THE ILLINOIS CHILD-LABOR LAW.[1]

It is one of the objects of the International Association of Factory Inspectors to promote uniformity of factory legislation throughout the states and provinces. Yet, after the lapse of eleven years since the formation of the society, we have today to contemplate an international hodgepodge of provisions governing the employment of children; some of the laws in states with highly developed manufacture represented in this association dating back, unchanged and unimproved, no less than fourteen years. The New Jersey law, according to which boys may be employed at twelve years of age and orphan boys even younger, dates back to 1885; and the Ohio law permitting the employment of boys of twelve seems to go back to a time such that no man knoweth to the contrary.

The following meager list is believed to contain all the states in which the lowest age of work is fourteen years for both boys and girls: New York, Pennsylvania, Michigan, Indiana, and Illinois. Yet fifteen states and two provinces have factory inspectors, all publishing official reports with recommendations, and all having a respectful hearing from lawmaking bodies in regard to legislation.

No one knows, as the factory inspector knows them, the needs of the working children; no one sees, as he sees them, the evils attending their work. If he does not take the initiative in this matter, who shall do so? If he leaves it to the trades unions, there is danger that each may think only of the need of its own membership; then the laws will, indeed, be special legislation, and the precedent of annulling them will be strengthened. Or, if union men employ children, or use their labor supplied by the corporation, then may the public wait long, but the initiative

[1] Paper read before the Eleventh Annual Convention of the International Association of Factory Inspectors at Detroit, September 1, 1897.

will never be taken. If the inspection departments wait for the philanthropists, hospitals may be built for the repair of newsboys who have been run over, but never a proposition urged that unemployed men should sell the papers and the boys go to school; vacations may be arranged for cash children, but no urgency shown that the errands be done by 'phone and tube, and the children sent to get manual training. The medical fraternity bewail the increase of consumption in the great cities, but do they help to banish little girls from laundries, or advise legislation shortening the hours and equalizing the temperature in the ironing rooms? The initiative in all these things comes best from officers of the state, who have technical knowledge, not alone of the places in which work is done, but of the law as interpreted by the courts in the course of the endeavor to enforce it.

Nothing is more sought in these days than information concerning employment; everything touching it seems to have an almost sensational charm for legislators as well as for the student and the philanthropist. But do the reports of our departments of factory inspection furnish information in the form in which it is most easily understood, verified, and used? The failure in this respect has, perhaps, something to do with the slow development of factory legislation in several manufacturing states. For the purpose of educating public opinion in Illinois, it was found valuable to publish the reports of the department in such shape that he who runs may read how many men, women, and children were found by the inspectors at work in each occupation.

Until 1893 Illinois ranked with the most backward of the southern and southwestern states in its care of the health, education, and welfare of working children; although, in the census of 1890, Illinois ranks third among the great manufacturing states of the Union when measured by the value of its manufactured product.

One reason of the delay in enacting valid child-labor legislation probably lay in the circumstance that there was no textile industry in the state; and, therefore, no strongly organized body of intelligent working people in daily contact with young chil-

dren in factories. The agitation for legislation protecting working children has, in other states, ordinarily begun among men who work side by side with children, and see the injury inflicted upon them by long hours of work, and the conditions under which they are employed. Another reason for the delay in legislation was the fact that the number of children at work in manufacture was relatively small, and the need of intervention on their behalf was, therefore, not so conspicuous as in New York, Massachusetts, and Pennsylvania, where the number of children at work ran into the tens of thousands.

After years of ceaseless agitation of the subject, Illinois at last takes rank among the half dozen states in which the lowest limit of the legal age for work is fourteen years, not for manufacture alone, but for commercial occupations as well. As it stands today, after many changes and improvements, the child-labor law of Illinois prohibits absolutely the employment of any child under the age of fourteen years for wages in any mercantile institution, store, office, or laundry, as well as in any manufacturing establishment, factory, or workshop. The inspectors are clothed with no authority to exempt any child from this absolute provision, and poverty or orphanhood can no longer cloak the exploitation of young children in department stores, or in the telegraph and messenger service, if the law is enforced.

Up to July 1 of the present year, under the old compulsory-education law, the Board of Education of Chicago made a practice of issuing permits for work to children under fourteen years of age. Nominally these were mere exemptions from school attendance, but really they were never asked for or granted except for the purpose of enabling the holder to go to work. These permits were not required to be sworn to by the parent, as are the affidavits now required under the child-labor law. They were granted upon the mere assertion of the parent, and the greater the apparent wretchedness of the child, the more readily was the permit granted. After the enactment of the factory law of 1893, which prohibited the employment of children under fourteen only in manufacture, these permits were granted by the

Board of Education only to children seeking work in places other than factories and workshops. But the children, and employers too, were confused by the varying requirements; and we frequently found children equipped with these permits working in garment and cigar shops, under the legal age for such employment. The abolition of the permit system marks a long step forward in the care of working children in Illinois.

