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The Present State of Social Legislation in the Argentine Republic

by

Dr. Juan Raúl PICHETTO[1]

National Labour Department, Buenos Aires

INTRODUCTION

The Argentine Republic, with its area of about three million square kilometres, its thirteen million inhabitants, its rich agricultural and stock-raising industry and its vast mining and industrial resources, potential and already exploited, is the southernmost country of the American Continent; but within this spacious territory every kind of climate can be found, justifying the hope of a brilliant future, as is indeed foreshadowed by what has so far been achieved: the development of manufacturing industry and foreign trade, the construction of large public works, the railways now comprising a network of more than 43,000 kilometres, the 420,000 kilometres of roads, and the rapidly growing merchant fleet. The speeding up of development in all these respects in recent times has given rise to social and legislative problems which are felt to be as urgent as those existing in Europe and North America before the outbreak of the present hostilities. In the following pages it is proposed to survey briefly the manner in which these highly important problems have been solved in Argentina; in most cases those solutions are also a determining factor of social peace and, ultimately, of the cultural level of the nation, and even of its power to prepare for its own defence should the need arise.

[1] Former official of the International Labour Office.

In view of the abundance of the legislation in question in the fourteen autonomous provinces, which, together with the ten national territories and the Federal capital, compose the nation, it is necessary, however, to confine the present survey almost entirely to Federal action, leaving aside the provincial measures, interesting as some of them undoubtedly are, especially those relating to minimum wages, industrial accidents, superannuation and pension schemes, etc. A brief reference should be made to the municipalities which have collaborated in establishing rules for the regulation of labour conditions, for example, with regard to public assistance, hospital treatment, lower cost of living, housing, public baths, cheap transport for workers, municipalisation of public utilities, creation of libraries, fixing of working hours and wages for municipal workers and employees, family allowances, etc., an enumeration which in itself gives an indication of the scope of the work done by these bodies within their more limited sphere of action.

It may be convenient here to give some information on the political organisation of the Republic, as being indispensable for a proper assessment of the present state of the labour movement, and also essential for anyone who wishes to understand the situation correctly at a time so favourable to the side-tracking and confusion of ideas.

Substantially similar to that of the United States of America, the Constitution governing the Argentine Republic provides for a republican, representative, and federal form of government. The general constitutional provisions relating to the provinces, apart from those specifically prescribing their government, empower them to adopt their own constitution, provided that it is representative and republican in system and is in conformity with the principles, declarations, and guarantees contained in the national Constitution.

For a more exact idea of the political organisation of the Argentine Republic, showing what are the principles that are embodied in its laws in general and, therefore, in its labour legislation in particular, reference may be made to the clauses which prescribe that the provinces shall retain all rights not delegated by the Constitution to the Federal Government and those powers which were reserved to them by special agreements at the time of their incorporation with the State. The provinces set up their own local governments. They elect their governors, their legislatures, and other authorities without the intervention of the central Government. Moreover, each province adopts its own constitution. They may to a certain extent enter into agreements relating to the

administration of justice, economic interests, or works of public utility, subject to notification of the Federal Congress. They may, out of their own resources and through protective legislation, promote their own industries, immigration, the construction of railways and navigable waterways, the settlement of provincially owned land, the introduction and establishment of new industries, the importation of foreign capital, and the exploration of their rivers.

Within the framework formed by the provisions of the organic national charter outlined above, which since 1853, when it was first approved by the Constituent Congress, has shaped the democratic and liberal consciousness of the country, the various laws which compose Argentine labour legislation have by degrees been adopted. In nearly every case there has first been an intense movement of public opinion and discussion, in which outstanding personalities have generally taken part. These have fought for progress side by side with the working masses, who have become more and more conscious of their rights and, through the improvement in their organisation, increasingly successful in establishing their legitimate demands.

The Early Labour Movement

Even in the past there were men with an interest in the new social ideas; to some these were but of passing concern, but to others they were the main and lasting inspiration of their work. It is clearly impossible to assign an exact date to the first organised collective activities that always precede and stimulate the parliamentary action which ends in the adoption of positive legislation, the ultimate outcome of this struggle for the recognition and conquest of rights. In 1885 a periodical defending the principles of the First International began to appear in Buenos Aires. In 1890 some 3,000 carpenters, who demanded an increase in wages, had recourse to a voluntary and collective stoppage of work. This was the beginning of a movement which, starting with a comparatively small number of participants, grew, however, from year to year until the maximum figures were reached in 1919, when in the Federal capital alone there were 367 strikes involving 308,967 workers. With the adoption of new legislation and the spirit of better collaboration between capital and labour that followed, the number of strikes has declined in recent years, until in 1939 there were only 49, the number of workers involved being 19,718. By 1940 other factors came into play. The trade unions adopted for the most part a waiting attitude owing to the chaotic world

situation, and their demands were smaller than at other times, but it should be noted that this was also largely the result of the many collective agreements concluded in the previous year, fixing conditions of employment in a larger number of branches of industry.

Not long after these first manifestations of labour agitation and the awakening of a collective conscience, the tendency in question was reinforced by the organisation of the workers of Argentina's vast countryside, although it must be admitted that those who took part in the movement were not so much the rural wage earners as settlers and tenant farmers. The result was that Congress passed an Act in 1921, establishing a special régime for agricultural leases, which was replaced in 1932 by the present Act, No. 11,627, supplementing the national Civil and Penal Codes. This Act, besides minutely regulating the substance and form of contracts concerning the working of crop-raising, stock-raising, and mixed farms, provides effective protection for settlers, for example, by the provision declaring null and void any clauses requiring them to sell their products to the owner of the land or to a specified person; or to insure the fields, crop or farm with a specified company or person or in a specified manner; or to employ a specified machine or a specified undertaking or person for ploughing, sowing, reaping, threshing, shearing or binding, or, in general, for harvesting, transporting and driving; or to surrender the rights, safety guarantees, and protection statutorily granted to tenants; or to obtain machinery, sacks, sisal, building materials, clothing or foodstuffs from a particular commercial firm, institution or undertaking.

The Act makes it compulsory for the landlord to provide and equip premises for a school if the number of tenants and subtenants is over twenty-four and there are no publicly owned schools within a radius of ten kilometres. The school authorities will fix the period within which the building is to be constructed, and construction will take place at the owner's expense if he refuses to comply. The cost of any improvements (enumerated in the Act) which are made by the tenant must be reimbursed when his contract expires, being determined by arbitrators, up to a maximum of 10 per cent. of the value of the land as assessed for the payment of land tax. In the event of the liquidation of the estate, claims for improvements which the employer is liable to reimburse will have priority over all other claims, including those of the mortgagee.

Under the Act the tenant's furniture, clothing, and domestic utensils are not liable to distraint or to inclusion in the landlord's

priority claim; the working tools and machinery and other articles covered by this provision are enumerated in the Act. In the case of dairy farming, this exemption also applies to a specified number of animals and to the special dairying equipment. The exemption does not apply as against the seller of the article if he has a claim for payment.

The Civil Code and Labour Legislation

The years preceding and following the turn of the century may be regarded as antecedent to the establishment of organic social legislation. They were characterised by violent strikes, the establishment of a state of siege, clashes between the workers on the one hand and the police and the army on the other, the refusal to recognise the right of association and assembly, and so forth, a situation which culminated in the adoption of an Act concerning residence permits for foreigners. Under section 2 of that Act the Executive Power was given the right to order the deportation of any foreigner whose conduct was prejudicial to the national safety or public order. But more enlightened persons soon realised that the real and deep-seated cause of the violent events of the times was the lack of adequate legislation on conditions of employment, and the conviction became widespread that the Liberal theory in this matter, the belief in the full application of the *laisser faire, laisser passer* principle of the Manchester school, had collapsed. In every part of the world, wherever the worker was isolated and helpless, he was at the mercy of such conditions as his employer chose to impose, and it became more and more evident that legislation was needed to protect the human rights of labour. As the eminent French prelate, Father Lacordaire, has so rightly said, when there is conflict between the weak and the strong, law is that which liberates and liberty that which enslaves.

The Government was not blind to these preoccupations, and in 1904 the Executive Power submitted to Parliament a draft Labour Code, comprising 466 sections, which, although it was never approved, has in fact inspired the greater part of Argentine labour legislation. Many persons were opposed in principle to the adoption of a labour code on the ground that the provisions of the Civil Code were sufficient. This contains twenty-five sections dealing with the hiring of services, only six of which are strictly devoted to this subject, since the remainder relate to the hiring of work. It may be noted, however, that they are more explicit and provide more protection than the corresponding French Code, which contains only two sections on this highly important matter.

