



A switchboard operator

# Law and a Living for Women

By HENRY RAYMOND MUSSEY

Illustrations by Marion Hill

known to the Census Office classifiers. There is a bewildering variety in our conditions. Thus, in Massachusetts and Rhode Island one woman out of three, over ten years old, is earning her own living, while West Virginia, Idaho and New Mexico cannot show one out of eight. Contrary to the general impression, the last decade, even with the war stimulus, was not the period of their greatest gain. No less than 39 states saw a greater increase in the actual numbers of women employed outside agriculture from 1900 to 1910 than in any other decade, while 29 states experienced their most rapid *rate* of increase as far back as 1880-90, only 6 during 1900-1910, and the District of Columbia alone, with its inrush of war clerks, in 1910-20.

**D**OES special protective legislation for women prevent them from getting a job, and shall it therefore be done away with? With more than eight and a half million American women earning their living outside their own homes, the question has become an important one; and with the Supreme Court alleging the political progress of women as one reason for invalidating such laws, it seems not unlikely that women themselves will take an increasing part in answering it. It has become involved in professional feminist politics, moreover, through the constitutional amendment mothered by the Woman's Party. At the second Women's Industrial Conference, held under the auspices of the Women's Bureau in Washington during January, 1926, members of that party conducted an almost riotous demonstration against the whole idea of special laws for women workers.

As a result of all this, the Women's Bureau, following the 1926 conference, wisely determined to investigate the whole question, in order that both parties to the controversy might, if they so desired, rest their arguments on ascertained facts instead of fancies. If the findings are, on the whole, overwhelmingly favorable to the contention of the advocates rather than the opponents of legislation, that is the fault of the facts, and not of the bureau; for the study at every point gives evidence of care and competence in getting relevant evidence, of conscientiousness in laying before the reader the exact facts found, and of balance and restraint in drawing conclusions. The resulting report\* is likely to become a classic of social study, illustrating, as it does, an unusual method of studying a difficult problem not susceptible of treatment by the rigid statistical methods so much in vogue at the moment.

What is the situation with which we deal? More than 8,500,000 women in the United States are earning a living in no less than 537 out of the 572 occupations

**W**HAT did happen after 1910 was a striking shift in occupations. There were large actual decreases in women working in or for the home and in personal-service occupations—and great increases in office-work of all kinds, in selling, teaching and nursing, with numerically smaller, but highly significant, increases in a variety of factory occupations.

Amid this chaos of conditions, we have scarcely less of a chaos of legislation. In order to keep the study within manageable limits, the bureau limited its work to an examination of the effects of hour- and night-work limitations of women's opportunity for employment, with some study of prohibited occupations.

Florida alone has no law regulating the employment of women in industry; only three other states—Alabama, Iowa and West Virginia—have no laws limiting women's hours; while the Georgia and North Carolina laws apply to men and women alike. All the remaining forty-two states and the District of Columbia have legislation specifically regulating women's hours in one or more industries. The daily limit ranges from the eight hours of some western states and the District of Columbia, to South Carolina's twelve in mercantile establishments only. In addition, various states prohibit or restrict night work for women in varying degrees. These various laws plainly owe their origin to a wide variety of causes and conditions, they apply various regulations to various groups of women, with various methods of enforcement. The question is, how seriously do they handicap women in getting a job in competition with men, whose employment is not subject to these restrictions?

Two-thirds of the gainfully employed women of the country are wholly outside the scope of these laws, while approximately two and three-quarter millions are covered in one way and another by some



A domestic

\* The Effects of Labor Legislation on the Employment Opportunities of Women.

of them. It is chiefly the 22.6 per cent of employed women in manufacturing and the 10 per cent in trade and transportation—in other words the factory workers and the clerks in stores—who come under special legislation. In addition to laws limiting their hours, some two-fifths of these women are subject to legislation prohibiting or restricting their work at night.

Plainly enough, legislation is but one among many influences governing women's chances to get a job. This study has the high merit of keeping the other influences constantly in mind. Thus if the law prohibits the employment of women for more than ten hours a day and almost no employer would work a woman more than ten hours, anyway, then it is not the law but the employers' standard that bars women from getting a job in a twelve-hour industry, except in those few cases where the employer has no such compunctions. Now it is just such employers' standards—employers' ideas of what constitutes a "woman's job" and what a "man's job," employers' conceptions of the conditions under which women should and should not be allowed to work—it is these things which play the dominant part in determining women's chances for getting a job. In fact, prevailing employment standards being what they are, the direct influence of such legislation, whether in protecting women generally or in lessening their chances for getting a job, is distinctly less than most of us are inclined to suppose. This study helps make it clear that protective legislation serves primarily to bring up the laggards. As the report states: "No legislative standard has ever been enacted that has not first been proved practicable by some employers."

