is to be attracted. If labor is receiving less than its marginal product, employers--seeking to utilize the cheap factor--will have to offer a higher wage, and competition among them will raise the prevailing wage level. As this action occurs, moreover, marginal productivity falls under the pressure of a new force. Since the industry as a whole faces a negatively inclined demand curve for its products, any expansion in output will effect a reduction in price. Thus the marginal product diminishes not only in terms of physical units but in value per unit. On the other hand, wages in excess of marginal productivity cannot long prevail, for--as we saw earlier--employers cannot afford to pay them. They will, instead, contract labor until its marginal product equals the wage.

As the vicissitudes of business affect conditions in different firms and industries, causing marginal productivities and wages to fluctuate, workers--by assumption, homogeneous and perfectly mobile--migrate to those trades, firms and industries in which wages are temporarily improved. Marginal productivity thus is increased in the industries losing labor and decreased in those to which labor is moving. This movement of labor is presumed approximately to equalize marginal productivities and wages in all industries.

On the basis of our theoretical analysis, then, what should we expect to be the effects of the establishment of a legal minimum wage above that which would prevail in what we have assumed

to be a perfectly competitive market?¹⁰ Our review of theory immediately suggests one answer--unemployment. In his Theory of Wages, J. R. Hicks asserts:

A raising of wages above the competitive level will contract the demand for labour, and make it impossible to absorb some of the men available. As the employment of labour contracts, the marginal product of the men still employed will rise; when the marginal product has risen to a level corresponding to the new wage, the increase in unemployment will stop.¹¹

Further consideration of our hypothetical firm will perhaps enable us to observe more clearly the theoretical effects of government wage regulation. With the establishment of a minimum rate, the employer will be forced to pay a wage higher than the marginal productivity of his labor. Stated in another way, he will have to pay his workers more than the contribution which his marginal labor is making to the total product of the firm. Obviously, he will reduce the size of his labor force. In doing so, he will, of course, curtail output and hence reduce gross income. But since the revenue derived from the contribution of the marginal workers is less than the wage the employer must pay, he will decrease his receipts less than his wage costs. He will therefore continue to contract his labor force until its marginal productivity has mounted to a level with the legal minimum

10. Since we have assumed wages are equal to marginal productivity, it would be useless in this discussion of theory to consider the effects of a minimum wage equal to or less than marginal productivity.

11. Hicks, op. cit. p. 179.

wage.¹² Since we assumed that wages throughout industry were approximately equal, we may conclude that the tendency toward a decrease in employment as a result of this process will be universal.

Despite the fact that reduction of output resulting from contraction of labor by the firms in an industry will effect some price increase--since the industry faces a negatively inclined demand curve for its product--it is unlikely a reduction of income will be completely prevented.¹³ The imposition of a legal minimum wage higher than the competitive level may be expected, therefore, to destroy some of the marginal firms--those which under previous conditions were unable or barely able to operate and cover their costs--and further unemployment will be the result.

The effect of wage regulation upon the industry of which our plant is a member will be conditioned by other factors. If the industry is not a highly capitalistic one--that is, if it uses a relatively large amount of labor, rather than capital--the establishment of a higher wage rate will impose a relatively heavier burden. Under these conditions it seems probable that employers, in addition to contracting employment and output directly, will seek to increase the degree of capitalization in the industry. Investment in labor-saving devices, which were too

12. At this point he will cease to lay off men, for extension of the process would create a situation in which--as we saw earlier--his marginal labor would be worth more than he would have to pay for it, and it would be profitable for him to expand his labor force.

13. At least in the short run.

costly to be worth while when labor was cheaper, now will be profitable. Obviously, the effectiveness of this step will depend largely upon the ease with which machinery (capital) is substituted for labor in this particular industry. To the extent that this substitution is possible, the burden of the increased wage upon the industry will be lightened, and to a somewhat similar extent a further decrease in employment will result.¹⁴

In those industries in which offsetting substitutions of capital for labor cannot easily be made, there probably will be an entirely different result. Capital will--it seems reasonable to believe--have strong reasons to migrate to other industries which use relatively less of labor and more of capital. Professor Hicks develops this line of reasoning somewhat further as follows:

Some trades use a higher proportion of labour to capital than others; so that while, in the more capitalistic trades...the burden of the high wages on profits will be small, in the less capitalistic trades it will be much more considerable. Profits will therefore be higher in the first class than in the second, and there will thus be a tendency for capital to shift--from the less capitalistic to the more capitalistic trades.

...a given amount of capital, which enabled a large number of labourers to be employed in the less capitalistic trades, will employ far fewer men in the more capitalistic industries. Although employment expands in the latter, they cannot absorb all the labour which is thrown out elsewhere.¹⁵

14. It might be claimed that this process will lower the price and thus benefit laborers as consumers. It may, indeed, prevent prices from rising as high as might have been the case if capital could not have been substituted, but, if the adjustment could lower cost below the previous level, we must presume it would have been profitable and would have been made before the imposition of the new wage.

15. Hicks, op.cit., pp. 187-188.

Despite the fact that, as we have seen, a decrease in employment will result from the establishment of a minimum wage above the competitive level--assuming perfect competition--it is conceivable that the position of labor as a class might thus be actually improved, that a larger absolute share of the national income might be obtained. Labor's position here is contingent--at least in part--upon the slope or elasticity of its curve of diminishing marginal productivity. Calculated for labor as a whole, the curve may be considered as a sort of composite demand curve. We saw earlier that employers laid off labor until its marginal product was raised to a level with the minimum wage. The rate at which that marginal product is increased as labor is contracted will determine how much unemployment will be caused by a given artificial wage increase. If the coefficient of that curve were unity, then a given increase in the wage rate would result in an exactly proportionate decrease in employment, and the position of labor as a class would remain unchanged. If the coefficient were less than unity, a less than proportionate decrease in employment would be the result, and the total wage income of labor would be greater than before. Those who still were employed could afford to support--conceivably at the new minimum wage--those who had become unemployed, and still enjoy a surplus. But if the coefficient were greater than unity, a greater than proportionate decrease in employment would be the outcome, and labor as a whole would receive less from the higher

wage rate.¹⁶

What, then, is the probable elasticity of the curve of diminishing marginal productivity? Professor Paul H. Douglas--with Professor Charles W. Cobb, Aaron Director, and Mrs. Marjorie Handsaker--has conducted a number of studies on the relations between historical changes in the quantities of labor, capital, and product in manufacturing in the United States, Massachusetts, New South Wales, and Victoria. He believes that the elasticity of the curve for labor in manufacturing is "somewhere between --3.0 and --4.0." Professor Douglas discusses his conclusions as follows:

The fact that the elasticity of the demand for labour seems to be between --3.0 and --4.0 indicates that where unemployment is caused by a wage rate which is higher than marginal productivity, a reduction of one per cent. in the rate of wages should normally lead to an increase of 3 or 4 per cent. in the volume of employment, and hence to an increase in the total income of the workers of from 2 to 3 per cent. If wages are pushed up above the point of marginal productivity, the decrease in employment would normally be from three to four times as great as the increase in hourly rates, so that the total income of the working class would be reduced in the ratio indicated above.¹⁷

In a deductive study, Professor Pigou similarly found that during times of depression the elasticity of the demand for labor

16. It should be noted here that were society to support these unemployed--by, for example, taxes on surplus incomes--the position of labor might be improved, despite an elasticity of more than one.

17. Paul H. Douglas, The Theory of Wages (New York, c. 1934) p. 501.

is "probably not less than --3.0."¹⁸

Our investigation, to this point, has been concerned with wages expressed in monetary units. But, except as those wages differ from those of other workers, the laborer is not--or need not be--greatly perturbed about a low money wage. His real concern is the amount of physical goods which his wage will enable him to buy for himself and his family. In our specialized society, writes Frederick S. Deibler, "one group of workers produces a commodity which is traded in the market for some commodity or commodities that are produced by other laborers."¹⁹ The real problem which faces the laborer, then, is the ratio at which the commodity that he helps produce exchanges for things produced by other laborers.

We noted earlier that any appreciable diminution of output resulting from an artificial wage increase would cause some increase in prices. This was because--even under perfectly competitive conditions--the industry faces a negatively inclined demand curve. The extent to which prices of various commodities advance--relative to any given decrease in production--depends upon the various elasticities of demand for those products. Thus we may reasonably expect that price rises will not be uniform. But it seems highly improbable that the increase in wages will in any case effect a reduction of price, and we therefore

18. A. C. Pigou, Theory of Unemployment (New York, c. 1933).

19. Frederick S. Deibler, Principles of Economics (New York, c. 1929), pp. 487-488.

may conclude that living costs will be somewhat greater--that money prices will be higher--because of the establishment of a minimum wage above the competitive level.²⁰ Hence, not only will fewer laborers be employed, but those who remain at work may find that increased living costs have offset their higher wages.

Recapitulating briefly, we have found that an application of the marginal productivity theory to the issue of wage regulation leads us to the ineluctable conclusion that a decrease in employment and a reduction of the total wage income going to labor as a whole are likely to result from the imposition of a legal minimum wage higher than that which would be established by competition. That conclusion, incidentally, appears to be the consensus of orthodox economists today. We have, however, limited our scrutiny to the superstructure of the theory. We have accepted without question the assumption of perfect competition and certain implicit postulates upon which the theory rests. What revision would be necessary in our picture if we decided that the competitive forces which are relied upon to keep wages on a level with marginal productivity did not always operate with complete freedom?