This excellent draft Labour Code, the author of which was Dr. Joaquín V. González, at that time Minister of the Interior, did not win much attention in Parliament, in spite of its indisputable qualities. But those very qualities have meant that many of its provisions, which at that time were considered very advanced, have been incorporated in subsequent labour legislation. The preamble to the proposed measure, which contains a clear-sighted recognition of the importance of the social phase through which the country was passing at the time, has also served as an inspiration for all who have devoted their efforts to the progress of the country.

The four draft codes which have been submitted to Parliament since the introduction of the first have all suffered the same fate. Parliament has always felt that, notwithstanding the conveniences of a Code, preference should be given to the greater flexibility that is indispensable in any new branch of legislation which has to be as many-sided as is the case with social legislation; such flexibility can be obtained by the establishment of standards that are independent of each other and easy to modify according to circumstances.

As regards the provisions of the Civil Code which relate to the hiring of services and of work, their reform has been proposed in connection with that of the body of law to which they belong. The Committee for the Reform of the Argentine Civil Code, which completed its work in 1936, devoted a whole division of its report to this question, in which it dealt with the contract of employment, that is to say, with the services of persons who undertake to work under the direction of another, whether or not for a specified period, in return for remuneration, such remuneration to be paid in the national currency.[1] According to the Committee's recommendations the Civil Code provisions would also apply to work done in the employee's home, if the remuneration consisted in a specified piece rate for work done, on condition that the employment was continued after delivery. No contract would be valid for more than five years, but could be extended; any contract already concluded for a longer period would be limited to the five years. The contracts would not necessarily have to take the form of a solemn engagement, and proof of their conclusion could be given by any means, irrespective of the amount involved.

Any person who performed work or service for another would

[1] The monetary unit in Argentina used to be the gold peso, but the only money now in circulation is the paper peso or "national currency at the statutory rate", which is worth 44 gold centavos. All sums in pesos mentioned hereinafter refer to this national currency.

be able to claim payment, even in the absence of an agreement, provided that the work or service in question belonged to his usual occupation or way of life. Where a scale or rate existed, it would apply; failing this, the customary remuneration would be due, as determined by the magistrate. It would be presumed that the person liable to render his services would do so in person, and that the right to the services could not be ceded except in the event of the transfer of the undertaking where the work was done. Payment would be made after completion of the work. Failing agreement to the contrary, wages fixed by the day would be paid once a week; those fixed by the month, at the end of each monthly period; those fixed by the piece, when the work was delivered.

The employer would be liable for any accidents to his employees which occurred during the performance of their services, whether arising in the course of and in consequence of the work, or resulting from fortuitous causes, or from reasons of *force majeure* inherent in the work. He would not be liable if the accident was due solely to the negligence or fault of the victim or of the persons entitled to compensation, or to *force majeure* not connected with the work.

The employer would have the right to deduct from the wage or salary of the employee any claim he had against the latter, but only up to one-fifth of the wage or salary. Where the employee had caused wilful damage, the employer would be entitled to deduct the whole amount in question from the wage or salary. The attachment of the wage or salary to meet the claims of the employee's creditors would be allowed only to the extent fixed by special legislation. The employer on whom formal notice had been served for not providing work for the employee would have to pay for any services not rendered on that account, but subject to the deduction of any sum saved by the employee in consequence of not performing the service, or earned from other activities, and of any sum he wilfully refrained from earning. If payment by the piece or job was agreed, the employer would have the right to give the employee work by the day. The employee must carry out his work with all necessary care and would be liable for failure to complete it. He would be bound to observe secrecy with regard to his employer's business and any industrial processes with which he became acquainted. An employee whose remuneration consisted wholly or partly in a percentage of his employer's net profits or of the amount of the business transactions he had negotiated would have the right to examine the books and accounts at the time when payment was due or any time thereafter.

No notice would have to be given to terminate a contract of employment which was concluded for a specified period, and the con-

tract would terminate when the period in question had expired or when the purpose for which it was entered into had been fulfilled. If the contract was concluded for an indefinite period, notice to terminate it would have to be given, fixed at thirty days for clerical employees, eight days for home workers, and seven days for other workers. The work done by manual workers and domestic servants during the first two weeks of employment would be deemed to be on probation, but the employer would have the right to discharge them for good reason.

Lastly, the Committee recommended that existing legislation on methods of payment, accidents, and other labour questions already passed by Congress should remain in force. Contracts of employment with the State or with subordinate State institutions, including public utility undertakings holding concessions, would be governed in the first place by administrative law and subsidiarily by the Civil Code.

The First Argentine Labour Law

The first labour law to be adopted in Argentina was the Act of September 1905 on the Sunday rest, which lays down as a general principle that Sunday work performed on account of another or in public on a person's own account shall be prohibited. The period during which work is prohibited was subsequently extended by the Act concerning the Saturday half-holiday, which gave legislative sanction to a custom of many years' standing.

Act No. 4,661 provides that the weekly rest shall be given on Sunday, but allows exceptions in the case of persons employed in certain industries or on certain classes or kinds of work where a stoppage of work on Sunday would inevitably entail serious disadvantages. It gives the Executive Power the right to issue administrative regulations to define the classes of commercial establishments and industrial undertakings which are excepted from the statutory prohibition provided that they grant their employees a compensatory rest period. The passing of this Act, which relates primarily to the weekly rest of industrial workers and the closing hours of shops, was seized as an opportunity to initiate a cautious temperance policy, since one of its provisions makes it compulsory for establishments for the sale of beverages to close on Sunday. In the national field this is the only statutory provision dealing with a problem which cannot and should not be ignored and which is assuming disturbing proportions, especially in the northern provinces of the country. It must be added, however, that, indirectly, the abuse of alcohol has been constantly fought by fiscal

measures in the shape of increases in the taxes and licences on liquor and other drinks. This problem is one with which the legislature has been concerned on various occasions and many Bills have been introduced in Parliament, but although none of them has been on the scale of the Volstead Act of unfortunate memory in the United States of America, the fact remains that they have not been approved by Congress.

The parliamentary discussion of this Act for the first time raised the problem of the line to be drawn between national and provincial competence with regard to social legislation. It was decided that the Act should apply only in the Federal capital and the national territories. This was also the case with a later Act, concerning the national holidays on 25 May and 9 July, which are treated on the same footing as Sundays, and with the above-mentioned Act concerning the Saturday half-holiday. It should be noted, however, that nearly all the provinces have adopted special legislation on the weekly rest. The first of May has been declared a public holiday by a Decree of the Executive Power. A recent Act, dated 31 December 1936, extended the scope of the provisions of the three above-mentioned Acts to private chauffeurs, on the ground that their work was not to be treated as domestic service.

The National Labour Department

In 1907, by a simple provision of the Finance Act, an administrative body devoted especially to labour problems was set up. This was first called the General Directorate of Labour, but the name was changed to the National Labour Department when it was placed on a statutory basis by the Act of 30 September 1912, by which it is still governed with little modification. This Act defined its duties and composition. The Department is administratively subordinate to the Ministry of the Interior, its essential functions being to compile statistics, prepare labour legislation, supervise the observance of labour laws through its staff of inspectors, assist wage earners and salaried employees in all matters connected with their employment, organise placement (co-ordinating the supply of and demand for labour), deal with cases of industrial accident (ensuring the payment of the proper compensation and helping the worker in the event of judicial proceedings), act in a mediatory capacity in strikes, maintain a specialised public library, publish a monthly bulletin, and institute proceedings in cases of contravention of social legislation.

Subsequent measures have extended the administrative powers

of the Department under its basic Act. Thus the Industrial Accidents Act and the Decree regulating its administration provide that the Department shall intervene in the event of disagreement between the employer and the worker or the latter's surviving dependants with respect to compensation. The recent Home Work Act, which was approved on 29 September 1941 and promulgated on 3 October 1941[1], like the earlier measure on the same subject, makes the Department responsible for enforcing the Act in the Federal capital and the national territories, requires it to set up arbitration and conciliation boards and wage boards in the Federal capital, and empowers it to define the industries in which home work shall be prohibited, and the days on which and manner in which wages shall be paid and the goods manufactured delivered, to institute judicial proceedings where necessary, to carry out enquiries, to impose penalties, etc. During the past twenty years the work of the Department has grown considerably, owing to the adoption of numerous Acts the observance of which it is required to supervise; at the same time, there has been no proportionate increase in its budget and resources. Similarly, the Act dealing with penalties for the contravention of labour legislation recast and extended the duties of the Department with respect to the treatment of contentious proceedings; it altered the procedure for the application of fines and allowed an appeal to a higher authority only in cases exceeding 300 pesos in amount.