In trying to find out how far special laws for women lead employers to hire men when they would otherwise employ women, the bureau, in the first place, selected five manufacturing industries—boots and shoes, hosiery, paper boxes, electrical products, and clothing—which present representative conditions of women's employment. In addition, other occupations illustrating special problems were studied: the work of women as core makers, street-car conductors and ticket agents, elevator operators, pharmacists, in printing establishments, and in metal trades. In addition, an examination was made of certain occupations prohibited in some states: buffing, polishing and grinding; electric and acetylene welding; gas- and electric-meter reading; and taxicab driving. The bureau studied directly, through visits by its agents, 1,661 establishments in 179 towns and cities in 11 states, employing more than 665,000 workers. In addition it gathered information through questionnaires.

A brief trial showed the impossibility of the method first

tried—that of getting the numerical and proportional distribution of men and women in the various occupations in individual establishments at significant dates before and after the passage of special laws. The problem is insoluble by any such strict statistical method. The technique was therefore promptly changed, reliance being placed on the "statements of managers and superintendents as to the past development of women's employment, the current situation, and the factors that had influenced them," and on the statements of women workers themselves as to facts within their knowledge. Its reliance had to be on the interview supplemented by statistical data, rather than on statistical data supplemented by the interview. Technically the method is extremely interesting: The value of the results plainly depends on the intelligence, good faith and skill with which it is used. Examination of the results thus far available indicates that the Women's Bureau has done a masterly job (it is a pity we have no word "mistressly"). Moreover, in a series of appendices it lays before the reader in detail the facts found for manufacturing and mercantile establishments. Now under these circumstances, unless we assume stupidity or bias in the original sampling, or prejudice in the securing and setting down of the original information (and there is every reason for assuming, on the contrary, competence and fairness on the part of the investigators concerned) then the results here attained must be regarded as definitive for practical purposes. The Women's Bureau has answered, to the satisfaction of reasonable people, the question, How has special legislation affected women's chances for a job?



Operator of a knitting machine

were carefully studied. These states enjoy a wide variety of hour and night-work legislation for women. Indiana, for example, has no hour limit; New York then had a 9-54 standard (now it is 9-49½); Massachusetts has a strict 9-48 hour law; California, 8-48. Night-work laws are equally varied. In the 312 establishments studied, "two minor isolated cases in hosiery plants, where men had been substituted for women because the women could not work more than 9 hours a day, were the sum total of *bona fide* instances found of decreased employment for women resulting from the enforcement of hour legislation in these five industries." (Nine women out of 24,000 were turned off.) In industries employing men for longer hours than are permitted women, a comparatively small number of cases were found where there might be additional jobs open to women if they could work longer hours. Massachusetts, with its

strict 48-hour week for women, and its perennial employers' complaints, furnishes the best test case. In that state, 82 concerns, now employing 10,391 women, said they would like to use them during longer hours; but taking in each case the employer's most generous estimate of the additional number that he might use if their hours were longer, the total number of added jobs for women in these plants would be under 500—less than one-half of 1 per cent. More than half the employers having longer hours for men than women said that they would not employ women for such hours even if the law allowed it.

The bureau summarizes thus:

The general attitude of the present-day manager in industry, as well as the specific findings detailed in the various sections of this report, shows that the adoption of shorter-hour standards is an almost universal development. . . . The enforced or voluntary shortening of hours for women seems to have brought with it in most instances a similar decrease for men. But whether or not they have been shared by men, there is absolutely no indication in any of the establishments studied that the shorter hour schedules have been in any way a handicap for women.

**H**OW about night-work laws? New Hampshire, Rhode Island, Ohio, Illinois have none. At the other extreme, Wisconsin prohibits women's work from 6 P. M. to 6 A. M.; Massachusetts, New York and Indiana from 10 P. M. to 6 A. M. How much effect did these laws have on women's chances? Surprisingly little. Less than half the plants operating at night in the restrictive states put on a night shift of men instead of women; and of the 107 employers making such substitution, 54 said that they did not want to use women at night anyway. Most commonly, the processes requiring women are not carried on at night. Of course, some employers would like to have women for night work, but "there is an astonishingly strong feeling among employers in industry against the employment of women at night, irrespective of legal regulation." Ohio and Illinois have no night-work law; yet diligent search by the Women's Bureau, in the spring of 1927, disclosed in Ohio just 18 establishments employing 2,695 women at night (out of 409,970 women working in 1920), and in Illinois 10 establishments employing 259 women (out of 540,938)! Employers in general simply will not hire women for night work, law or no law. Except among the laggards, then, how can night-work laws seriously restrict women's chances? It is keeping well within the facts to say that in the five industries studied there was found no evidence of any substantial lessening of women's opportunities for employment as a result either of hour or night-work laws. So far as anything may be regarded as typical in the varied field of women's employment in manufacturing, it is perhaps safe to regard the facts here found as typical, though the bureau over and over again warns the reader against generalization.