20. The amount of increase in prices will be contingent upon not only the elasticity of demand for the various commodities, but also the elasticity of demand for labor in the various industries, since this consideration determines in large part the degree to which a reduction in employment and production will result from the wage regulation. Obviously the level of the minimum wage also will be important in determining these results.

Modification of the Theory

It might be well, before we attempt a direct answer to that question, to examine critically our basic assumptions. The first postulate listed in this discussion was that "there exists free and complete competition among employers for the services of labor." This competition served to maintain wages on a level with marginal productivity. Let us suppose, however, that a group of those entrepreneurs who employ a major portion of the labor in an industry or community enter into an argument--explicit or tacit--to refrain from bidding against each other for the services of labor. It is not inconceivable that under these conditions wages might be kept at a level below marginal productivity.²¹ It does not appear improbable, moreover, that such agreements do exist among employers, although their number and the extent to which they affect wages cannot be estimated accurately.²² Men prominent nationally or locally in business have many contacts which would afford opportunity for such agreements,

21. Theoretically, such an agreement would be difficult to maintain, for as long as wages were below marginal productivity it would be profitable for each employer to add more labor. But, as we shall see presently, other factors intervene to increase the possibility of such agreements.

22. Under the conditions of perfect competition, individual firms would be infinitely small parts of the industry, and agreements including enough employers appreciably to affect wages in the industry would be almost inconceivable. In our economy, however, many industries are dominated by a few very large firms, whose wage policies even singly affect materially the wages paid in the industry. The same principle may be true of a few large concerns operating in a community.

and it would be naive to doubt that they would negotiate such pacts concerning wages, prices, and similar issues if such agreements were profitable. Even in the absence of any agreement, the fear of social stigma which may be visited by industrial associates upon the employer who first raises pay rates contributes to the inertia of wages.

In a situation of this sort, according to theoretical assumptions, workers in the low-wage industries or communities would migrate to other positions in which these conditions did not prevail. But our second postulate--inherent in the assumption of perfect competition--"that labor is mobile," is not entirely acceptable. The increasing cheapness of transportation has operated to make labor more mobile, but other factors interfere to freeze labor at its post. The cost of moving from one locality to another still exists and is not inconsiderable. The worker may own his home and other durable property which he would have to dispose of, and the selling price could not be expected to cover the sentimental value of these things. Family ties and those with friends would have to be broken--or badly stretched. Frequently everything the worker and his family hold dear is associated with the city or town in which they live. Before giving up one job in favor of another, the worker must be sure the real wages on the new job will be high enough and continue long enough to compensate for all losses--financial and otherwise. Consequently, the decision to move to a strange place and begin anew is not made easily. Organized labor itself may pose bar-

riers to mobility of the working class.²³ The union practice of charging large sums for membership and the right to work is well known. So also are union requirements as to training and experience. For these and other reasons it is doubtful that the movement of labor always is the completely effective force it is assumed to be in the marginal productivity theory.

We may with reason doubt the complete accuracy of our third assumption, "that labor is homogeneous." The existence of differences in innate ability, training and opportunity is too obvious to be debated. Except in extreme instances, however, this should not introduce serious errors into our theoretical estimates. Labor may be considered in non-competing groups of more or less homogeneous workers, trained for the same job and having an efficiency average from which the bulk of the group's varying abilities do not depart materially. Hicks' method of overcoming this difficulty is to "treat each man as a separate factor of production."²⁴ Either of these modifications of the assumption serves to make it reasonably applicable to all but a few minor situations, one of which we shall examine when we apply the theory to wage determination in the small newspaper plant.

The maintenance of wages below marginal productivity by employer agreements, however, is incompatible with conditions as-

23. It will be noted that this indicates the unreality of our fourth postulate--"that there exists free and complete competition among laborers for work." An examination of this premise could be carried further, but for the purposes of this study it will not be necessary.

24. Hicks, op. cit, p. 28.

sumed in the theory for yet another reason. As we saw earlier, the employer who is hiring labor for a wage lower than its marginal productivity will find it profitable to add more workers until diminishing marginal productivity is depressed to the level of the prevailing wage. If we accept this conclusion, it is difficult to see how--except perhaps in periods of full employment--wage agreements among employers could keep wages below marginal productivity, since such agreements would appear to be against the best interests of the individual employer.

Again, however, it is necessary to examine our assumptions. According to our first postulate--"that there exists free and complete competition among employers for the services of labor"--the individual manager would consider only that his own action in hiring more labor and expanding production would have no appreciable effect on the price of labor or the price of the product. But if this action were taken in the industry as a whole, entirely different results would obtain. Since, as we have seen, the industry is faced with a negatively inclined demand curve for its product, any appreciable increase in output will effect a reduction in price of the product, with the result that the marginal value product will fall much more rapidly than in the case of expansion by any individual producer. Stated differently, the marginal productivity curve for all labor in the industry is much more steeply inclined than the curve which would appear to face the individual employer. The industry itself, moreover, faces a positively inclined supply curve for labor.

This means that in order to buy more labor a higher price must be paid, not merely for the additional units but for all labor used. Thus the wage costs in the individual plant will be increased much more than the individual employer, considering only his own problems, would have anticipated.²⁵ Once the employers in the industry realize what will happen to marginal productivity and wage costs if they all expand to utilize cheap labor, they may decide greater profits will result from an agreement against expanding labor forces and production. In this event, wages might be maintained at a level below marginal productivity.

The fifth of our postulates may be questioned here--the infinite divisibility of labor. Theoretically, labor can be added till wage and marginal product are equal. In practice, however, the process is not so simple, since it is not always possible or convenient to hire half a man, even if labor is plentiful and part-time workers can be found. The decisive factor here is the elasticity of the curve of marginal productivity of labor. If the curve were very elastic--that is, if it were only moderately inclined--the addition of another laborer would not greatly diminish marginal productivity. Thus the wage still might not

25. It is worth noting again here that the assumption--implicit in our discussion of this point--that the individual firm is an infinitely small part of the industry is not always applicable. Many industries in our economy are dominated by a few very large firms. Thus the policy of the individual firm may have a material influence on both the marginal value product and the wage which would have to be paid for additional labor.

materially exceed the contribution of an additional worker. But if the curve were steeply inclined, marginal productivity would be depressed considerably--perhaps below the level of wages--by the addition of another laborer. The difference of one worker in the total number employed would mean the difference between a marginal product well above the prevailing wage and one well below that wage. Thus a substantial disparity might exist between wages and marginal productivity without providing the employer with an incentive to hire another laborer.²⁶

The marginal productivity curve of editors on a small newspaper, for example, probably is very inelastic. Stated differently, the gross revenue of the small newspaper would not be materially increased by the services of an additional editor. One editor might be worth far more to the publisher than the publisher must pay him; but the marginal productivity of the two editors would be lower than the prevailing wage, and therefore their employment would not be profitable. Situations of this

26. That the marginal productivity curve for many types of labor is highly inelastic is not inconsistent with the finding of Professor Douglas, that for labor as a whole the curve probably has an elasticity greater than unity.

sort are perhaps not so rare as first thought would indicate.²⁷

27. Hicks (op. cit., pp. 24-27) deprecates the importance of this weakness and attempts to explain why it is insignificant. He writes: "The marginal product of 15 men (the difference between the total product of 15 men and the total product of 14 men) exceeds the marginal product of 16 (the difference between the products of 16 and of 15)." Referring to these two quantities as the "internal" and "external" marginal products respectively, he says, "Now it seems possible that the internal and external marginal products may differ by an amount which is not negligible; and if that is so, we are only possessed of upper and lower limits within which the wage must lie--limits which may not be close enough for us to be able to use the marginal productivity law as an exact determinant of the equilibrium level of wages." But, he writes, "it is only reasonable to assume that the various employers who are competing for the services of the workmen in a particular trade are differently situated in many respects, and are themselves of varying capacities. And once we make this assumption, it becomes clear that the internal marginal products of the labour employed by different firms are not likely to be exactly equal. If the same wage rules throughout the market, that wage must lie between the internal and external marginal products of the labour employed by each firm; but that is all we can say about the conditions of equilibrium. Now if the wage were slightly increased, it is quite possible that the increase might not be sufficient to give an incentive to every firm to reduce its demand for labour. The new wage might still be lower than the internal marginal product in many firms; but the rise would have to be very slight indeed to leave the demand of every firm unaffected. And similarly for a fall in wages. When there are a large number of firms competing for a particular kind of labour, it is safe to say that the range of indeterminateness due to indivisibility of the workman is too small to be perceptible." Hicks' answer to the objection that labor is not infinitely divisible does not entirely satisfy this writer. In those instances--probably a large majority--in which the number of laborers in a particular group and the number of employers competing for the services of that group are very large, and in which the marginal productivity curve is at least moderately elastic, the variation of internal marginal products among different employers may be effective in minimizing the importance of labor's indivisibility, although even here the immobility of labor would seem to lessen the effectiveness of the force. It is difficult, however, to see how Hicks' reasoning applies to the many instances in which the curve of marginal productivity is steeply inclined,

Returning to our hypothetical firm, let us suppose it has a highly mechanized plant in which each of the many machines and mechanical devices requires the attention of a certain number of men. The marginal productivity curve of this labor force may be expected to be inelastic, for more labor added to the existing plant would be almost superfluous. Wages in the plant might be materially lower than marginal productivity; still there would be no incentive to take on more workers. Of course, more machines might be purchased to utilize additional labor, but this posits an entirely new combination.²⁸

We have one more of our original postulates to examine-- "that employers are able to estimate the marginal productivity of the labor they employ." As a matter of fact, it probably is true that a great many managers are able to estimate with considerable accuracy the marginal productivity of their labor. The process of adding another group of workers and observing actual results affords a reasonably effective method of ascertaining marginal productivity, particularly for those firms which use modern methods of cost accounting. On the other hand, it is hardly conceivable that all employers are able to make this es-

27. (Continued) in which there is a considerable difference between the internal and external marginal products. It would seem to this writer that in order for this force to make the "range of indeterminateness" imperceptible in these instances, labor would have to be almost perfectly mobile, and we know that it is not.