All other labour laws in force in the Federal capital are administered by the Labour Department, which through its staff of inspectors supervises the observance of their provisions. It may be regretted that this administrative department, with its important and difficult duties, is not a Ministry of Labour in the full sense, such as is to be found in practically all the more important countries of the world. If that were the case, it would have competence for the whole of the country and not only for the Federal capital and national territories, as to-day. The observance of labour law would be stricter, there would be better co-ordination of general legislation, and the collaboration between the employers' and workers' organisations and the Department could be wider and more effective than is at present the case; whereas now, collaboration is confined solely to the work of the labour councils, the wage boards, and the joint boards (leaving out of account these employers' and workers' organisations' function of designating delegates to the sessions of the International Labour Con-

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[1] Cf. *International Labour Review*, Vol. XLV, No. 2, Feb. 1942, p. 203.

ference). It may justifiably be asserted that the utility of the Department is reduced by the lack of effective legal provisions giving it more influence and authority. The new office for dealing with occupational questions is in a similar position; its activities are hampered by the absence of an Act on occupational associations, since none of the many Bills on the subject have been passed. The limited competence of the National Labour Department is a direct effect of the federal system of government, which means that labour inspection and the supervision of the observance of labour laws are deemed to be a provincial matter, belonging to their police functions. The view taken is that only basic legal standards can be adopted for the nation as a whole, their detailed application being left to the local authorities. Hence each province has set up its own labour department to give effect to national legislation and to the provincial legislation within the limits of its competence.

On several occasions the advisability of setting up a Ministry of Labour has been urged. This would have much wider powers than those at present held by the National Labour Department, since it might be made to comprise also the National Hygiene Department, the social insurance guarantee funds and institutions, the workers' co-operative societies, the Immigration Directorate, the National Social Assistance Register, and similar institutions. The result would be a uniform and speedy application of labour laws and greater unity in administrative action, side by side with the disappearance of those differences in provincial legislation which often hamper the equitable application of the established rules. There is, however, a constitutional difficulty, in that the number of ministries cannot be increased without a previous revision of the fundamental charter. Nevertheless, it would be quite possible to make a change in the name of one of the existing ministries and to extend its powers by the addition of those relating to labour, which might be entrusted to a special under-secretariat; there would thus be a twofold administrative authority, which would have great advantages in the event of labour disputes.

Among the Federal bodies which also deal with social and labour questions, reference may be made to the National Low-Cost Housing Board, the National Post Office Savings Fund, the Civil Service Superannuation and Pension Fund, the superannuation and pension funds for banking, railway employees, journalists and printers, and the mercantile marine, and lastly the National Land Board. In addition, each of the fourteen provinces has a labour department or other official body of a similar character.

The Employment of Women and Children; the Maternity Act

The employment of women and children is governed by Act No. 11,317 of 30 September 1924, a national measure which took the place of the Act on the same subject in force since 1907. The Act lays down as an absolute rule that children of under twelve years of age may not be employed on any kind of work on account of another, not even rural work; the prohibition also applies to children of over twelve who have not completed their compulsory education. The age for admission to employment in domestic service or in commercial or industrial undertakings is fixed at fourteen years, whether the undertaking is private or public and whether or not it is run for profit, an exception being allowed for undertakings in which only members of the same family are employed.

An eight-hour day and forty-eight hour week is established for women of over eighteen years, and a six-hour day and thirty-six hour week for all young persons under that age. Night work is prohibited. The Act defines the dangerous and unhealthy industries in which women and children may not be employed, and provides for the liability of the employer in the event of an industrial accident to a woman or child incurred in the course of the performance of the tasks it specifies or of work carried out in contravention of its provisions.

The Act contains a special chapter concerning the rights of women workers in the event of childbirth, which provides for maternity leave of twelve weeks before and after the confinement, and the right to reinstatement after this leave, or later in the event of sickness due to the pregnancy or confinement; but it contains no provision for the payment of an allowance or wages to an expectant mother. This was remedied by the Maternity Act of 29 September 1934, which prohibits private undertakings from employing women during the thirty days preceding and the forty-five days following the confinement, and grants the woman an allowance equal to her full pay up to a maximum of 200 pesos, together with attendance free of charge by a doctor or midwife. The allowance is inalienable and exempt from attachment. The woman's post must be kept open for her.

The compulsory insurance scheme established by this Act is administered by a Maternity Fund attached to the National Civil Superannuation and Pension Fund. Under the Decree for the administration of the Act, maternity insurance covers all women workers, whatever their marital condition, between fifteen

and forty-five years of age who are employed in industrial and commercial undertakings or dependencies thereof. The insured woman's contribution to the scheme varies with her wage, and the employer contributes an equal amount. A woman is entitled to benefit if she was employed in a commercial or industrial undertaking at the date of conception and had paid her contributions for the quarter in which the said date fell and in the subsequent quarters during which she worked, even though she may not have been in employment at the time of her confinement. Even if she was not employed at the date of conception, she is entitled to benefit provided that she had paid eight quarters' contributions during the three years immediately preceding the said date, whether or not she is actually employed in an industrial or commercial undertaking when she makes her claim for benefit under the Act.

In this connection reference may be made to other statutory measures, such as the Act of 30 December 1936 setting up the Maternity and Infant Welfare Board, which provides assistance for women and children, protects maternity, and promotes the provision of crèches and kindergartens. In the case of women employed in Government departments, an Act of 30 September 1934 allows maternity leave for six weeks before and six weeks after confinement, with full pay and the right to reinstatement. An Act of 21 December 1936 amended the above-mentioned Maternity Act by exempting women earning less than 2.60 pesos per working day or 65 pesos per month from the obligation to pay contributions, in which case the employer must pay a double contribution to the Maternity Fund.

Lastly, an Act of 7 October 1938 prohibits dismissal on account of marriage.

Hours of Work

The limitation of hours of work in the Argentine Republic is governed by the National Act No. 11,544, which was adopted some years before Argentina ratified the Washington Convention of 1919, embodying the principle of the eight-hour day or forty-eight hour week prescribed by Article 41 of the Constitution of the International Labour Organisation. Even before the adoption of this Act, the provinces of Mendoza (by the reform of its Constitution in 1918), San Juan, Salta, Tucumán, and Santa Fe all passed Acts establishing a maximum eight-hour day for workers in industrial and commercial undertakings. The earliest measure, however, dates back to 1895, when the deliberative assembly of the municipality of Buenos Aires discussed a proposal for the

regulation of hours of work of all municipal workers and all persons employed in the industrial undertakings and businesses engaged on work for the municipality.

The National Act in question, which is incorporated in the Civil Code, provides that hours of work shall not exceed eight in the day or forty-eight in the week for any person employed on account of another in any public or private undertaking, even if not carried on for profit, with the exception of agriculture, stock-raising, and domestic work, and undertakings in which only members of the family of the head, owner, occupier, manager, director or principal person in charge of the undertaking are employed. Night work is defined as work done between 9 p.m. and 6 a.m., and is limited to seven hours. If work is done in unhealthy premises, where the contamination or compression of the air or the presence of poisonous fumes or dusts constantly endanger the health of the workers in question, hours of work may not exceed six in the day or thirty-six in the week. Exceptions to the eight-hour day are made only for managerial and supervisory work and work done in shifts, and in the case of accidents, whether actual or threatened, urgent work to machinery, tools or plant, or *force majeure*. The exception must further be limited to what is needed to prevent serious interference with the ordinary working of the undertaking, and may not be granted if the work in question can be done in the course of the normal working day. Overtime is allowed, but a special permit must be obtained in each case, granted after consultation with the employers and workers concerned. The rate of overtime pay is time and a half on ordinary working days and double time on holidays. The provisions of the Act may be suspended altogether or in part in the event of war or other emergency endangering the national safety.

The Act fixing the maximum working day should be taken in conjunction with the above-mentioned Act concerning the Saturday half-holiday and with Act No. 11,837 fixing the closing hours for commercial establishments, also a national measure. According to this last-named Act the sales, despatch, and office employees of commercial establishments dealing with the public, in Buenos Aires and the national territories, may not be employed after 8 p.m. and before 6 a.m. during the period 1 April to 30 September, and after 9 p.m. and before 7 a.m. during the rest of the year. Accordingly the establishments in question must remain closed during the said hours, but the Act allows certain exceptions, namely, for hairdressing and similar establishments, shops for the sale of foodstuffs except those selling drinks, bars, cafés, confectionery and sweet shops, newspaper stalls, auction rooms, for

the sale of furniture and works of art, restaurants, hotels, eating houses, etc. There are also special regulations for pharmacies.