No law-abiding employer now sets at work a boy or girl under the age of fourteen years; nor one under sixteen years, unless there has first been filed in the office of the establishment an affidavit, made by the parent or guardian, stating the name, date, and place of birth of the child. At the time of the hiring there must also be made an entry in a register kept for the purpose, showing the name, address, and age of the child; and these items must be entered upon a wall-list posted conspicuously in the room in which the child is employed. The legal notarial fee for a simple affidavit is a quarter of a dollar; but affidavits are furnished free of charge by clerks in the inspector's office in Chicago for all children applying there, accompanied by a parent who testifies that the child is fourteen years of age, or older, stating the month, day, and year, and birthplace.

Since the inspectors are not required by law to furnish these free affidavits, we made the rule that none should be made for any child under the average weight of the normal school child of fourteen years of age, which is eighty pounds. We required, also, that children should be able to read and write simple sentences in the English language, although the law makes neither of these requirements. We were driven to take these precautions because the office is in the midst of the poorest immigrant colonies in the city; and children were brought to us who seemed to be not more than ten years of age, yet whose parents were ready to swear to whatever might be necessary in order to obtain the affidavit. We hope that in the course of a few years the law may require for all the children the same minimal weight and educational acquirement which we demanded of those for

whom we issued gratuitous affidavits. This is the more necessary because there is no trustworthy registration of the births of the children in the immigrant colonies; and passports give only approximate statements of the ages of the children, the exchange of a younger for an older child in the list being a perfectly simple device, easy to carry out, but impossible of verification by the inspector. Public opinion distinctly sustained this rule of the office.

In the two months, July 1 to September 1, 1897, following the extension (by the passage of the new child-labor law) of the provisions of the Factory Law to children engaged in mercantile occupations, we found in such establishments about 2000 children between fourteen and sixteen years of age who had previously been exempt from all state supervision. These children were found chiefly in the first ward of Chicago, and employed by less than a dozen corporations. The single errand boy, office boy, and store boy in retail trade formed but a trifling total after two months' search. But the telegraph and messenger boys employed by the three great companies numbered several hundred, while in five department stores are more children under sixteen years of age than fill the largest high school in the state. In July and August, the dullest months in the year, there were more than 1200 boys and girls between fourteen and sixteen years of age in these five establishments, one of them being the largest employer of children in the state, with 461 affidavits on file.

The result of the extension was not sensational; we were slow to prosecute, and avoided making known to the press the convictions which we obtained. We have at the present time, in the office, evidence which we deem sufficient for the conviction of the managers of four out of five of these stores; and one has already pleaded guilty in three cases. The wish of these managers is to avoid fostering the hostility to department stores carefully kept alive by the competing retail dealers, one of whose stock arguments for legislation against the department stores is the excessive employment of children by them. The managers are, therefore, not contumacious. But the numbers of children

are so great, and their employment is so irregular and shifting, that no store succeeded in complying exactly with the requirements of the statute. The work of enforcing the law in the five department stores, which employ from 150 to 500 children each, requires a monthly inspection by two experienced and skillful deputy-inspectors, devoting an entire day to each store and following each inspection with prompt prosecution. On no easier terms can exact compliance with the complicated requirements of the law be obtained.

There is reason to believe that the persistent enforcement of the requirements that affidavits must be filed before the children are set at work, and records and registers revised daily, would have the same gradually deterrent effect in commercial occupations which has been observed in the manufacturing industries, in which there was a steady, though slow, reduction of the number of young employés, accompanied by a corresponding steady, though slow, improvement in the stature and physique of the children found at work.

The most marked departure in the new law, after the extension of the factory provisions to the children engaged in commerce, is the prohibition of the employment of children under sixteen years of age in extra-hazardous occupations. This provision has not yet been tested in court. We construed the words "extra-hazardous occupation" to mean any occupation in which the insurance companies are loath to insure workingmen. To begin with, there are the woodworking machines, which seem all to come under this head. The employment of children in the manufacture of explosives has hitherto gone on, unchecked; this can now certainly be stopped outright and should be stopped at once. There is no tale more hideous in the history of manufacture than that of the little boy who was turned out of a fireworks factory by order of Inspector Jensen, because the child was under the legal age for work, and, having waited for his fourteenth birthday to come, returned to work at once, only to blow up the works, killing himself and his sister. Such a horror need never again disgrace Illinois if the new child-labor law is enforced.