28. Many new requirements would have to be met before more machines would be purchased. For example, the employer would need assurance that the step would be sufficiently profitable to warrant the increased investment. He would have to be reasonably sure, also, that the current conditions would continue long enough to compensate him, at the current rate of interest.

timation accurately, or that all of those who are able habitually do so. Undoubtedly many entrepreneurs have only a vague idea--or none at all--about the amount by which their total product would be increased by the addition of more labor. In these instances, if wages were for any reason to drop below marginal productivity, the employers would fail to realize that profits could be increased by the expansion of their labor forces.

We have found it necessary to revise somewhat the conclusions we reached by strict application of the marginal productivity theory of wages. We examined the major assumptions upon which the theory rests and decided that--while probably none of them is wholly unacceptable--there exists a sufficient lack of applicability in a few of them to make us doubt the complete truth of our first conclusions. We have reason to believe that wages may not always equal marginal productivity. In those cases where they do not, the establishment of a legal minimum wage above the prevailing level probably would not provide employers with an incentive to reduce labor forces. This seems entirely logical when we consider that--unless the minimum wage exceeded marginal productivity--employers still would be receiving as much from their marginal labor as they were required to pay that labor. Whether net unemployment would result for labor as a whole, and whether the wage income of the laboring class would be increased or diminished by this wage regulation would seem to depend upon the extent to which marginal productivity actually does exceed wages in industry as a whole, as well as upon the relationship between the minimum wage established and the mar-

ginal productivity of labor. Obviously, it is not within the scope of this study to investigate those problems. But clearly we may accept the possibility that existing conditions will permit wage regulation to increase the share going to labor.

There are other, perhaps minor, aspects of wage regulation which should merit brief attention. The imposition of a minimum wage by government fiat may be expected to have a peculiar effect upon those who, for one reason or another, are incapable of producing an amount equal to the legal minimum wage.²⁹ When wages are determined entirely by negotiation between managers and workers, there will be found a considerable number whose employment is worth only a very low wage. In periods of normal business activity these persons are able to obtain occasional odd jobs. There is another group the employment of whom will not be profitable at any wage, and these must be supported by relatives or society. The effect of setting a minimum wage above the competitive level must be to transfer the first group to the permanently and wholly unemployable group. This, of course, may be a desirable denouement for both labor and society, particularly if the support of such unemployables is provided for by taxes on surplus incomes.

It seems possible in this regard, that the Fair Labor Standards Act may have an extremely unfavorable effect upon the job

29. This realistic consideration violates the assumption of homogeneity of labor. We have, however, already recognized that that assumption was not entirely realistic.

opportunities of beginners. Employers who are unwilling, or unable, to pay beginners more than their services are worth may decline to hire them at all, taking on instead experienced men whose productivity equals the legal minimum wage. Congress has attempted to provide for this contingency, but not with complete effectiveness. The Act stipulates that the Administrator shall "provide for (1) the employment of learners, of apprentices, and of messengers...under special certificates issued pursuant to regulations of the Administrator at such wages lower than the minimum wage...as the Administrator shall prescribe...and (2) the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates issued by the administrator, at such wages lower than the minimum wage..as shall be fixed in such certificates."³⁰ Rather than go to the trouble of procuring a "special certificate" from the Administrator in Washington, however, many employers will pass up young beginners for the temporarily more productive oldsters. The degree to which this might become a serious problem would depend largely upon the amount of the legal minimum wage in comparison with the marginal productivity of labor as a whole.

The establishment of a legal minimum wage might modify another condition in the labor market. That is the exploitation

30. Fair Labor Standards Act of 1938, loc. cit.

of labor, not by employers, but by the economic system. Under our initial assumption of perfect competition, the individual producer had no control over the price of his product. There was--it was implicitly assumed--an infinite number of buyers and sellers for each commodity, and there was no differentiation of product. Ours is not, however, a purely competitive economic system. With the possible exception of some agricultural commodities³¹, virtually all products of our industries are differentiated to some extent. Producers of most commodities certainly are not "infinite in number"; frequently production of a major portion of a commodity is concentrated in the hands of fewer than a half dozen firms. Our markets are characterized by what has been termed "monopolistic competition."³² In periods when labor is plentiful and cheap, those industries which use a large proportion of labor are apt to expand their labor force and production. A single firm, let us say, sees an opportunity to capture part of its competitors' business by cutting prices and taking advantage of the cheap labor available, perhaps employing more women and children. As other firms follow suit, the price may drop very low and the total output increase considerably. Under these conditions, wages in the industry may be

31. Even in the case of standardized agricultural products, the market is far from purely competitive--because of government intervention, if for no other reasons.

32. See Edward Chamberlin, The Theory of Monopolistic Competition, (Cambridge, 1933), 208 p.; or Joan Robinson, The Economics of Imperfect Competition (London, 1933).

pitiably low and still be on a level with a depressed marginal productivity. The employers are paying their labor as much as the marginal worker is contributing to the value product, and yet those workers might conceivably be receiving less than is required to support them and their families decently.

What influence could we expect legislation of the type of the Fair Labor Standards Act to exercise upon a situation such as this? First, we should expect--from our study of theory and practice--that a decrease in employment and production would result, since by hypothesis wages were on a level with marginal productivity. Second, we should expect children to be laid off first, not merely because their productivity ordinarily is furthest below the legal minimum wage, but because the act drastically restricts the employment of children "in industries engaged in commerce or in the production of goods for commerce."³³ Third, we should expect the employers to continue laying off the least productive workers until marginal productivity equaled the new minimum wage. Whether or not, when this point has been reached, the total wage going to labor in these industries will have been increased, we cannot predict. As we saw earlier, that will depend upon the elasticity of the curve of diminishing marginal productivity of labor in these particular industries. We may be sure, however, that a higher wage level will have been established in the industry, that children no longer will work

33. Fair Labor Standards Act, Sec. 12.

in the shops, and that an indeterminate number of laborers will be shifted to other industries--in which they may have an opportunity to produce the equal of the minimum wage--or will have to be supported by society. Whether these results will be beneficial for labor and society itself, we shall not attempt to say here.

THE MARGINAL PRODUCTIVITY THEORY AND WAGE REGULATION IN THE SMALL NEWSPAPER PLANT

Whatever effects we may expect wage regulation to exercise upon employment in our economic system as a whole and upon the wage income of the laboring class, we may be sure that the results will vary considerably for different industries, and for individual firms within industries. The degree of capitalization, the ease with which capital is substituted for labor, the elasticity of demand for the product, the degree of competition existing, the level of wages, the types of labor--all these and many other conditions vary widely in different firms and industries and prevent uniformity of results.

In this section we shall extend our study of wage theory to the small-newspaper business and attempt to foresee the effects of wage regulation. As a starting point, we may consider how accurately our original premises apply to the economy of the small newspaper. Our major assumption of perfect competition is not applicable. Many--perhaps most--small Kansas newspapers do have some competition, in a few instances from other small dailies in the same city but more frequently from country weeklies

and metropolitan papers. As far as circulation is concerned, however, that competition is limited. The small daily has an obvious advantage over the metropolitan paper in the sale of local news. The big-city papers ordinarily hire correspondents in their circulation area and devote several columns to events occurring in the territory, but they must rely primarily for state circulation upon longer and more complete press association reports, more highly trained and abler editorial writers, more numerous and popular comic strips, and the services of more authoritative and highly-paid columnists and exclusive correspondents in state and national capitals. But even here the small daily can compete strongly. The edition of the metropolitan paper which goes out into the state necessarily has an early press time, and for this reason the small daily frequently is able to obtain and publish later press association news. To offset the advantage provided by the services of well known columnists and capital correspondents, the small paper usually has the services of syndicate writers, including columnists and capital correspondents.

The small daily also has many competitive advantages over the country weekly in the circulation field. Its opportunities for covering local events are superior, since it provides daily stories, and it ordinarily has no competition from the weekly in respect to press association news. The weekly, therefore, must sell a quite different product, particularly short items about commonplace events in the lives of rural readers. To meet this offer, the local daily usually devotes a few columns of its space

to rural news and features.