A brief comparison between the Washington and Geneva Conventions concerning hours of work and the legislation now in force in Argentina will show that in more than one respect the latter is more favourable to the workers. It fixes shorter hours, both for the normal working day or week and for work in unhealthy premises. The scope of the Argentine Act is wider, the only exceptions allowed being for domestic service, agriculture, and stock-raising. The minimum rate of overtime pay, which according to the Conventions should be time and a quarter, is fixed at time and a half or double time in the Argentine Act, according as the overtime is worked on a weekday or a public holiday. Moreover, the Argentine measure is more flexible in that it leaves employers and workers or their organisations free to fix the maximum of overtime, whereas the international Conventions allow the working day to be extended by one hour only.

It will be remembered that in recent times, when conditions were still more or less normal, the question of a further reduction of working hours was raised. It was believed that lowering the maximum limit for the working week to forty hours would solve the complex problem of unemployment. This problem was also considered by the Argentine legislative authorities. A Socialist group submitted a Bill to Congress providing for a working week of five eight-hour days, without any reduction of wages, in industry and commerce. Another Bill, submitted to the Chamber of Deputies in 1938, would have fixed the working week at forty hours for the wage earning and salaried employees of the national railways, and at thirty-six hours for persons employed in unhealthy work, without reduction of wages. These proposals were supported by the Railwaymen's Union, the unions affiliated with the General Confederation of Labour, and the Federation of Labour of the Province of Santa Fe, but they were attacked by the employers' associations, which drew attention to the shortage of skilled labour, the consequent increase in the cost of production, and the resulting unfavourable effect on the cost of living.

Detailed regulations have been issued under the above-mentioned Act No. 11,544, both in general Decrees and in special Decrees for different activities adjusted to the particular needs of each. It should be added that the provinces for their part have issued regulations under the Act, which since its incorporation with the national Civil Code has rendered obsolete the provincial measures governing hours of work.

Minimum Wages

The problem of minimum wages, which in any comparison of legislation differs in character according as it is the fair wage or the living wage that is meant, has not been dealt with by national legislation in Argentina. This problem is of the first importance in social legislation; around it were focused the theories of the economists of the nineteenth century, against which the Constitution of the International Labour Organisation reacted by affirming the principle that labour should not be regarded merely as a commodity or article of commerce, and that the workers should be paid a wage adequate to maintain a reasonable standard of life as this is understood in their respective countries; it was discussed in the Papal Encyclicals *Rerum Novarum* and *Quadragesimo Anno;* and many countries have already passed legislation on the subject. This has not been done in Argentina, since, in spite of the many and often excellent Bills, no general Act governing minimum wages has been adopted, although a few provinces, for example, Jujuy, Mendoza, San Juan, and Tucumán, have legislated on the question. The only national measures are a few Acts fixing minimum wages for persons in State employment, home workers, office and bank staffs, and municipal employees and workers; for the last named there is also a system of "family wages".

In a country where collective bargaining is not yet sufficiently developed, a minimum wage Act would obviously be useful in putting an end to the many differences that arise out of the fixing of remuneration for work (taking only one year, in 1939, over 80 per cent. of the workers' demands leading to a voluntary stoppage of work related to wages). Apart from Act No. 9,511 concerning the attachment of wages and salaries—those under 100 pesos a month are exempt from attachment and a maximum limit is fixed for those above that amount—and the provision of the Decree for the administration of the Accidents Act requiring compensation to be based on a minimum daily wage of 1.50 pesos in the case of an apprentice earning less than that amount or nothing, there are only the provisions of Act No. 11,278 supplemented by Act No. 11,337, which were declared part of public law and incorporated with the Civil and Commercial Codes, and brought into force on 5 August 1925 and 9 September 1926 respectively. It is these provisions that constitute the special legislation for the protection of wages and salaries. The workers' remuneration must be paid in the national currency alone, or else it is deemed not to have been paid. This puts an end to the abuse by which workers are given vouchers valid only within the factory, for which they can obtain

only consumption goods that are generally offered to them at prices exceeding the prevailing prices. This practice, which is similar to the truck system, was very general in the sugar mills, maté plantations, and factories in the north of the country. Payment by cheque is allowed only if it covers the whole of a pay period, and the amount involved may not be less than 300 pesos.

The same Act fixes the period within which wages and salaries must be paid. They must be paid on working days and at the workplace itself, payment on premises where the principal business is the sale of goods or alcoholic beverages being specifically prohibited, except in the case of persons employed in this class of establishment. If a person employed by a sub-contractor or agent does not receive his pay on the day fixed by the Act, or within the following six days, he is entitled to claim it from the person for whom the sub-contractor or agent works, who deducts the amount from the sub-contractor's or agent's remuneration until a pay period, that is, one month or fifteen days, as the case may be, has been covered. Employers may not, for purposes of reduction, withdrawal, or offset, hold back any sum from the wages or salaries due, nor may they postpone payment for any reason or reduce or withhold pay on account of having supplied goods, foodstuffs, housing, or tools or made other allowances in cash or in kind. Contravention renders the employer liable not only to the penalties fixed in the Act but to payment of damages to the worker or employee in question. Similarly, fines for defective or incomplete work may not be imposed unless the worker or employee has wilfully caused damage to the workshop, instruments, or materials, in which case the employer may deposit a corresponding amount out of the wage or salary with the judicial authorities and institute proceedings for damages; in other words, he cannot take the law into his own hands.

Land Settlement

The above are the only provisions in force with respect to wages, which are in general determined by the law of supply and demand, with such modifications as may result from fluctuations in the cost of living. The immigration of foreign workers has had no effect on the movement of wages. Although in the years following the war of 1914-1918 the surplus of immigrants over emigrants was less than 100,000, in 1912 the figure reached 169,304, in spite of which the trade unions at no time organised a campaign against the admission of foreign workers. On two occasions, however, the Executive Power proposed to Parliament that the Immigration Act in force, that of 1875, should be amended. A Land Settlement Bill was

also introduced, which was approved by Congress and favourably commented on by the public and which filled a gap, since the excellent progress that Argentina had made in this respect had not had the backing of legislation. It may be noted, however, that the provincial authorities have taken action and have aimed at turning the majority of agricultural workers holding no title to the land that they were working into owners of their land. In the national field there is the Land Settlement Board under the Ministry of Agriculture, which administers State-owned land, grants agricultural and pastoral concessions, and organises land settlement in the national territories; its aim is to prevent speculation and to sell State land to genuine settlers.

The new Land Settlement Act, No. 12,636 of 21 August 1940, is of exceptional importance for the future of the agrarian economy of the country, and it also recognises the importance of the part that co-operation will play in any action taken for reform in this field. The National Land Board is responsible for preparing for the building up of the proposed new schemes, and it will administer the settlements that are to be created. According to section 3 of the Act, one of the members of the Board represents the agricultural co-operative societies registered with the competent Ministry under Act No. 11,388 of 20 December 1926 concerning co-operative societies. Of the other four members, two represent the Government, one the National Bank and the National Mortgage Bank, and the fourth the regional land boards to be set up under the Act. One of the duties of the National Board will be to promote the various forms of co-operation and mutual insurance, but it will also have to supervise the observance of the Acts relating to co-operation, rural credit, etc., in the settlements and to keep in constant touch with the International Labour Office.

Each agricultural settlement will be divided into thirty holdings, forming separate farms as a means of diversifying the crops and developing rural industries. For each settlement there will be a land board and a technical director appointed by the National Board, and a reserve fund will be accumulated to finance the organisation of experimental farms and stations, etc. In each settlement the National Board will give special attention to promoting the formation and working of co-operative producers', consumers', marketing, and processing societies, for which purpose it will organise a free information service and take any steps with the competent authorities that may be found expedient. The regional land boards are to help in the promotion of agricultural co-operative societies for production, marketing, and consumption, by means of effective and continual propaganda.

UNEMPLOYMENT

The Argentine Republic has adopted various measures to deal with the problem of unemployment, which became more serious in 1932 owing to the economic depression; according to the census taken in that year there were 333,997 unemployed, a figure which fell to under 90,000 at the beginning of 1935 and under 45,000 in 1936 (approximate figures). Under Act No. 11,896 of August 1934 a National Board to Combat Unemployment was set up for the purpose of "organising immediate relief for the unemployed, preparing a scheme of national action for the resolute handling of the problem, and distributing work among the unemployed". The Board took a census of the unemployed, the source of the figures given above; their accuracy, however, is open to some doubt owing to the natural reluctance of the persons in question to be registered in this new way, since they feared that they might then be treated as habitual vagabonds, or they were ashamed to make their distressed situation public, or merely, having registered for the first time in the hope of finding work, they were disappointed in that hope.