The laundries, too, now come under the law for the first time. In their case, however, only the initial step has been taken; for the inspectors are still powerless to order the machines guarded or the premises ventilated. While children under sixteen years of age can no longer be legally employed at dangerous ironing machines, there remains the danger of prostration by the heat, and the inspectors cannot order cold rooms heated, nor hot rooms cooled, nor wet rooms dried. The long, slow hazard of consumption, the enervation of protracted over-exertion, cannot yet be dealt with by the inspection department. We are still at the stage in which there must be conspicuous, sensational damage, visible to the naked eye, before further measures can be enacted or existing measures sustained by the courts.

The restriction, under the new law, of the hours of work of children under sixteen years of age is the first step towards retrieving the damage inflicted upon the workers when the eight-hours' law was pronounced unconstitutional by the Supreme Court of Illinois, in Ritchie *vs.* the People, March 15, 1895. Although this new provision sets no limit to the night work of the children, it does provide that their hours of labor shall not exceed ten in any one day, nor sixty in any one week. Even this is a gain in a city where little girls of twelve have been required, at the Christmas season, to work in stores from 7:30 in the morning to midnight, and where the candy factories have usually worked until nine, in preparation for the same festival season. The enforcement of the ten-hours' day will, of course, involve difficulties in the sweatshops and in the department stores, where children may still be kept late at night by working a second shift in the afternoon and evening. Yet this provision is a step in the right direction. It affects probably about ten thousand children.

Previous to the enactment of the factory law of 1893, there had been two attempts at legislative regulation of the employment of children in Illinois: the compulsory-education law of 1891, repealed in 1893, and in part reënacted in 1897; and a

statute passed in 1891, known as the "Lenz" law, which prohibited the employment of children under thirteen years of age, but authorized the employment of children of any age who had *any dependent relative* and had attended school eight weeks in the year. Neither of these laws was enforced; no prosecution was ever undertaken under them.

The experience of four years confirms the conviction that that child-labor law is not enforced at all which is not enforced by the constant help of the courts; not because there is hostility to the law in the public mind, or contumacy on the part of those who violate it. Far from it; there was never a time when the child-labor law was so popular with press, pulpit, and people, so well regarded by the best employers, as it is at present. But the vice of our American citizenship is negligence, good-natured, well-meaning negligence. In Illinois, for many years, this negligence has been fostered by a prevailing policy of enforcing nothing except what was popular or seemed likely to be popular; until our negligent disregard of law and ordinance is now the wonder of travelers from countries which enjoy the benefits of good local government.

This negligence on the part of the employer who means well but fails to comply is everywhere, until the inspection department convinces the management that millionaire and sweater, personal friend, relative, alderman, legislator, and total stranger all fare alike, and pay costs, or fine and costs, before the justice of the peace for every violation of which evidence can be obtained. Fortunately the fines go to the county school fund; and there can, therefore, be no corrupt intent in the insistence upon bringing to completion all suits begun, even where there has been a tardy compliance before the suit reached trial. Public opinion sustains the literal fulfillment of the section which requires the inspector to prosecute all violations. It was found that local justices inclined to leniency if suit was brought upon first inspection; and, in visiting an establishment for the first time brought under the statute, we, therefore, gave twenty-four or forty-eight hours' notice. If the wall records and registers

were not in order at the end of that time, as well as the affidavits, suit was brought. The uniformity of this procedure depends, of course, upon the skill and conscientiousness of the deputies, and this naturally varies somewhat. That the work of the staff as a whole was efficient is shown by the fact that about two hundred employers paid costs, or fines and costs, during the first eight months of the present year, for some 350 violations of the various provisions of the statute.

A small fine, uniformly imposed, seems to be the best means of enforcing statutory provisions, and reducing the number of violations; and it is, perhaps, not an improvement that the lowest fine has been raised from $3 to $10. In many cases the annoyance of arrest and giving bond under a quasi-criminal charge is far more severe punishment than the payment of the fine, though it is surprising to see how eagerly rich employers plead for the remission of fines of $3 and $10.

The child-labor law is supplemented by two measures of importance to working children, both enacted by the last legislature, one requiring the placing of blowers upon metal-polishing machines, and the other providing that fire escapes must be placed wherever twenty-five persons are employed above the first story of any building.

These two measures were enacted without the direct initiative of the department which had concentrated its efforts upon the passage of the child-labor law. The former is due to the efforts of the Metal-Polishers' Union, the latter to the underwriters, who had paid heavy premiums upon losses of life by fire, and insisted upon some measures of facility for the firemen in sky-scrapers and other extra-hazardous places. This law, too, incidentally benefits the children, some of the worst catastrophes, of which there have been many in the last three years, occurring in buildings in which children and young girls were employed, without either fire drill, or fire walls, or any available outside fire escape.