The small-city daily does have strong competition, in most cases, for job printing business and advertising contracts. Country weeklies are active in both these markets, and regular printing firms get a share of the business in the former. Other advertising media also must be considered. We shall examine these aspects in greater detail presently.

Our third postulate--it will be convenient to consider it here--was "that labor is completely homogeneous." It is probable that in departments, or in small groups within departments, labor in the newspaper plant is to a limited degree homogeneous. If we were to ignore differences in efficiency, we might concede that the linotype operators in a newspaper plant were homogeneous, or that the two or three advertising men employed were somewhat homogeneous. But the small daily employs too few workers of any one type--specialized workers trained to do only one, or perhaps two, kinds of work--to justify the assumption of complete homogeneity.

The postulate "that labor is mobile" is no more realistic in its application to the newspaper industry than to other industries which use specialized labor. Employees are bound by ordinary ties to the town in which they have worked and lived and are as little inclined to migrate to other industries as are other specially trained workers.

The fact that small dailies employ only a few of each type of worker--frequently only one--prevents a realistic application here of our assumption "that labor is infinitely divisible."

The duties performed by a sports editor, for example would have to be considerably in excess of the work a single man could do easily in order to warrant the addition of another such worker.

The assumptions of complete homogeneity and infinite divisibility are so patently inapplicable here that strictly speaking there is no marginal product of labor in the small newspaper plant (except in the very limited sense in which the concept applies to the individual supply of labor). This becomes apparent when we attempt to impute a wage to the pressman or the managing editor. The amount by which the permanent loss of either of their services--without a replacement--would alter the total income of the newspaper would be an amount just equal to the total income³⁴, for the newspaper could not continue to operate without either of them. Obviously, it would be absurd to impute to either of them a wage equal to the firm's total revenue. It would help our calculations little to consider each worker as a separate and distinct factor of production, as Hicks has suggested³⁵, for we still should have to ascribe the entire product to the services of each of these two workers. There is, it must be admitted, no way of estimating accurately the productivity of a worker who performs an indispensable task and who is the only employe of his type on the staff. His worth could be approximated if a wage could be imputed to other workers in the plant and the value of his services roughly compared with theirs. But

34. With the exception of the revenue from the job printing department.

35. See p. 20.

so little homogeneity and divisibility of labor exist in the small newspaper plant that the imputation method is scarcely applicable at all. The question inevitably presents itself here: In the absence of any reliable method of estimating the productivity of the employe, what determines wages in the small newspaper plant? It will be convenient, however, to postpone the answer till we have examined briefly the three remaining assumptions of our theory.

The premise of "complete competition among employers for the services of labor" would not appear entirely realistic in the case of the publishers of small newspapers. Competition among publishers exists, of course, for it is probable that no effective wage agreements exist among publishers of small Kansas papers. But even if labor were completely mobile--and we have seen that it is not--that competition could scarcely be effective in maintaining wages on a position of equality with the productivity of labor when that productivity could not be estimated with any reasonable accuracy.

Our assumption of complete competition among labor for work also would seem to be of limited applicability. The lack of homogeneity and mobility operates to make the postulate unreal. In addition, labor organization poses the same barriers here as we noted earlier--at least in the case of printers.³⁶

The breakdown of these assumptions and of the basic concept

36. See Book of Laws of the International Typographical Union, 1941, published by the I.T.U. in Indianapolis, Ind.

of marginal productivity--at least in their application to this particular industry--indicates that wages in the small newspaper plant are not immediately determined by the method set forth in our discussion of wage theory. It seems reasonable to believe that wages of the small-daily employes are set largely by the dictates of custom and necessity. Wages tend to vary within certain inexact limits decreed by custom for different localities and for labor of different degrees of efficiency. Within that range the wages a publisher will pay vary with the ability of the employe and the exactions of particular situations, including the degree to which the employer must bid against other newspaper managers for that worker's services. Under these conditions we have no assurance that wages at any given time will equal productivity of the workers.

We must not overlook, however, a consideration noted in our discussion of the marginal productivity theory--that money wages do not constitute the only form of compensation for work. We observed that workers frequently are willing to accept certain abstract returns in lieu of cash. Examples of this phenomenon abound in the newspaper office, particularly in the editorial rooms. The pleasure of having one's story published--if only on a piece of paper which will serve as a wrapper for the garbage the next day--provides a strong appeal. The deep satisfaction which creative work affords and the undercurrent of tense excitement which often pervades a newspaper office are examples of considerations which help to supplement the newspaperman's

pecuniary compensation.

The effect of this abundance of abstract returns in the newspaper professions frequently is to make it possible for the publisher--particularly in the case of small newspapers--to attract workers with a money wage somewhat lower than those persons could obtain for other, less interesting jobs which demanded a similar amount of intelligence, training, and experience. That is not to say that a low wage level does exist in the industry. Considered in conjunction with our observation that competitive forces ordinarily relied upon to support wages probably do not work with complete freedom here, however, it clearly indicates the possibility that wages in the industry may not equal those for other types of employment demanding comparable qualifications, and may not equal the value of the employes' services to the firm.³⁷

If wages in the industry actually are less than the productivity of the workers, the imposition of a legal minimum wage--as we saw in our earlier discussion--probably will not cause a decrease in employment but may be expected to increase the total wage going to all labor in the industry.

Other considerations which, as we saw in our discussion of theory, will condition the effects of wage regulation may be applied to the newspaper industry. Faced with the necessity of paring costs, obtaining additional revenue, or sacrificing prof-

³⁷. It should bear repeating, however, that the net advantages of the employment still may be as great as those to be derived in other types mentioned.

its, in order to pay an increased wage bill, the manager may resort to the first two steps jointly and seek to bring about a better adjustment of income and outgo by raising prices.³⁸ The effectiveness of this step will depend largely upon the elasticity of the demand for his products.³⁹

The absence of sufficient reliable data prevents us from determining conclusively the nature of that demand. We can, however, examine the available information. The small-city daily usually sells three different products--advertising space, job printing services, and the information and material printed on its pages.⁴⁰ The experiences of two small dailies in California indicate that the demand for the last of the three named products may have an elasticity of considerably less than unity.⁴¹ One of these newspapers increased its weekly subscription rate from 18 cents to 24 cents. Its circulation dropped 15 per cent,

38. The question may be asked here: If a price increase will result in additional profits, why did the firm not take the step earlier? For an answer to this question see Appendix B.

39. A variation of the price increase is the alteration of product in such a way that the customer is receiving less for his money. Newspapers, for example, may change from a six-day-a-week to a five-day-a-week paper. We shall discuss this point when we turn to reports of Kansas publishers.

40. The last of the three may be classified under the title of "subscriptions" or "circulation." Other classifications might include a greater variety of products. A fourth, although minor, source of income is the publication of legal--official publications and notices which by law must be published in order to become effective.

41. James L. Wick, "Profits from Circulation Lie in Increased Subscription Rates," Editor & Publisher, 73(6):3 Feb. 10, 1940.

but in the ensuing year part of the lost ground was regained, so that the circulation was only 8 per cent less than before the rate increase. The 8 per cent reduction in circulation which resulted from a 33 1/3 per cent increase in price indicates an elasticity of demand of about .24.⁴² A year after the second of the two papers made a similar price change--from 18 cents to 24 cents--it found itself with a circulation only 5 per cent less than before the rate increase, indicating an elasticity of demand of about .15. We cannot say whether competitive conditions under which the two papers operated were similar to those prevailing in small cities in Kansas. James L. Wick, co-publisher of the Niles (Ohio) Daily Times, reports that "both of these newspapers...are in the shadow of larger cities whose newspapers immediately put on drives to sign up carrier-delivered subscriptions at 18 cents a week."⁴³ However, the papers may or may not have had competition from nearby weeklies. Wick cites an American Newspaper Publishers Association bulletin which discussed the effects of 133 increases in circulation rates in 1938.⁴⁴ This writer was unable to procure a copy of that bulletin. Wick's discussion of its contents indicates, however, that the experiences described in it were similar--if not all of

42. The ordinary difficulties in observing the effects exercised by any economic reagent over a period of time are encountered here. Strictly speaking, the concept of elasticity of demand refers to a demand schedule existing at a given period of time. We can only assume that no appreciable change in demand for the newspaper occurred in the period considered.

43. Wick, op. cit., p. 3.

44. Bulletin No. 6891, American Newspaper Publishers Association. (Date of publication not available).

them so successful--as those of the two California papers mentioned. The available evidence, then, indicates that the elasticity of demand which the small daily faces in regard to its circulation probably is somewhat less than unity, perhaps not much greater than .5. This conclusion seems logical when we remember that small dailies sell a differentiated product which their customers are well accustomed to obtaining from some one and which neither nearby metropolitan newspapers nor country weeklies are in a comparable position to supply.⁴⁵

The demand for the other two products which the small daily sells--advertising space and job printing services--would seem to be somewhat more elastic. As we observed earlier, country weeklies and regular printing establishments are strong contenders for printing contracts, and it probably is safe to say that virtually all Kansas dailies face competition from one or both of these sources.⁴⁶ The extent to which a rate increase will drive business to the weeklies or other printers will depend partly upon the reputation which the daily has established. The newspaper may, indeed, provide a printing service so much superior to that of its competitors that it could be said to sell a highly differentiated product.