The Board came to the conclusion that the factors contributing to unemployment in Argentina were, in the first place, the excessive number of persons who were qualified to enter certain of the liberal professions and aimed at obtaining employment in offices, and, secondly, the growing practice of employing women and young persons in industry and commerce, a practice which in the present circumstances ultimately means the displacement of men. Until recently it was possible to say that unemployment was not a serious problem in Argentina, because of the considerable powers of recovery of the national economy. But the unforeseeable effects, present and future, of the state of war in the world to-day may lead to a situation similar to that through which the country passed during the world depression of 1929-1932. The first impact of this second world war on Argentina is already manifest; its effects have been recorded in a study published by the National Labour Department for 1940, which makes a statistical survey of the two kinds of consequences observed. For on the one hand the war has stimulated the creation and development of certain industries to make up for the shortage or absence of goods that are now imported on a much smaller scale, if at all; on the other, certain work has been paralysed altogether to an extent exceeding the impetus given to the creation of new undertakings or the extension of those in existence. It is in commerce, the building and building materials industries, and the wood, metal and chemical industries that dismissals of staff have been most necessary. In the primary industries, on

the contrary, and in the food, clothing, electricity, gas and water, and textile industries, additional workers have had to be engaged. The net result, however, is unfavourable. In the Federal capital alone there were 9,874 unemployed persons in 1940. To this figure for the city of Buenos Aires should be added some 15,000 more persons who were involuntarily unemployed, besides a few thousand who used to be engaged in primary industries and the transport industry. The aggregate figure for the Federal capital was thus 40,513.

The following table shows the unemployment figures for the whole Republic and the Federal capital in August 1940:

	Primary industries	Manufacturing industry, commerce	Transport, communications	Total
Argentine Republic				
Number unemployed	100,053	59,523	21,124	180,700
Percentage of total	55.37	32.94	11.69	100.00
Federal capital				
Number unemployed	6,668	25,063	8,782	40,513
Percentage of total in Federal capital	16.46	61.86	21.68	100.00
Percentage of total in Republic	3.68	13.87	4.86	22.42

If in consequence of world events the situation becomes worse, and more persons lose their employment, useful work could also be done by the National Public Works Council, which is composed of officials from different departments and has the duty of co-ordinating, preparing, approving, financing, and executing public works projects, with due regard to the periods of depression and to the possibility of accumulating a reserve fund. The above-mentioned publication of the Statistical Division of the National Labour Department enumerates the measures which would tend to reduce involuntary unemployment and relieve its economic, moral, and social effects. They are the following:

(*a*) The framing of a plan of public works, in conformity with the country's financial needs and adjusted to regional needs, in the following order of priority for each region: (1) works of immediate utility, such as cheap dwellings for wage earners and salaried employees (one-family houses or blocks of apartments), grouped in special quarters or garden cities as decided by the competent technical authorities, care being taken that they benefit urban as well as rural workers; hospitals, sanatoria, and rural medical stations for the provision of medical and social assistance; and schools; (2) works of general economic utility, such as a network of roads linking up production areas with consumption and marketing centres; embankments, canals, dams, ports, elevators, etc.; State, pro-

vincial, and municipal buildings for the departments and offices now housed in rented buildings. Independently of this order of priority, the construction of strategic roads and military works needed for reasons of national security will be undertaken.

(*b*) Introduction of minimum wages and family allowances on the basis of equalisation funds, in order to prevent the unemployment of workers with large families and with due respect for any schemes already established by private initiative, the end in view being to improve the standard of life of the working class family and the economic situation as a whole.

(*c*) Promotion of land ownership, in so far as this does not result from the provisions of the Land Settlement Act (mentioned above), by facilitating the acquisition of land and lowering rents as a means of ensuring the stability of workers on the land, and by granting loans, or increasing their amount, for the acquisition of houses, working tools, seed, and other articles needed for this purpose.

(*d*) Development of vocational guidance and training, through the establishment of appropriate institutions.

(*e*) Expansion of production by the stimulation of activity with the following ends in view: regularisation of the working of industrial undertakings, ensuring that workers will remain in their usual occupation; substitution of home-manufactured goods for imported goods wherever possible; and encouragement of commerce by consolidating existing markets and finding new ones, so promoting the free development of all activities and, therefore, the aggrandisement of the country.

(*f*) Co-ordination of the placing system, by establishing constant interchange between the national offices and the provincial governments with respect to the supply of and demand for labour.

(*g*) Unification and centralisation in the National Labour Department of the collection, compilation, and study of the periodical returns recording the level of employment and unemployment in the activities of all kinds carried on in the Republic and indicating the relations between various economic and social phenomena.

The Placing System

There is as yet no national placing system co-ordinating the supply of and demand for labour in the country as a whole, but there are various national laws on the subject and nearly all the provinces have adopted regulations. A Government Bill has, however, been drafted for the creation of an employment clearing office for the whole Republic.

The various national laws at present in force deal with the working of the National Placing Register (a division of the National Labour Department), the collaboration between the national immigration agencies and the provincial placing agencies, the financial assistance given to the free agencies run by philanthropic, mutual aid, or trade union organisations which are bodies corporate, the prohibition against carrying on the operations of private employment agencies (which are subject to the supervision of the authorities) in a dependency of a hotel, inn, or public house, the punish-

ment of false information and fraud misleading workers who are in search of employment, etc. Another form of protection for the workers is the imposition of a fine on the father, guardian or legal representative of a minor if he has induced an undertaking or employer to engage the minor in contravention of the law. Similarly, in the free employment agencies carrying on their work in localities where there are ports accessible to seagoing vessels, there must be a special department for the placing of deck and engineer officers and seamen. Under the contracts to be concluded through the medium of this department, seamen retain the right to choose the vessel on which they wish to serve, and the shipowner the right to choose his crew.

Another Act authorises the Executive Power to provide, through the National Labour Department, railway transport for unemployed workers and salaried employees who can be found work in an area where there is a shortage of labour, and to pay the fares of unemployed persons in the Federal capital who wish to return to their provinces.

The Contracts of Private Employees

Certain aspects of the employment of commercial employees are governed by the relevant provisions of the Commercial Code. These were amended by Act No. 11,729, which was originally passed on 26 September 1933 and came into force on 21 September 1934, and the application of which has been extended by various judicial decisions to workers in industry. The Federal judicial authorities are, however, opposed to such extension, which is still giving rise to criticism among experts.

The Act defines the persons it covers as including agents, clerks, commercial travellers, representatives, and workers who perform work of a commercial nature. In the event of sickness or accident for which the employee is not to blame, he is entitled to his pay or compensation for a period of three or six months according to length of service. Employees called up for military service have a right to reinstatement during the thirty days following the termination of their service. The right to an annual holiday for a minimum uninterrupted period varying with length of service is granted, but this part of the Act may be amended if Argentina ratifies the Geneva Convention concerning holidays with pay for workers in commercial and industrial undertakings, private offices, hospitals, restaurants, public entertainment undertakings, etc.

The Act provides further that the contract of employment may not be terminated without notice at the mere wish of either

party, and grants compensation to the employee, varying with length of service, if the contract is terminated by the employer. This rule applies also in the event of the cessation or winding up of the business not resulting solely from reasons of *force majeure*. Any suspension of work for a period of more than three months in a year ordered by the employer and any reduction of the salary or wage, commission or other form of remuneration which is not accepted by the employee are deemed to be equivalent to dismissal. The compensation payable in lieu of notice or for dismissal is not liable to attachment or a moratorium and enjoys the same priority rights as wages under the Bankruptcy Act.

In the event of the employee's death, his wife, children and parents must be paid, in the order and proportion laid down in the Civil Code, the compensation for length of service to which he would have been entitled. For this purpose children are defined as those of under twenty-two years, but there is no age limit if they are incapable of work. In default of the above-mentioned relatives, the payment is due to brothers and sisters if they were dependent on the employee at the time of his death, subject, however, to the same restrictions as in the case of children. Any sums received from an insurance fund or company in pursuance of any insurance arrangement or policy entered into by the employer will be deducted from the compensation paid to the surviving dependants.

The Act defines the reasons for which an employee may be dismissed without compensation even though the contract has been entered into for an indefinite period. They include any prejudice to the employer's interest caused by the employee's neglect or fault in the performance of his work and acts of fraud or breach of trust certified by a judgment of a law court; inability to perform the duties and fulfil the obligations which the employee undertook, except at the beginning of his employment; commercial operations by the employee on his own account or for another without the express permission of the employer, if they affect the employer's interests.

Under section 2 of the Act a maximum of five years is fixed for reckoning length of service previous to the date it was passed, but this retroactivity was limited by a decision of the National Supreme Court of Justice, which fixed the date as that of publication of the Act, namely, 21 September 1934.