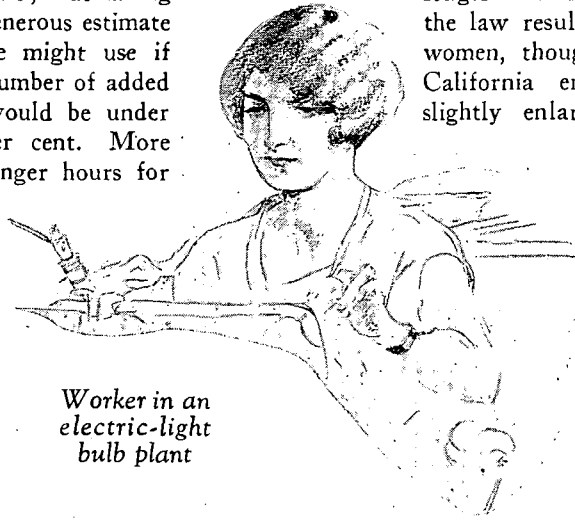
Hour legislation for stores tells much the same story. The net result has been the elimination of long weekly and excessive Saturday hours. The bureau studied 54

stores in Massachusetts, California and Indiana, the first two with hour laws, the last with none. Daily hours were short everywhere, with weekly and Saturday hours distinctly longer in Indiana than elsewhere. Nowhere had the law resulted in the hiring of men instead of women, though 4 out of 23 Massachusetts and California employers suggested possibilities of slightly enlarged opportunities for women (as floor managers, for example) if their hours were not restricted. As women are already serving acceptably in those capacities in both states, however, and as the managers expect their numbers to increase because a higher type of women than of men can be had for the salaries paid, the restriction due to hour laws seems to amount to little. Cheapness and proved competence in the face of traditional ideas—these and not the laws are the things that have

determined women's chances in mercantile establishments.

Waitresses are supposed to be barred by laws from the good jobs with the high tips; because those jobs require long hours or night work. Again the facts are stranger than the fiction. The bureau studied 198 restaurants employing 2,537 men and 2,361 women—in California, with an 8-48 hour standard and permitted night work for women; New York with 9 and 54 hours and no night work in cities of the first and second class except in hotel restaurants; and Illinois, with a 10-hour day, a 7-day week, and permitted night work (practically no standard). In all three states much the same results emerged. Very few waiters had actual hours longer than those that were legal for waitresses. Only rarely were either waiters or waitresses employed 7 days a week, even when the law permitted it. The prohibition of night work in New York has apparently restricted employment for women somewhat; yet in hotels, where they could legally work at night, waitresses constituted but 10 per cent of the force serving after ten o'clock. The controlling influence once more lies outside the legislative field. Everywhere the first-class restaurants with formal service (and high tips) were found to employ chiefly men, because either management or patrons thought that first-class service required men, or for other reasons quite unconnected with the law. The tea-rooms and coffee shops, on the other hand, mostly employed women, likewise for reasons satisfactory to the management. The cheaper restaurants, with counter and table service, employed both men and women. Of 111 high-class restaurants giving reasons for preferring men, only 3 mentioned legal restrictions on women's work; of 16 cheap restaurants, 3 mentioned the same cause. It is clear how little the law is responsible for barring women from the high-paying restaurant jobs.

Turning now to the *cause célèbre* of the women printers, we find a different situation. Members of a highly skilled group of workers, admitted to a powerful trade union that enforces high standards of wages, hours and conditions of work, (Continued on page 194)



Worker in an electric-light bulb plant



A stenographer



*Civic Improvement*

## Burchfield, Painter of Familiar Scenes

The artist has his own ways of being socially-minded. One of these is the use of a purging irony, another is the transfiguration of the familiar so that it acquires a new beauty. When Charles Burchfield's work was first exhibited in 1920—before Main Street had unfavorable significance as a term in our speech—it commented bitterly on the spiritual shortcomings of the American scene. This young man, it was plain, found the homes, the villages and the work environment of the miners and steel workers of his part of Ohio hideous and wished to make some dent on the smugness of the country. From his hatred had grown pictures that lingered in the memory.

Since then Burchfield has become well known. In these years his mood has softened. He reflects a general change among us in our attitude towards ourselves, our new respect for what we have been and what we are. We restore the once-despised furniture of our parents to favor; he makes works of art from our mongrel architecture, the homely locomotive steaming through the town, workmen's simple homes, factories, railroad tracks and semaphores, the entrance to a mine, the ugly little stores with their false fronts.

Burchfield founds all his work on the life or the mood with which he is familiar. It is not realism that results but fresh vision. Suddenly we are cured of our astigmatism and can see the rich colors of the everyday world. Lesser artists have begun to imitate his subjects, but since their paintings lack the emotional context of his work, they remain—lesser artists. Burchfield does not pose as a thinker. In fact he chafes at the superfluities with which so many American artists occupy their attention, and at their assumption of mental superiority. He would set such as these for a time at doing some of the necessary

but unsavory tasks of the world—otherwise they get, as he says, "too rare for humanity."

He earns a living for his family by making designs for a wallpaper manufacturer. The work relegates his independent painting to his leisure time, but he is inclined to view it in a good light: this livelihood leaves him free from any dependence on patronage. Moreover it keeps him practical. For, as he sees the artist's problem, "A fellow *must* keep his feet on the ground all the time." That is good "American." —F. L. K.



An etching of Charles Burchfield by his friend, J. J. Lankes