The small-city daily may meet competition from several dif-

45. It should be noted that in contemplating an increase in circulation rates the newspaper must consider the effect which reduction of circulation may have upon its advertising contracts.

46. This statement is based upon the writer's personal experience, and conversations with and correspondence from Kansas newspaper men.

ferent sources in the case of advertising contracts. Nearby weeklies, handbills, billboards, theater screen advertisements, all vie for the local advertiser's dollar, and the small daily must compete for national advertising with many other media, including radio and the metropolitan newspaper. Advertising expenditures of the local business firm, moreover, are apt to be limited by budget restrictions. If the local daily increases advertising rates, the merchant is likely to greet that action with a corresponding reduction of the space he purchases, at least until a new budget is drawn or until business conditions warrant an allocation of more money for this purpose.⁴⁷ It is entirely possible that the merchant will reduce his advertising expenditures. If the merchant's own competitors also reduce or fail to increase their allotments for advertising, it may be that none of the firms will have an incentive to increase their advertising expenditures until business conditions improve.⁴⁸

Reason and the available information, then, indicate that the demand for the small newspaper's advertising space and job printing service probably is at least moderately elastic, while the demand for subscriptions is somewhat inelastic. In considering what effect an increase in the prices of any or all of those

47. The temporary elasticity of demand for the individual firm thus would be exactly unity.

48. It should be noted that a reduction of advertising space without a corresponding decrease in revenue from this source should improve the newspaper's position somewhat, for the reason that a smaller edition will be made possible in a number of cases, and will, of course, effect a decrease in costs.

three products will exercise upon net revenues, the question immediately arises: What proportion of the small daily's income is derived from each of these three sources? Here again reliable figures are difficult to obtain, partly for the reason that they vary widely among different newspapers. In a great majority of the cases, however, small Kansas dailies probably rely upon advertising contracts for more than half their total incomes. In some instances, this source may provide as high as 85 per cent of the total. Circulation may be expected to produce from about 13 per cent to as high as 35 per cent of the entire income; and job printing from 5 per cent to 12 per cent.⁴⁹ James E. Pollard, basing estimates on information furnished by the Inland Press Association, lists the sources of income and the percentages of total which they supplied for several hundred dailies in 1933 as follows: circulation, 29.90 per cent; advertising, 68.96 per cent; and miscellaneous, 1.14 per cent.⁵⁰ Personal experience and conversations with Kansas newspapermen, however, lead this writer to believe the figures first listed are more nearly accurate for small Kansas dailies. At any rate, we may conclude that the small daily cannot be sure that any substantial increase in net revenues will accrue from advances in the rates for printing or advertising; indeed, he faces a

49. These estimates are made by the writer on the basis of personal experience in Kansas newspaper work and on conversations with newspapermen of the state.

50. James E. Pollard, Principles of Newspaper Management (New York, 1937), p. 322.

strong possibility that revenue will be reduced by these steps. On the other hand, he may have reason to expect a moderate increase in net receipts to result from an advance in subscription rates, but since circulation receipts usually constitute less than one-third of the total income of the small daily, that increase may not be of major importance.⁵¹

One other aspect of wage regulation may be examined as it applies to the small-newspaper economy. We noted earlier in our discussion that the force with which a wage increase would strike different industries would depend partly upon the degree to which the industries are capitalistic and the ease with which capital is substituted for labor in them. Accurate statistical data comparing the newspaper industry with other industries in these respects is lacking. It is safe to say, however, that the small daily newspaper does use at least a moderately large amount of capital compared with labor and that mechanical devices (capital) may be substituted for labor in many instances.

51. As before, the question might be raised: If these steps could be depended upon to increase revenues, why were they not taken before? For the economic theory underlying this point, see Appendix B.

EFFECTS OF AND PROBLEMS CREATED BY THE FAIR LABOR
STANDARDS ACT IN THE SMALL NEWSPAPER PLANT

An effort was made in this study to determine reactions of small Kansas dailies to the Fair Labor Standards Act of 1938, in order to verify our theoretical conclusions and learn something of the problems which the Act has created in the industry. Brief questionnaires were sent to all of the 48 small dailies in the state.⁵² None of those included has a circulation of more than 31,500, and only three circulate more than 7,500 copies.⁵³ The editors and publishers were asked to describe the effects which the Act had exercised upon their newspapers, as to costs, operation of plant, and other aspects of their business. Sixteen statements were received from the newspaper managers and publishers. The material devoted to the effects of the legislation, therefore, can hardly be considered conclusive from a statistical point of view. However, it may be significant. The discussions of problems created, in the opinion of this writer, are for the most part frank and accurate.

A number of the managers were vehement in their assertions that the Act discriminates against them and in favor of small

52. A copy of the questionnaire and the accompanying letter will be found in Appendix C.

53. Information concerning circulation figures was obtained from the 1941 International Year Book Number, Editor & Publisher, 74:4 Jan. 25, 1941.

weeklies and job printing firms.⁵⁴ One of the employers stated:

We are supposed to comply with it (the Fair Labor Standards Act), not only with our daily newspaper, but our job shop as well, while our competition in the small towns is weekly papers and job shops that do not come under it. While we are restricted to forty hours, our competition can work any number of hours. They work nights, Sundays, any time there is work to do, while we have to quit with five days a week, or pay wages for overtime that make it impossible for us to compete on price with our competition. It is the most unfair legislation that has ever been perpetrated on anyone...When we do have a lot of work to do, we pay overtime, but with highly competitive price conditions, it is often better to turn down a job that we will not be able to do in regular hours than to take it at the customary price and pay overtime to do it. Actually we have lost money getting out jobs...And what we think of a law that penalizes one fellow for doing what his competitor is allowed to do would not do to put on paper.

Most of the managers who considered this phase of the problem apparently realized that the solution would not be a simple one. Discussing a proposal to remove the exemption for weeklies with less than 3,000 circulation, one wrote:

I think it would be a great calamity--and would wipe out many such papers, especially those not at county seat towns. The weekly papers...from neighboring towns, several of which did not carry \$10 worth of advertising, probably would be forced to quit. Their suspension would be a serious blow to those towns, depriving merchants of their only method of economical advertising; depriving churches, schools, clubs, lodges, etc. of their only means of publicity, and removing the biggest force holding the community together.

54. Since they do not operate in interstate commerce, small printing firms are exempt from the act, while weekly newspapers which have a circulation of less than 3,000, the major part of which is within the county where printed and published, are specifically exempt. See Sec. 12, Paragraph (a), No. 8, Fair Labor Standards Act of 1938.

This publisher suggested that small dailies should be exempted along with the weeklies and proposed that a circulation of 5,000 be the "stopping place," rather than 3,000, "as most papers with circulation of 5,000 or more are printed in larger communities where many other businesses are covered by the Wage-Hour act, while the number in businesses covered by the act decreases rapidly in proportion to decreases in population; if I am correctly informed."⁵⁵

The objection most frequently expressed by the newspaper managers concerned the difficulties encountered in applying the wage and hour regulations to the editorial staff. We noted in our application of wage theory to the newspaper industry that because of the many psychic returns to be gained, newspapers seldom have lacked a plentiful supply of editorial workers. These journalists--and beginners--apparently weighed the prevail-

55. While it is not the purpose of this study to interpret the Fair Labor Standards Act or solve the problems it creates, a suggestion might be made here. The act regulates the hours and wages of employes "engaged in (interstate) commerce or in the production of goods for (interstate) commerce." It would seem that job printers in small newspaper plants are no more engaged in the production of goods for interstate commerce than are the employes of local job printing establishments. This opinion would seem to be supported by the law's definitions of the terms in the above quotation and by the fact that the Wage-Hour division has permitted the exemption of certain employes in firms which are deemed to be covered by the act. The writer knows of no instances in which managers have sought to gain exemption of printers in their job shops, but it does not appear entirely impossible that such exemptions could be obtained, although the action might require a court decision.

ing long hours and moderate wages against other compensating factors and decided that the "net advantages" of employment in the industry were equal to those obtainable elsewhere. The principal reason reporters have been required to spend long hours on the job, almost since newspapers first began to flourish, is that news events cannot be expected to occur according to schedule. The man in Room 13 cannot be counted on to murder the chamber maid at a moment when the city editor will find it convenient to send out a reporter. Hence, it always has been necessary to keep at least a part of the editorial staff "on the job" from 12 to 16 hours a day, although it frequently occurs that the reporters have nothing to do during part of that time. Illustrative is the statement of one editor and general manager of a Kansas newspaper:

I went to the barber shop this morning, and one of the reporters came and got a haircut. Naturally, he did not dock himself for that time, and all over the office the same thing happens. Several of the employes go out in the morning on our time to get breakfast, and they all look after their own affairs more or less during the day. It always has seemed to us that the wage and hour act was all right so long as it applied to mechanical workers, but it is not with creative workers who are using their heads and are more or less on their own.