There are still many steps which must be taken before it can be claimed for Illinois that we are giving to the rising generation of the working class the advantages to which the wealth and

intelligence of the state entitle them. We must borrow from New York the prohibition of the work of minors at night and the prohibition of the employment of illiterate children under sixteen years of age. Especially must the street children, the peddlers and vendors, the newsboys and bootblacks, and all the hordes of nondescript occupations, be brought under systematic supervision. This ought to be the easier for every step already taken.

Finally, we must have compulsory education of the children under sixteen years of age throughout the school year. No factory law can be so good for the children as a school law keeping them not only negatively out of factory and workshop, and the teeming, tempting, demoralizing streets, but positively at school, acquiring industrial efficiency and value until they reach an age past all need of child-labor legislation.

At last we are slowly developing a compulsory-education law in Illinois. It is still very rudimentary, and has only during the present year received a workable penalty clause. Children under ten years of age are required by it to enter school in September and continue in attendance throughout sixteen consecutive weeks. Children under fourteen years must enter school before New Year, and attend sixteen weeks. It is difficult to see why they should not all attend throughout the term during which the schools are open in the districts in which they live, since they cannot legally work.

The interlocking of the school law and factory law is the usual line of evolution where child-labor legislation develops successfully. In New York state children are required to read and write simple English before they can legally be employed under sixteen years of age; in Michigan they must attend school half the year before beginning work under sixteen years; and a similar provision has recently been enacted in Pennsylvania.

In Illinois, also, it may prove possible to work positively where it has been very difficult to work negatively. It may be that the positive command, "Thou shalt go to school," will meet readier compliance than the negative one, "Thou shalt not toil in early childhood." It is, however, clear that the two laws

must interlock, and the children must be offered abundant school facilities, and compelled to avail themselves of them; or evasion of the child-labor law will be inevitable. For active boys will seem to anxious mothers, unacquainted with the temptations of factory, store, and messenger service, to be safer at work than at play. And where there are not sufficient school accommodations, and vigorous punishment of truancy, this will always seem to be the alternative.

The ideal toward which the great manufacturing states of the Union are slowly moving has already been attained in Switzerland, where the employment of children under sixteen years of age has long been prohibited, manual and technical education is systematically provided, and compulsory attendance at school is rigidly enforced.

In the light of the experience of the past four years the obstacles to social amelioration by constitutional methods in Illinois appear fundamental, but not insurmountable. Foremost among them is the undermining effect of the spoils system upon all remedial legislation.

The second serious obstacle to the amelioration of social conditions by constitutional methods is the state constitution, under which it is difficult to frame a statute not palpably unconstitutional. This state constitution, and the precedents accumulated under it, were the reasons assigned for the annulment by the state Supreme Court in 1895 of the eight-hours' clause of the factory law. The problem for the immediate present is, therefore, to draft needed statutes so skillfully that they may contain no flaw of unconstitutionality. It is easier to do this with regard to children and minors than with regard to the labor of adults; and it is in the search for the line of least resistance that those who are following the difficult path of social amelioration by constitutional methods have arrived at the policy of pushing child-labor measures only, until the constitution which has not been adapted to the changing conditions since 1870 can be modernized by a constitutional convention.

A third difficulty in the way of ameliorating social condi-

tions by constitutional methods is the profound discouragement of the wage-earners in this state as to the feasibility of this method. To them it seems that, in Utah under its new constitution, or in Massachusetts under its old, but liberally interpreted, constitution, good may be accomplished by the enactment and enforcement of statutes; or, even in New York and Pennsylvania, where parts of the labor code have been upheld by the state Supreme Courts. But the annulment of many labor statutes has convinced them that in Illinois, under our present constitution as interpreted by our Supreme Court, there is no encouragement for workingmen to spend their energies in this way. This is the worst demoralization that can befall wage-earning people; for if faith in amelioration by constitutional methods be finally sapped, and energy no longer spent in this direction, what is the inevitable alternative?

Fortunately, two other agencies besides the workingmen are in the field on behalf of such legislation, and its enforcement: the educators, especially those who, living in settlements, are constantly forced to the perception that without it social conditions cannot be comprehensively and effectually improved; and the factory inspectors who, by virtue of their technical knowledge and by the very nature of their daily work, are constantly stimulated to ask for better measures on behalf of the young employés. To the initiative of these two sets of people, reënforced by the petitions and resolutions of the labor organizations, is due the present child-labor law of Illinois.

The helplessness and need of the children, the difficulty of the task, the apathy of the workingmen by reason of discouragement, and the small numerical force of those who now furnish the initiative, all appeal to the public-spirited to lend a hand by insisting that the present law be complied with, and that its provisions be so extended at the next legislature as to place Illinois abreast of those states which already possess the most enlightened measures for protection of the working children.

FLORENCE KELLEY.

HULL HOUSE, CHICAGO.