Other judicial decisions have declared that the provisions of the Act are applicable to workers in industry. This view was upheld for the first time by the Chamber of the Justice of the Peace of the City of Buenos Aires in a decision of 10 December 1935. Even

workers in newspaper undertakings have been considered to be subject to the Act. According to one decision, the attachment of wages is not a legal cause for dismissal, unless the contract of employment contains a clause to this effect. Similarly, it has been decided that abuse of the right to strike may be deemed a lawful cause of dismissal, but the onus of proof always rests on the employer.

This Act has been criticised as incomplete, since it does not impose penalties for the failure of an employer to fulfil his obligation to grant annual leave (some hold that such leave may be replaced by an equivalent sum of money, others take the contrary view). It is also claimed that it fails to give any real protection to an employee who has to prove that he has been dismissed without cause and has not left his work voluntarily; the result, so far as the worker is concerned, is that, although he may have good cause to go to law, he may have to refrain for fear of being placed on the employers' black list, which would deprive him of all possibility of finding fresh work. On the other hand, it is affirmed that the Act gives the worker an illusion of welfare, increases the cost of living, makes it more difficult to find work, and leads to the cessation of the granting of wage increments and bonuses; from another point of view, it is accused of imposing an intolerable and steadily increasing burden on private capital.

Act No. 12,651 of 8 October 1940 regulates the conditions of employment of commercial travellers, defined as persons whose regular employment is that of commercial traveller and who, as representing one or more commercial or industrial firms, conduct business for the trade or industry of the persons they represent, against an agreed remuneration. It fixes the form in which the traveller's commission must be paid, calculated in proportion to the amount of business done through him. Lastly, it deals with methods of proof and the inalienable guarantees protecting his commission and the reimbursement of his expenses.

Workmen's Compensation

Act No. 9,688 of 29 September 1915 concerning compensation for industrial accidents and occupational diseases is perhaps one of the measures most appreciated by the working population. It has been amended twice, by Act No. 12,631 of 16 July 1940 and Act No. 12,647 of 27 September 1940.

The principal Act, which is very much on the lines of the Bill prepared in 1907 by Dr. Nicolás Matienzo, then President of the National Labour Department, is modelled on the French Act of

1898 and is based on the general principle of occupational risk. It does not cover all workers but only those whose annual remuneration is not more than 3,000 pesos. Similarly, all industries are not covered, since section 2 gives a list of the activities included, which can be extended only by a Decree of the Executive Power. The equity of the discrimination may be contested, but it is the direct result of the underlying legal principle of the measure. Further, compensation is not payable for incapacity not lasting more than six working days, nor for that wilfully produced or resulting from serious fault on the part of the worker. This provision, which during the parliamentary discussion on the measure was alleged by some speakers to deprive it of all value, has been interpreted by the judicial authorities in so restrictive a manner that it may be said to have been repealed in practice.

During the first years of application of the Act, employers invariably maintained that the accident was the result of the worker's serious fault, but when the case came before the courts it was unusual for the judge, whose interpretation of the Act was sovereign, to admit the allegation. Taught by experience, employers have ceased to make this plea. The Act does not define what it means by serious fault, but although the significance of the term may be deduced from the general principles of law, the Administrative Decree of 14 January 1916, which with minor amendments is still in force, attempted to make an acceptable definition when it said that "there is serious fault on the part of the victim if the accident was due to a breach of the rules of employment, provided that these have been explicitly approved by the National Labour Department, or to a cause which the worker could and should have avoided by making use of the means at his disposal at the time the accident occurred". "In any case", added the Decree, "the employer remains liable if the worker performed the act which caused the accident in pursuance of an order or authorisation given by the employer or persons directing the work." This view is taken from the jurist Sachet, who says that an accident is caused by an inexcusable fault if it was wilfully committed by the victim without an express order or authorisation, needlessly and to no purpose. The provision concerning rules of employment mentioned above and other similar provisions were recently rendered obsolete by a new Decree of the Executive Power. The regulations also provide that carelessness in the performance of any kind of work does not exempt the employer from his liability.

The Argentine Act, like the French legislation, is based on the system of voluntary insurance, although the general tendency at the time when it was passed was to give preference to compulsory

insurance, which was in force in nearly all European countries and has since been introduced in some American States. The commercial companies undertaking this form of insurance in Argentina must obtain a special permit from the Executive Power, which entails administrative supervision of the fulfilment of their obligations. By way of financial guarantee, they must make an initial deposit of 50,000 pesos with the National Labour Department, and they must accumulate an annual reserve equivalent to 30 per cent. of the amount of the premiums collected in the preceding financial year. The Act places employers' associations on the same footing as commercial companies for this purpose.

The amount of compensation payable under the Act varies with the degree of incapacity resulting from the accident. In case of death the compensation amounts to 1,000 times the workers' daily wage; the same rate is applicable in cases of permanent total incapacity. For permanent partial incapacity the compensation is equal to 1,000 times the reduction in the daily wage, but the Administrative Decree facilitates the calculation by containing a schedule for assessing loss of working capacity; this schedule is strictly applied by the administrative authority, though not by the judges, who ordinarily refer to the rules laid down in the Act. Temporary incapacity gives the right to as many half-days' pay as the number of days of incapacity.

With regard to the method of payment of compensation, a distinction is drawn between the pension due in the case of fatal accident or permanent total incapacity and the lump sum due for the other two forms of incapacity. In all cases, however, the employer must deposit a lump sum with the National Civil Superannuation and Pension Fund, which comprises the accident and guarantee funds. These sums are invested, and the interest is used for the payment of compensation to surviving dependants (wife, children under age, parents, brothers and sisters up to the age of sixteen, grandchildren up to sixteen) provided that they were living in the worker's household and dependent on him at the time of the accident. As the Act provides that the dependants of a foreign worker are not entitled to compensation if they were not living in Argentina at the time of the accident, international agreements have had to be concluded, first with the two countries furnishing the largest contingents of immigrants in Argentina, namely, Italy and Spain, and then with Austria, Belgium, Great Britain, Poland, Czechoslovakia, Lithuania, Denmark, Sweden, and Yugoslavia; Congress has not yet approved two other agreements, with Hungary and Bulgaria respectively, which were concluded in 1937. As a general rule these bilateral agreements pro-

vide for equality of treatment between national and foreign workers, and for the rest they follow the general lines of Argentine legislation as here described.

With a view to the payment of compensation in full, a Guarantee Fund has been set up under the National Civil Service Superannuation and Pension Fund, into which is paid the compensation due for fatal accidents when there are no surviving dependants. The Fund is used to pay compensation in cases where an employer has been declared completely insolvent by the courts.

The workers are given every facility for taking judicial proceedings. Where there is serious fault on the part of the employer, the worker may institute judicial proceedings at common law instead of the special proceedings under the Act, in which case the judge need not limit the compensation to the maximum figure fixed in the Act. The onus of proof will of course rest on the worker, and the period of prescription, which under the special Act is one year after the event giving rise to the proceedings, is extended to ten years under the general law.

One chapter of the Act is devoted to occupational diseases, but leaves it to the Executive Power to enumerate the diseases giving rise to compensation. On various occasions Decrees have been issued in this matter, which together cover the following diseases: pneumoconiosis (that is, all forms of pulmonary fibrosis resulting from the inhalation of solid particles suspended in the air, according to Feil's definition), pulmonary tabacosis (a form of pneumoconiosis differing from nicotine poisoning, the latter being due to the toxic effects of tobacco dust or fumes, while in the former disease the dust is a mechanical agent affecting the respiratory organs), anthracosis (produced by coal dust), siderosis (red or black pneumoconiosis, produced by iron dust), poisoning by lead, its compounds and alloys, mercury poisoning, copper poisoning, arsenic poisoning (very frequent and highly dangerous), ammoniacal ophthalmia (produced by ammonia and its sulphur compounds; the lesions of the cornea may ultimately lead to loss of eyesight), poisoning by carbon disulphide (affecting the brain and producing mental disorder, cramp, and paralysis), poisoning by the hydrocarbon products of the distillation of petroleum and coal, phosphorus poisoning (particularly, white phosphorus), malignant pustule (a form of anthrax infection of biological origin, which is frequent among persons working with animal products), dermatosis (affections of the skin caused by chemicals, such as coal, tar, naphthalene, etc., producing eczema and frequently resulting in cancer of the skin), ankylostomiasis (of parasitic origin, leading to progressive anaemia), brucellosis (undulant or

Malta fever), pathological manifestations due to radium or other radio-active substances and X-rays, and epitheliomatous cancer of the skin due to the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.

Numerous judicial decisions have also established the practice of granting compensation as for an industrial accident in the case of diseases which are not scheduled in the Decrees of the Executive Power but which are a result of the nature of the work done or have been aggravated by its performance, although they do not satisfy the definition of occupational diseases. This is the criterion currently applied to tuberculosis, anthrax, bubonic plague, freezing, hydrophobia, phlegmon, and septicaemia.