Compliance with the Fair Labor Standards Act requires that much of this procedure in the newspaper office be radically changed. For the metropolitan newspaper the adjustment was not so difficult. Hours were reduced to the legal maximum, and shifts were staggered in such a way that at least a skeleton

staff always was on duty and prepared to handle whatever stories might break. Editorial staffs were informed by the management that the traditional privileges of the carefree reporter had been destroyed. Reporters were expected to keep busy during their telescoped hours.

For the small-city daily, the adjustment was not effected so easily. Most of the papers published six days a week, and a nine-hour day was not considered unusually long for an editorial worker to be on the job. With the passage of the Fair Labor Standards Act, that week had to be reduced to 44 hours (now 40 hours) if over-time pay was to be avoided. The staggering of the shifts of a small staff was difficult, particularly since the reporters and departmental editors were specialized and not always able to cover the beats of others on the staff.

Many of the Kansas editors and publishers who made statements for this study reported that this problem still remained unsolved in their offices. Some said they had no way of knowing how long the reporter was "on the job" when he was out of the office. Although, none of the publishers mentioned their advertising salesmen in this respect, the problem probably would include these men. Others said they found it difficult to comply with the act when their staffs persisted in ignoring it. This, however, would scarcely seem to be a major problem in compliance. Many observed that the only solution was to make their reporter-

ial staffs "more efficient."⁵⁶ A few of those responding, it should be noted, said they had complied with the Act and had solved all the problems which it created.

Newspaper managers were requested to estimate the amounts by which their payroll costs had been increased by the Act. The response to this request was inconclusive. Five of the respondents provided specific figures of percentage increases, ranging from 1 to 12½ per cent. One editor-manager wrote that because of the Act, and other federal legislation, "our business no longer can begin to make a fair return on the investment." Others said they had been able to avert increases in payroll costs, but only with a resulting impairment of efficiency. A few said simply that no increase in costs had resulted for them. If the statements of this latter group are strictly accurate, we may infer that they already were working their employes under conditions which the Act sought to bring about, that they were able to make successful substitutions of capital for labor after the law became effective, or that they suddenly effected efficiency-increasing adjustments which could advantageously have been made earlier.

56. This writer was inclined to ask here, if many opportunities for improvement of efficiency had been available, why had they not been utilized earlier. It may be, of course, that a severe shock of this kind was needed to set the machinery in motion.

A variation of the price increase, which we studied in the preceding section, is the reduction in the standard of the paper.⁵⁷ Since the reduction ordinarily is made without an accompanying price decrease, it must be regarded as the equivalent of a price advance. This alteration of product is best illustrated by the change from a six-day-a-week to a five-day-a-week paper, with no reduction in rates for circulation or "standing" advertisements. The usual procedure is to drop the Saturday edition, which ordinarily produces the least revenue and occasionally is published at a loss. The five-day week allows the publisher to work his employes eight hours a day, stagger shifts, and thereby decrease the amount of overtime he must pay. The shorter week, however, has its disadvantages. Circulation may fall off materially, with a resulting loss in revenue--not only from circulation itself but also from the loss of advertising contracts which might be withdrawn when circulation falls. This would appear to be particularly true of those small dailies which face strong competition from metropolitan dailies, which usually publish seven days a week.

A recent editor and publisher survey of "more than 300 daily newspapers which do not publish on Saturday or Monday" asserted that two "important trends in the daily field--the elimination of unprofitable Saturday or Monday editions, and the sub-

57. Again it might be asked: Why was not such a step taken earlier? For a discussion of this point, see Appendix B.

stitution of successful Sunday papers in some cities--have been accelerated by publishers seeking to solve the problem of increased production costs, particularly those imposed by wage-hour regulations."⁵⁸ With regard to savings effected by papers which adopted a five-day week or started a Sunday issue, "10% was the figure generally given..."⁵⁹

Two of the publishers submitting statements for this study reported they had dropped one edition and were publishing only five days a week. Two others stated they were "contemplating" a five-day week, while a number of others said they found it difficult to publish six editions a week under the Act.⁶⁰ In order to obtain legal publications and notices required to be published in a "daily" newspaper, certain Kansas publishers secured legislation by the 1941 state legislature defining a daily as a "newspaper published at least five consecutive days each week..."⁶¹

Publishers answering the questionnaire described other ways in which they have reduced the standards of their papers. Several reported they were using more illustrations. This may be

58. Walter E. Schneider, "Wage Law Increasing Trend to 5-Day Week by Small Papers," Editor & Publisher, 74(12):3. March 22, 1941.

59. *ibid.*

60. One Kansas daily became a semi-weekly publication during the period since passage of the act, but the writer was unable to learn whether the action was due to Fair Labor Standards Act's regulations.

61. Amendment to Sec. 64-102 of the General Statutes of 1935; approved April 3, 1941, Forty-Ninth Regular Session of the Kansas Legislature. See Session Laws of 1941, Ch. 295.

expected to reduce costs in a number of ways. Most printing plates for cartoons, pictures, and other illustrative material are made by the use of papier mache "mats" which serve as molds over which molten metal is poured and cast. The process requires less time than it takes to set a similar amount of copy and thus saves the time of linotype operators, as well as reporters, copy-readers, and proofreaders. Obviously, however, the editor must exercise care not to fill his paper with too much of this material. Many Kansas dailies are using more stereotypes, not merely for illustrations but for "straight matter" as well. The drawback here is that the plate may not always print so clearly as the type.

Another device by which Kansas publishers reported they have lowered the standards of their papers--and thereby cut costs--was the "tight paper." They are running more advertising in proportion to other type--news, features, pictures, editorials and similar matter. When the advertising, for example, runs heavy enough to fill a "tight eight" or a "loose ten," the decision is in favor of the "tight" eight-page paper. Some "time copy" is held over, other type perhaps thrown away, and everything is squeezed into eight pages. The shorter paper requires less newsprint and ink, avoids wear and tear on equipment, and saves the time of both the editorial and mechanical staffs. Usually, of course, the paper is less attractive and worth less to the subscriber.

Many other steps may be taken to effect cost reductions at

the expense of the paper's quality.⁶² More speed may be required of reporters and editors, at the sacrifice of good writing and editing. Time may be saved through less careful proofreading and the failure to correct some of the less important typographical errors which the proofreader does note. Attractiveness of typography may be sacrificed by a make-up man who "throws the paper together" without experimenting with different combinations, or without rearranging the front page to accommodate a last-minute story. A story which breaks just before deadline may be omitted and less important stories may not be covered at all. All of these actions lessen the paper's service to its readers and in effect entail an increase in price with reference to any standard unit of service.

Statements from the publishers would seem to support our theoretical conclusion that the act may restrict the opportunities of beginners in newspaper work. One publisher wrote:

For the first time since I have been in business I have no apprentices coming on, as there is too much red tape to start one, and if we have to pay a beginner 30¢ per hour, will hire no beginners. Also in the front (business) office at 30¢ an hour will not take a beginner out of high school but go ahead and hire an older and more experienced person.

Another publisher wrote, in this regard:

In actual practice we think the law works hardships on young men and women who are attempting to get experience, for we seldom give them a chance at a job any more, whereas we used to let them work during the summer and even started them at reasonable wages in

62. None of the steps discussed in this paragraph were listed by publishers who wrote that they had "reduced the standard of the paper," but it is probable that many of them are being resorted to.

the hope that eventually they would learn enough and stay with us sufficient time so that we would be paid for the loss we incurred when we first put them on the job. Naturally, when we have a job for a beginner we do not give him more than forty hours, and there is a tendency to pay the minimum.

A number of the publishers wrote that they did not believe the congressmen who adopted the Act intended it to be applied as it is. One of the respondents said:

In discussing the matter with members of Congress I have never been able to find one who admitted that he expected the law to be administered as it is... Most congressmen insist that when they adopted the law they expected it to be "a floor for wages, a ceiling for hours and a break for children"...No one individual objected to that, and it was not until the administrators began to interpret the law according to their own notions that it became dangerous to all business.

Believing as they apparently do that the Act is not being applied as it was enacted, Kansas publishers are evincing interest in plans which, in effect, enable employers to work their labor more than the legal maximum of 40 hours a week without paying the workers any more than they previously received. The plans apparently conform with the letter of the Fair Labor Standards Act as it was enacted but undoubtedly fail to comply with the law as it has been interpreted by the Wages and Hour Division.⁶³

The belief that some limit should be set on the time for which an employe can claim back wages was expressed by one publisher responding to the questionnaire. He wrote:

The average small daily in Kansas is living in fear of being wiped out by the Wage-Hour law unless the law is amended or given different interpretations,

63. For a discussion of the Division interpretation of the overtime payment plan and other methods of computing overtime, see Appendix A.

due to the possibility that some employee might see a chance of getting a lump sum in back pay for overtime during the period following the passage of the act, a period during which many papers, thinking they did not come under the provisions of the act, were slow about reducing hours, especially on reporters, etc. Owners of the papers are in constant fear that should they discharge for just cause any unsatisfactory employee, he might go back to the date the law became effective and collect a comparatively large sum which he did not earn but which would break the newspaper... It seems absolutely necessary that a limit be placed on the time claims for back pay may be filed. A limit of six months seems ample for any employee to make up his mind that he is entitled to additional pay and a three months' limit would be better.

