WOULD SMASH A LAW.

SHARP ARGUMENT IN THE EIGHT-HOUR TEST CASE AT MT. VERNON.

Levy Mayer and Ex-Judge Moran Tell the Supreme Court of Illinois the Statute Infringes the Right to Contract—Three Subjects Treated in the Title Instead of One—Abridgement of the Rights of Woman—John W. Ela and Alexander Bruce Argue Strongly for the People.

MOUNT VERNON, Ill., May 3.—[Special.]—Argument in one of the nine cases coming up from the Criminal Court and agreed upon to test the constitutionality of the sweatshop or eight-hour law enacted by the last Legislature consumed four hours' time in the Supreme Court today. It was conducted by Levy Mayer and ex-Judge Thomas Moran for the plaintiff in error and by John W. Ela and Alexander Bruce for the people, defendants in error. It was argued by counsel for the manufacturers that the law is unconstitutional both in form and structure, and that it comes in conflict with the Constitution by placing unwarranted restrictions upon the individual's right to contract. There were other grounds upon which the law might be attacked, one of the principal ones being that in the title of the law three distinct and separate subjects were referred to, being in direct conflict with Sec. 13 of Art. 4 of the Constitution of 1870:

> No act hereafter passed shall embrace more than one subject and that shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

The title of this act makes reference, first, to the manufacturers of clothing; second, to the inspection of workshops and tenements; and third, to payment of inspectors. This court has gone far to sustain legislation where the attack was on the ground that the subject of the act was not expressed in the title. Against such an attack it is possible that among the prior decisions of the court a precedent might be found to sustain the act here considered. If it be held that the subject of this act is sufficiently indicated by the title it cannot be held that the act embraces but a single subject.

Conflict with National Constitution.

The Constitution expressly forbids that any act which appropriates money for the payment of salaries of government officers shall contain any other provision, and it would not be questioned that the officers created by this act are government officers. Another ground of attack, and the one upon which the attorneys for the manufacturers appeared to rely greatly, was that such legislation was in conflict not only with the State Constitution but with the fourteenth amendment to the Constitution of the United States in that it deprives an adult woman of her inalienable right as a citizen, equal in all respects in the eyes of the law with a male, to contract her toil or her hours of toil. The regulation and inspection of sweatshops and factories of that class was not desired to be attacked here. But it was the purpose of this argument to defend and maintain the right of every citizen to contract or accept any respectable employment and engage to perform any given number of hours' labor. Counsel insisted that a woman is a citizen and has all the rights and is entitled to all the protection guaranteed to citizens of the opposite sex. How, then, can the Legislature say to these citizens: "You shall not exercise the right to contract your labor in any line of employment you please and for any number of hours you please"? The freedom of contract is thereby denied and it is an infringement of her natural rights as a citizen of the State and country. The principal mode of acquiring property or money is by contract, and whatever prevents acquisition is an abridgment of natural right.

"The march of civilization for 1800 years," said ex-Judge Moran, "has been toward the emancipation and elevation of women, but to sustain this enactment is to go back to the middle or dark ages, which would be destructive of civilization and tend toward the destruction of all law."

Defending the constitutionality of the act it was insisted by the attorneys for the defendants-in error that the title to the bill related to but one subject, but that if this court should construe the appropriation as not germane, then the law is that the appropriation must go, while the chief provisions of the law must stand. The constitutional provision requiring that no act shall embrace more than one subject and that shall be embraced in the title was designed to prevent the insertion of provisions having no connection therewith and thus deceiving the public. No particular form has been prescribed in the Constitution for expressing the subject or purpose in the title of a statute. An argument advanced by the attorneys for plaintiff in error that the health of operatives is not impaired by laboring in factories of the class in question was refuted by the counsel for the people with the declaration that labor statistics show that 95 per cent of such employés work in sweat shops and that the health of over 50 per cent of them is thereby impaired. Authorities were quoted to show that in the lower courts of at least ten States in the Union the constitutionality of such legislation as was now being considered had been upheld, and that only in Massachusetts had the Supreme Court ever been called upon to pass upon the question, notwithstanding the fact that enactments similar in character have been in operation in some of these States for as much as twenty years.

Laws to Protect Women.

There can be no question, counsel insisted, that the Legislature has the power to enact laws to govern and regulate certain classes, and may even go so far as to prohibit the employment of females in certain lines of industry. Under the laws women are not permitted to work in mines or upon the public roads, and whenever the General Assembly sees the necessity for exercising police powers in the interest of health or morals it may do so. Such laws are made for the protection and elevation of women. They are civilization's remedies for abuses which have come down from barbarism. Less than a century ago women were treated as if no physical difference existed between them and men. They worked side by side, not only with men but with cattle in the more laborious pursuits. In conclusion counsel said: "It would be little short of a public calamity should the law be declared unconstitutional."

Leave was given to file further argument in one of the cases later, such argument to be considered as applicable in all the nine cases in which this question of constitutionality is involved.

The result of the decision will be of vast consequence to the manufacturers and the female wage earners. The former contend that if the law is upheld it will compel them to dispense with female labor or to retire from business; that they cannot compete with other manufacturers engaged in States where the eight-hour law does not prevail; and also that in this State where they are allowed to work male laborers ten hours a day it will be impossible to continue the employment of females for eight hours, without cutting down hours of employment and the wages of the males who work side by side *with the females.*

[The case under argument in behalf of the people, defendants in error, was that against William E. Ritchie, convicted in the Criminal Court of Cook County of violating the law prohibiting the employment of women in factories for more than eight hours. There are nine cases brought to the court together under this head, numbered from 3 to 11 inclusive. Cases No. 3 and 4 are against W. E. Ritchie, convicted of employing Mollie Fuch and Lizzie Furlong, each aged 27, for 9½ hours a day in his paper-box factory. Ferdinand Bunto was convicted of employing Mary Breen, aged 20, in a candy factory nine hours a day. Joseph E. Tilt has two convictions for employing Mary C. Sherlock, aged 25, and Margaret Taylor, aged 20, in a shot factory ten hours a day. Leo Drom, Louis Eisendrath, and Emil Strauss were convicted of employing Mamie Robinson, aged 14, Hattie Renfranz, aged 14, and Rosa Koenoke, aged 14, in a clothing factory operated by them twelve and one-half hours a day. The plaintiff in error was fined by the magistrate for violating the law. He appealed the case to the Criminal Court of Cook County, and upon trial in that court was convicted and fined, and the case was taken by him to the Supreme Court by writ of error. It was proved and is admitted by all parties that the plaintiff in error violated Sec. 5 of the law by employing a female in a factory more than eight hours in a day, and the sole defense is the alleged unconstitutionality of the law.]