With regard to accident prevention and industrial safety, the Act leaves this matter to be regulated by the Executive Power, since each province has its own legislation. There is as yet no legislation on vocational retraining and rehabilitation.

The provisions of the Industrial Accidents Act are part of civil law, and any clause exempting the employer from his liability or in any way deviating from them is absolutely null and void.

Savings Funds and Social Insurance

Well before social insurance legislation was first introduced in Argentina, individual thrift in the shape of savings was encouraged by an Act, No. 9,527 of 1914, extended in 1921, which set up the National Post Office Savings Fund. Under this Act the savings deposits are not liable to attachment; they are guaranteed by the Government, and it is possible to open an account with a very small initial sum. A monthly maximum is fixed, and the special privileges granted apply up to a total deposit of 5,000 pesos. The post offices are empowered to receive deposits, but in addition every bank, whether run by public authority or not, has its savings fund and pays a moderate interest on the deposits. This form of thrift has made substantial progress; a variant of the system is to be found in the legislation governing private insurance companies, of which there are a considerable number throughout the country. By way of illustration it may be mentioned that in 1941 the number of transactions with regard to deposits carried out by the National Post Office Savings Fund was 1,630,414, and the total amount involved was 68,570,052 pesos.

With regard to social insurance, rapid progress has been made, influenced and inspired by the development of such insurance in

other countries, so fully described in a recent publication of the International Labour Office.[1]

Among the Acts passed on this subject reference should be made to No. 4,349 (amended twice), which in 1904 set up the National Civil Service Superannuation and Pension Fund for persons employed in the national administration. This was soon followed by the setting up of similar bodies by various provinces and municipalities. The Act concerning insurance against industrial accidents and occupational diseases also belongs in this group. There are further an Act, No. 10,650, for railway workers, another, No. 11,110, for persons employed by private undertakings engaged in work of public utility, such as tramway, telephone, gas, electricity, etc., services, and yet another, No. 11,232, (amended by No. 11,575), for bank employees. As regards this last group of employees, there is also Act No. 12,637 of 4 September 1940, which establishes the right of all private bank employees to security of employment, a minimum salary and salary increments, and a family allowance, lays down rules as to dismissal which combine the interests of the service with that of the employee's health, provides for the prevention and settlement of disputes, and fixes a minimum age of eighteen years and the possession of good health as conditions for admission to employment. This Act also provides for the establishment of a Banking Tribunal, to settle by conciliation and arbitration, wherever possible, any disputes arising out of its application. An appeal against the decisions of the Tribunal may be lodged with the competent Federal court. Other recent Acts provide for superannuation and pension funds for journalists (No. 12,163) and a National Superannuation and Pension Fund for Merchant Seamen (No. 12,612). As already mentioned, the Maternity Act (No. 11,932) establishes an insurance scheme for women employed in private undertakings.

The Civil Service Superannuation and Pension Fund has passed through periods of financial difficulty, but has been able to regularise its situation by the passing of an Act, No. 11,923, which increased its resources and at the same time limited the scale of benefits. According to reports prepared by the Ministries of Finance, the Interior, and Public Works, the situation of the various funds is as follows: that of the superannuation and pension funds for bank employees and private employees in public utility undertakings is satisfactory; on the other hand, the fund for railway employees is suffering from a deficit, owing to the decline of its effective reserves

[1] INTERNATIONAL LABOUR OFFICE, Studies and Reports, Series M, No. 18: *Approaches to Social Security. An International Survey* (Montreal, 1942).

and the consequent alarming fall in its accumulated funds; although the number of claims for benefits is increasing, the employers' contributions have declined since the adoption of Act No. 12,154, except in the years 1935 and 1936.

Mention should also be made of the social assistance legislation, such as Act No. 11,838, setting up the National Child Welfare Board, Act No. 12,107 for the treatment of ankylostomiasis, No. 12,331 concerning anti-venereal prophylaxis, No. 12,333 concerning the Tuberculosis Institute, No. 12,341 setting up the Maternity and Infant Welfare Board, No. 12,397 concerning the campaign against tuberculosis, and No. 12,558 concerning the medical protection of school children. The organisation of social assistance is entrusted to the Ministries of Foreign and Ecclesiastical Affairs, the Interior, and Justice and Public Education, together with the national, provincial, and municipal institutions for public assistance and welfare. Regulations are also in force concerning mutual benefit societies, which were prepared by the General Inspectorate of the Ministry of Justice and were approved on 29 April 1938. They define the nature of the assistance and rate of allowances to be granted, and provide that in fixing the contributions to be paid by the members, account must be taken of the factors relating to each service provided: sickness, maternity, invalidity, old-age, widows' and orphans', and unemployment benefit.

The above brief survey cannot of course give a complete idea of the social insurance schemes in force in Argentina, which have throughout been the subject of impassioned criticism and extensive parliamentary debates, gradually followed by amending legislation to bring the law into line with the results of practical experience. Owing to the multiplicity of co-operative funds, which, although not necessarily interdependent, allow a worker or salaried employee to accumulate his years of service when leaving one scheme for another, and to the growing number of workers, especially in agriculture, who are excluded from the social insurance laws, Parliament has frequently been led to consider the possibility of passing a general Social Security Act. So great, however, are the difficulties to be overcome that so far no legislation has been adopted of a basic and final nature. The reader may find further details on this point in the article recently published in these pages by Professor José González Galé.[1]

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[1] Cf. *International Labour Review*, Vol. XLV, No. 5, May 1942, pp. 483-492: "The Problems and Prospects of Social Security in Argentina".

Housing

In 1915 the first housing legislation of importance was passed. Act No. 9,667 of that year set up a National Low-Cost Housing Board under the Ministry of the Interior, to co-ordinate the construction of houses for sale or lease to workers with low wages, to promote the development of certain classes of building societies, to create co-operative societies and, in general, to be responsible for everything connected with the construction, hygiene, and safety of low-cost dwellings. A person who wishes to acquire one of the dwellings constructed by this body may not possess property worth more than 3,000 pesos or an equivalent annual income. The total cost of the land and building is paid off in monthly instalments, with interest at 3 per cent. and amortisation at 5 per cent. of the capital amount. Workers and salaried employees who acquire these houses for their own use are exempted from the payment of land tax for ten years, provided that the total cost of the house is not more than 10,000 pesos. From the year in which it was set up until the present date, the National Low-Cost Housing Board has done very valuable work. It has considerably improved the housing conditions of Argentine labour, and has helped largely towards solving the problem of high rents, which in certain years had tended to have an adverse effect on the number of marriages.

An Act, No. 11,156 of 1920, amending provisions of the Civil Code concerning the hiring of goods, extended the rights of tenants. But the real factor which has helped so substantially to solve the problem is the increase in building activity due to the investment of private and commercial capital, the rise in the number of building societies, and the granting of long-term mortgage loans on easy conditions.

Enforcement of Social Legislation

The penalty of a fine is imposed for contravention of most of the Acts described above, that is to say, those which are administered by the National Labour Department and certain others, such as that prohibiting night work in bakeries, that requiring the provision of an adequate number of seats with backs for the use of all persons employed in industrial and commercial undertakings in the Federal capital and national territories, that prohibiting the manufacture, importation and sale of matches containing white phosphorus, and the new Home Work Act of 3 October 1941.[1] In certain cases contravention of the Home Work Act may be punished by imprisonment.

[1] See above, p. 392.

The procedure for the imposition of fines has varied considerably since the first introduction of labour legislation. At first the reports on contraventions were prepared by the inspectors and sent to the police authorities for the imposition of the appropriate penalty. The police authorities were at first also responsible for dealing with contraventions of the Act concerning the weekly rest, but in 1915 an Act, No. 9,658, was passed which restricted the functions of the police authorities in this connection to giving evidence of contraventions. The reports of the inspector were transmitted by the National Labour Department for decision to the judge of the correctional court in the Federal capital or the civil judge of the national territory in question. The procedure was again changed by Act No. 11,570 of 25 September 1929, which is still in force and now governs the judgment of contraventions of Argentine labour legislation.