This "fear" was made all the more real in the minds of small publishers in the state by news that one publisher of a small Kansas daily actually had to face such claims by one or more of his employes and that he settled out of court for an amount "in excess of \$700."⁶⁴ The presence in a newspaper office of an employe whose services would be dispensed with if it were not for the fear that he would claim back wages, not only for himself but for other employes, might well disrupt the organization of the plant, disturb the amicable relations between manager and workers, and seriously impair the efficiency and service of the paper. It might be observed that the publishers should have foreseen such a contingency and complied with the act immediately. However, it is not the purpose of this writer to sit in judgment on the case of the newspaper publishers.

64. This writer obtained no statement from the publisher under discussion. Information given here was gained from other newspapermen of the state who purportedly were told of the wage claims and settlement by the publisher himself.

SUMMARY AND CONCLUSIONS

In the three sections preceding this concluding one, we (1) applied the marginal productivity theory of wages to the issue of wage regulation, (2) studied the effects which a modified marginal productivity theory led us to believe general wage regulation would exercise upon employment and wages among small newspapers, and (3) examined actual effects of and problems created by the Fair Labor Standards Act of 1938, as reported by editors and publishers of small Kansas dailies. Our major conclusions may be summarized briefly as follows:

Acceptance of the postulates of the marginal productivity theory implies recognition that establishment of a legal minimum wage above the competitive level will result in a decrease in employment and a diminution of the total wage income of the laboring class. For, according to that theory, wages under conditions of perfect competition tend to equal the marginal productivity of labor. Imposition of a minimum wage in excess of the marginal product will force employers to contract their labor forces until a rising marginal productivity reaches the level of the minimum wage. We noted studies which indicated that the demand for labor probably has an elasticity greater than unity and that hence net unemployment probably will be sufficient to reduce the total wage going to labor. Effects, however, will not be uniform among particular industries and firms,

but will be contingent upon the degree of capitalization, the ease with which capital is substituted for labor, the elasticity of demand for the product, the degree of competition existing, the level of wages, the types of labor, and other conditions which may be expected to vary among different concerns and industries.

We were forced to modify those conclusions when we recognized that certain assumptions upon which the marginal productivity theory is constructed are not entirely realistic. Those postulates, inherent in the assumption of perfect competition, were: (1) that there exists free and complete competition among employers for the services of labor; (2) that labor is mobile; (3) that labor is homogeneous; (4) that there exists free and complete competition among laborers for work; (5) that labor is infinitely divisible; and (6) that employers are able to estimate the marginal productivity of the labor they employ. We found a sufficient element of unreality in all these premises to warrant the statement that wages in our modern economic system may not always equal marginal productivity. In those instances in which they do not, imposition of a legal minimum wage probably will not effect a contraction of the labor force. Whether net unemployment will result for the nation as a whole, and whether the wage income of the laboring class will be diminished by the establishment of a minimum wage will depend upon the extent to which wages actually are lower than marginal productivity--which, our realistic considerations indicated, may

be expected to vary among different workers, industries, and firms.

Examining minor aspects of wage regulation, we observed that legislation of the type of the Fair Labor Standards Act might be expected to restrict the opportunities of those who are unable to produce an amount equal to the minimum wage, and saw how this fact might affect beginners. Our final conclusion in the section was that wage regulation might be expected to moderate the exploitation of labor, not by capital but by the economic system.

In the next section we attempted to determine what effects wage regulation would exercise upon small newspapers. Applying the assumptions of the marginal productivity theory, we noted that they were not entirely congruous for the economy of the small daily. The postulates of infinite divisibility and complete homogeneity of labor appeared so manifestly inapplicable that we concluded there is no realistic marginal product of labor in the small newspaper plant and therefore no reliable method of estimating the productivity of labor in this type of firm. This observation, supported by a recognition of the abundance of abstract returns to be realized in the newspaper industry and the resulting ease with which the publisher is able to attract labor with a relatively low wage, led us to admit the possibility that wages in the small-newspaper field may not always equal the productivity of labor. As in the instance of industry as a whole, therefore, we concluded that the imposition of a legal

minimum wage may not result in net unemployment in the newspaper business and may increase the total wage income of labor in that industry.

We examined the adjustments a publisher might effect in an attempt to avoid reduction of profits and concluded that the elasticity of demand for his products was such that he might expect his position to be improved somewhat by an increase in subscription rates but that an increase in advertising and job printing rates probably would help little. He could, we decided, substitute capital for labor in a number of instances.

In the next section we examined statements from Kansas publishers in regard to the effects of the Fair Labor Standards Act upon their businesses. As might be expected, a wide diversity of opinion was expressed. Some of the publishers were outspoken in their assertions that the Act was highly discriminatory. Others appeared sympathetic with the underlying purposes of the legislation but dissatisfied with the Wage and Hour Division's interpretations and administration of the law. None expressed complete sympathy with the Act as it has been interpreted.

While the effects and problems discussed overlap somewhat, most of the major ones may be included arbitrarily among four principal effects claimed and two specific problems.

Several of the small dailies responding to the questionnaire drawn for this study reported that the Act put them at a severe disadvantage in competing for job printing contracts with

small weeklies and job printing shops--both of which are exempt from the regulations of the Fair Labor Standards Act. Because of overtime payments which may be necessary, the small dailies have "lost money" on some printing jobs and rejected others rather than pay overtime.

Estimates of wage bill increases submitted by newspaper managers ranged from 1 to 12½ per cent. Others said they had been able to avert increases in payroll costs but only at a sacrifice of efficiency and service, and one stated that "our business no longer can begin to make a fair return on the investment." A few said simply that no increases in costs had resulted for them.

The reports indicated that the trend to five-day papers--regarded by some observers as one of the most significant movements in modern country journalism--has made some little headway in Kansas, partly as a result of the Fair Labor Standards Act. Two papers reported they had dropped one edition and were publishing only five days a week. Two others said they were contemplating the step, while a number of others said they found it difficult to publish six editions a week under the Act. Respondents to the questionnaire reported many other ways in which they are effecting cost reductions by lowering the standards of their papers. We noted that in effect these adjustments involve an increase in price per unit of standard product.

Another effect of the law, foreseen in our discussion of theory and reported by Kansas publishers, was the handicap im-

posed on beginners. Several publishers stated that since enactment of the law they had virtually ceased hiring youngsters whose productivity was below the minimum wage.

Perhaps the most significant specific problem mentioned concerned the application of the Act to the editorial staffs. We saw that reporters and editors are creative workers who are accustomed to being "on their own," spending exceptionally long hours on the job, but taking part of that time for their own affairs, and we noted that in the case of small papers shifts could not easily be staggered in such a way that news events in all departments could be covered during most of the day. A few editors, it was observed, reported they had encountered and solved this problem, but most of them said they had discovered no solution.

The other specific problem discussed results from the absence of any limit upon the period during which an employe may claim back wages. One publisher declared that "the average small daily in Kansas is living in fear of being wiped out by the Wage-Hour act unless the law is amended or given different interpretations, due to the possibility that some employe might see the chance of getting a lump sum in back pay for overtime during the period following the passage of the act, a period during which many papers, thinking they did not come under the provisions of the act, were slow about reducing hours, especially on reporters, etc." He observed that an employe discharged for just cause might take this action.

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APPENDIX A

Section 7 of the Fair Labor Standards Act of 1938 stipulates that

no employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or in the production of goods for commerce--...for a workweek longer than forty hours... unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

The Wage and Hour Division interpreted "the regular rate at which he is employed" to mean the regular rate at which he has been employed and used the employe's previous wage rate as the base rate for computing overtime. Thus, if a newspaper employe had received \$25 a week and had been working 50 hours a week, his regular rate of pay would be considered 50 cents an hour. If he continued to work 50 hours a week, overtime would be due him for the ten hours in excess of the 40-hour maximum. Since he already had received pay for the ten hours at the regular rate, he would be able to claim additional compensation for the ten hours at a rate of one-half that wage or \$2.50.¹ The division has stated that overtime compensation must be computed by this method. Employers have proposed two principal methods of avoiding overtime payment to salaried employes. In an interpretative bulletin, the

1. For detailed information concerning the Wage and Hour Division's interpretation of maximum hours and overtime compensation, see Interpretative Bulletin No. 4, November, 1940, United States Department of Labor, Wage and Hour Division, Office of the Administrator.

Wage and Hour division quotes an opinion of the office of the General Counsel, "which demonstrates the illegal nature of these methods":²

"The employer, by one plan, will announce that henceforth the employee is employed either at the rate of 30 cents an hour or at an hourly rate in excess of the minimum. But each week the employer will pay the employee a 'bonus' to make up the fixed salary. Obviously, the employee will not actually be paid at the rate adopted by the employer for overtime calculation. His regular rate of pay for overtime purposes must be based on the total weekly earnings including the bonus.

"The employer eliminates the 'bonus' feature in the second method. If the employee works an irregular number of hours the employer proposes to adopt a different rate each week upon which to compute overtime. Each week the employee's earnings, on the basis of the adopted rate for 42 (now 40) hours and time and a half such rate for the excess hours will equal or approximately equal the fixed salary..."

To illustrate the first plan, we may take the case of the newspaper worker referred to above. He was being paid \$25 for a 50-hour workweek. The employer now enters into a contract with the worker agreeing to pay him 40 cents an hour, ten cents more than the minimum, for the first 40 hours, and one and one-half times that rate for the next ten hours--whether or not the employe actually spends the 10-hour overtime period on the job. This provides a \$22 total, but the employer further agrees to pay the worker a "bonus" to increase the compensation to a guaranteed salary of \$25. Thus the employer avoids the \$2.50 weekly overtime payment which was due the worker according to the Wage

2. Loc. cit.

and Hour division method. Using the second of the two methods, the employer would agree to pay the same worker 45.6 cents an hour for the first 40 hours and time and one-half that rate for the next ten hours. The total would be approximately equal to the original fixed salary of \$25.

Despite the fact that the division implicitly states that these two plans are illegal evasions of the act, the legal status of the methods is not at present clear. On February 4, 1941, Federal Judge William H. Atwell upheld the Dallas News in its use of the second method described above.³ The litigation involved two separate suits, one in which the A. H. Belo Corp., which publishes the Dallas Morning News, sought a declaratory judgment--in the United States District Court for the Northern District of Texas--approving the use of its overtime payment plan. The second suit was brought by the Administrator in an effort to enjoin the corporation from violating the act. Judge Atwell granted the plaintiff the declaratory judgment it sought in the first suit; in the second he ordered the bill dismissed.

The decision was appealed by the Wage and Hour division, and in an opinion delivered June 27, 1941, the Fifth U. S. Circuit Court of Appeals upheld Judge Atwell's ruling. In substance, the appellate court's decision was that concerns paying salaries which provide wages equal to or greater than the legal minimum wage are complying with the law, whether or not the

3. For further details of this litigation see Editor & Publisher, "U. S. Upholds Daily Using Own Overtime Plan," 74(6):4 Feb. 8, 1941.

method of computing the wage is consistent with the method prescribed by the Wage and Hour division. The opinion, written by Judge Samuel Sibley, denied the government contention that wages paid by the Dallas News were fictitious and adopted for bookkeeping purposes only, and declared, in part:

"I wish only to emphasize that the wage agreements before us are actual, deliberate contracts intelligently made, and not mere bookkeeping or a scheme to evade the fair labor standards act.

"They are made mainly with the editors and reporters and those who assist them in producing a daily newspaper. The time that editors and newsgatherers must work is necessarily very variable and unpredictable. When things are quiet, a few hours a day may suffice. In times of news activity a twelve-hour day may be required. It is practically difficult to make a fair working agreement based on hours worked."

It is expected that the decision will be appealed to the Supreme Court by the Wage and Hour division.⁴

4. Personal correspondence with Wage and Hour officials.

APPENDIX B

Under conditions of imperfect competition, the individual entrepreneur exercises some control over the price of his product. Since he faces a negatively inclined demand curve for his product, he may expect to sell greater quantities at lower than at higher prices. In order to maximize profits, he will produce a quantity which--at the price just low enough to clear the entire amount--will equate marginal costs and marginal revenues. The establishment of wage and hour regulation--since it increases costs--may be expected to disturb this relationship, and it is likely the firm will find it profitable to cease producing some of the more costly marginal units and take advantage of the price increase which will thereby be made possible. Thus marginal costs and marginal revenues again may be equated, this time with a smaller rate of production.

Another consideration should be noted here. The demand which faces the individual producer under conditions of imperfect competition is more elastic than the demand for the industry as a whole--unless, of course, the individual producer actually is the entire industry, that is unless he enjoys a complete monopoly. If the producer increases the price of his product under ordinary circumstances he may expect some reduction of sales, since his customers will turn to his competitors. But if, under the impetus of a cost increase such as would be provided by the establishment of minimum wages and maximum hours, all producers

in the industry raised their prices, the individual firm's diminution of sales and revenue would be somewhat smaller than if that firm were moving alone.

It is not unrealistic to admit, furthermore, that a severe shock, such as a major increase in costs, frequently is necessary to bring about business steps the full effects of which the entrepreneur cannot always foresee perfectly.

APPENDIX C

Copy of Letter Accompanying Questionnaire

Manhattan, Kansas
May 28, 1941

Mr. _____, Publisher
(Name of Paper)

(Town), Kansas

Dear Mr. _____:

I should like to solicit your help in an investigation which I am making concerning the effects of the Wages-and-Hours Act upon small newspapers of Kansas. Frank statements made by Kansas publishers at a recent KPA meeting plainly indicated that few of our papers in the state are complying strictly with the Act. My problem is to learn what conditions peculiar to newspapers make literal compliance difficult, or impossible, and what would be the results if the Act were rigidly enforced.

For the reason that newsmen long have been accustomed to spending most of their waking hours on the job, the problem of overtime pay in accordance with Wage-Hour requirements is the big headache of small publishers today. In order to produce a significant study, therefore, it will be necessary for me to obtain complete and accurate estimates of the actual and percentage payroll increases which would result from strict enforcement of the Act. No part of your information will be construed as admission on your part that you have not complied with the Act or even that you believe your plant is not covered by the Act.

I fully appreciate the personal nature of this information. As a newspaperman, however, I am not unfamiliar with the problems involved, and I assure you that the information will be kept confidential. I intend to use it in a thesis for a master's degree in economics. That thesis will treat the newspapers as sympathetically as possible and will divulge no names. It is not unlikely that your co-operation will result in a story which may be of considerable benefit to Kansas newspapers.

In order to be certain that all estimates will be made in strictest accord with Wage-Hour requirements, I am enclosing an explanatory sheet outlining the information I need and summarizing briefly a few of the official requirements. I hope you will find it possible to make the calculations and provide this information at an early date. I shall appreciate your co-operation.

Sincerely yours,

Charles M. Platt

(Appendix C)

Mimeographed Questionnaire Sent to Publishers of Small
Kansas Daily Newspapers

1. Have you a union contract with your printers which meets the requirements of the Wages-and-Hours act?
2. What conditions peculiar to newspapers make it difficult for YOU to comply strictly with the provisions of the Wages-and-Hours act?
3. What steps have you taken, and what steps are you contemplating, in order to effect economies offsetting increases in expenses which this act may bring about? For examples, are you using more boiler-plate in order to save overtime wages to linotype operators, proof-readers, etc.; are you considering going to a five-day sheet, or to a six-day paper if you now are putting out seven a week?
4. By how much will, or does, strict enforcement of his act increase your payroll--through overtime payments, addition of new men, etc.--and what percentage of your payroll is this increase? To be significant these estimates must conform with regulations made by the Wages-and-Hours division. A few of the more pertinent ones are here summarized:
 - A. In order to qualify for the exemption accorded an "executive," an employe must be one
 - a. whose compensation is on a salary basis and is not less than \$30 per week (exclusive of board, lodging, etc.) and
 - b. whose primary duty consists of the management of the establishment in which he is employed or of a customarily recognized department or subdivision thereof, and
 - c. who customarily and regularly exercises discretionary powers.
 - B. To be exempt as an employe in a bona fide professional or administrative capacity, the employe must be compensated for his services on a salary or fee basis at a rate of not less than \$200 per month (exclusive of board, lodging, etc.).
 - C. In order to qualify for the exemption allowed "outside salesmen," an employe must be one who "is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in making sales." The obvious interpretation of this ruling is that in order to gain exemption advertising men must be engaged in work outside the newspaper plant **MOST OF THEIR WORKING TIME.**
 - D. Since passage of this act, many questions have been raised concerning the legality of various methods by which employers have sought to manipulate or adjust rates of pay in order to avoid the effect of overtime requirements. In Interpretative Bulletin No. 4, the Division has examined these in detail and held each to be illegal. The Bulletin says, "Section 7 of the act requires that overtime must be paid at a rate of time and one-half the 'regular rate' of pay at which the employee is employed. Time and a half must, therefore, be paid upon the rate at which the employee is actually employed and paid and not upon a fictitious rate which the employer adopts solely for book-keeping purposes."

For the purposes of this study, the overtime pay must be calculated in absolute conformity with the act and special rulings:

"Overtime must be compensated at a rate not less than one and one-half times the regular rate of pay at which the employee is actually (and has been) employed. The regular rate of pay at which the employee is actually employed is not the minimum wage rate set in the act, but is the employee's regular hourly rate of pay.

"The regular hourly rate of pay is arrived at, in various cases, as follows:

- "(1) the agreed hourly rate (average hourly rate for the work-week where there are production bonuses), or
- "(2) the weekly wage (including production bonuses, if any) averaged over the regular number of hours per week, or
- "(3) the weekly wage (including production bonuses, if any) averaged over the total hours worked each workweek where there is no regular number of hours."

"Thus, if an employee back in October 1938 received \$23 for a 46-hour week, his regular hourly rate of pay was 50 cents...On October 24, 1940, he became entitled to \$24.50 for the same 46-hour week (-46 hours x 50 cents- plus -six hours x 25 cents -) or (-40 hours x 50 cents- plus 6 hours x 75 cents-).