The National Labour Department itself imposes the penalty in all cases of contravention for which the fine does not exceed 300 pesos, subject to appeal to the correctional court if the penalty exceeds this amount. The report prepared by an official of the Department is accepted in the absence of proof to the contrary, a provision which is, it must be said, somewhat arbitrary and excessive. The defendant and the employee, or the inspector of the Department acting for him, are heard in public, the proceedings being oral and formal, and the defendant must offer proof of all points he states in his defence. The administrative proceedings may not last more than ten days in the capital and one month in the national territories, and the President of the Department must give his decision within five days of the conclusion of the proceedings. In cases where the fine exceeds 300 pesos, an appeal to the correctional court is allowed, provided the sum has been deposited. If the fine is not paid within forty-eight hours (five days in the national territories), the Department may order the closing of the undertaking until the offender has complied. In cases of appeal a hearing must take place within five days in the Federal capital (ten days in the national territories), being attended by the offender and the representative of the Department. The proceedings are again oral and formal, and the only pleas allowed must relate to the identity of the offender, wrongful accusation, lack of authentication of the report, and lapsing of the penalty. The judge must give his decision at the hearing itself or within the following five days, either confirming the administrative decision or acquitting the defendant. If the fine is confirmed and is not paid within five days of the date on which the decision becomes enforceable, the judge may impose an equivalent period of imprison-

ment, and the undertaking may not be reopened until the penalty has begun to be applied. In no case may penalties for the contravention of labour legislation be suspended, nor may fines be paid in instalments. The period of prescription for the recovery of fines is two years after the date on which the contravention was proved, but this period may be interrupted if the person in question commits another offence against labour legislation.

This Act has been vigorously criticised as being too strict, and soon after it was passed it was attacked before the Supreme Court of Justice as unconstitutional, but was declared valid by the Court. It was alleged that, in accordance with the classic division of powers, everything connected with the application of penalties should be a matter for the judicial and not the administrative authorities but in point of fact there are many laws of an administrative character which have established precedents weakening the force of this allegation. The Supreme Court has also had occasion to take decisions on nearly all other Argentine labour and social laws, but the manufacturers' allegation that they are contrary to the principles of the Constitution has not been upheld. It should be remembered that when the Constitution was adopted in 1853 there was nothing in the country resembling the labour problem as it now appears; hence it is argued, and the judicial decisions that have been given support the view, that the Constitution comprises all the legal principles which are inspiring this new branch of the law. What is still being discussed with regard to the Constitution is a question of competence, namely, the distinction to be drawn between what properly belongs to the national authorities and what to the provincial authorities in particular, with regard to the right to legislate on labour conditions. As a matter of fact, this is a point which has arisen and is being discussed in many other countries with a federal constitution.

The Labour Movement

It is difficult to determine how much of the stimulus to parliamentary activity was given by the labour and trade union movement that first appeared in 1877, when the Association "La Fraternidad" was formed, soon after followed by the "Vorwärts", the International Socialist Circle, and the Argentine Federation of Labour (later, the General Federation of Workers). In 1930 there were in Argentina three central workers' organisations: the Argentine Confederation of Labour, a neutral body which was affiliated with the International Federation of Trade Unions; the Argentine Trade Union Federation, anarchist in tendency; and the Argentine

Regional Federation of Labour, communist in tendency. In 1941 there were the General Confederation of Labour, with over 270,000 members, the Argentine Trade Union Federation, with some 27,000 members, and the Federation of Catholic Employees' Associations with some 18,000 members.

The activities of occupational associations are still governed by the general law in the absence of special legislation on the subject. As already stated, several Bills have been introduced in Congress but never passed.

By a Decree of 24 October 1938 the legal recognition of trade unions was made subject to the following conditions: (*a*) the practical execution of their aims must take the shape of work and projects of social utility in harmony with the interests of the activities in which their members engage and with the principles of existing legislation; (*b*) they must exclude any principles or ideologies contrary to the bases of nationality and the legal and social system laid down in the Constitution; (*c*) in their proceedings and methods of action they must refrain from direct action and from making membership compulsory; (*d*) they must absolutely abstain from taking any part in political and religious affairs and from joining bodies which have not obtained legal recognition. The same Decree provides for the appointment of a special committee to draft regulations for occupational associations in conformity with these principles.

A Decree of 15 May 1939 regulates the activities of foreign associations which have been set up in the Argentine Republic, but not for the "useful purposes" specified in the relevant Article of the National Constitution. The associations in question are those which are formed to carry on propaganda for the political or social ideas of their countries of origin, whose problems they mistakenly seek to transfer to a land free from their regrettable exaggerations. According to the Decree any association, whether a body corporate or not, which is formed in the Federal capital or a national territory must notify the Ministry of the Interior or the local head of the police of the name it has adopted, its aims, its rules or constitution, and the names of its members. It must keep a record of its proceedings, for which purpose it must use only the forms approved by the Argentine Government. It may not adopt the emblems, signs, uniforms or symbols of foreign parties or societies. The records must be kept in Spanish. No association may take action which involves direct or indirect interference with the policy of foreign countries, or exercise coercion for the purpose of obtaining support for specified political ideals by means of threats or promises of any kind. All national and

foreign associations must originate exclusively on Argentine territory; the same rule applies to their officers and governing bodies. They must comply with democratic principles and elect their governing body by a vote of their members. They may not be dependent on foreign Governments or bodies, or receive from them subsidies or donations of any kind except such as may be accepted with the previous consent of the Executive Power. Contravention of these provisions leads to the immediate dissolution of the association, irrespective of the penalties to which individual members are liable for the offence of unlawful association.

Notwithstanding the lack of an Act on occupational associations, the trade unions have grown rapidly, according to figures published by the National Labour Department.[1] The membership of the principal organisations in the four years 1936-1940 was as follows:

Organisation	1936	1937	1938	1940
General Confederation of Labour	262,630	289,393	270,320	311,076
Argentine Trade Union Federation	25,095	32,111	26,980	23,039
Federation of Catholic Employees' Associations	8,012	8,079	18,500	18,675
Independent unions	72,834	68,105	120,809	120,038
Unspecified	1,398	21,214	—	—
Total	369,969	418,902	436,609	472,828
Index number	100.00	113.23	118.01	127.80

In July 1941 there were also 174 employers' associations, with 50,408 members.

In the province of Buenos Aires the Act establishing its Labour Department, dated 30 April 1937, deals with occupational and labour associations. It requires them to show proof of certain circumstances as evidence of the rectitude and lawfulness of their proceedings and of the fact that their aims are free from any tendencies promoting theories which are contrary to the constitutional order in force and that they recognise the general rights of individuals under the law.

Conclusion

The object of the preceding brief survey has been to outline the present state of social legislation in the Argentine Republic, showing its exact relationship with the fundamental rules and

[1] Departamento Nacional del Trabajo: *Organización sindical, asociaciones obreras y patronales.*

tendencies which are characteristic of the whole of Argentine legislation and have stood the test of years. This legislation is constantly undergoing transformation and evolving, a process now being accelerated by the events that are so profoundly perturbing the march of human evolution. The new needs that are the normal result of the constant progress of a living and moving society have led to the creation of new bodies, such as the office for dealing with occupational questions, the Medical Labour Inspectorate, and the Industrial Safety Council, to mention only some of a national character. The changes which the war is bringing about have made it necessary for the authorities to adopt more or less transitional measures, such as the Emergency Act of 1939, following the outbreak of hostilities in Europe. Other measures will have to be taken in the future, according as the needs of industrial development, now more urgent than ever, grow more and more pressing. New rules will have to be framed for application to the vast field of industrial and labour relations, according as the need for diversified Argentine production raises new and unsuspected problems of an increasingly peremptory character. For civilisation, whose fruits and conquests are running the gravest risk of degradation and ruin, is now passing through times in which it will be for the new and vigorous countries to provide for future contingencies by the wise development of new industries. That success is certain both on the home and on foreign markets is being shown by many examples, and is foretold by men who are in a position to give an authoritative opinion. This process calls for the support of the authorities, in order that the investment of new capital may be stimulated as much as possible, since the closing of the paths of commerce, by hampering the circulation of the goods of every country in the world, always tends to produce a certain hesitation among persons with capital to invest. Such capital, especially foreign capital, has always tried to take root in Argentine soil, and the effects of this preference have never been such as to suggest that those who have placed their trust in Argentina in this way have been disappointed in their forecasts. To-day the guarantees of security are no less and prosperity is relatively great in Argentina, sufficient to enable it to navigate successfully through the economic tempest that is approaching and that will soon affect all the countries of the world, sufficient also to undertake economic recovery. Even now, however, it is an undoubted necessity for the country to speed up its industrial evolution, which is perfectly possible owing to the national and social character of the surrounding circumstances, the abundance of first-class raw materials, the uninterrupted discovery of new

sources of motive power, the creative spirit and skill of the workers. There is no other solution for a country which has to cope, unaided, with the situation created by the war, the closing of foreign markets, the disappearance of means of communication, and the breakdown of the supply of foreign manufactured products.

In the framing of the laws and regulations described above, it is clear that, although the lessons from foreign experience are turned to account, yet by degrees freedom from that influence is being won and inspiration is being drawn from the real needs and special character of a country with clearly defined features and characteristics of its own, a country whose culture is undergoing rapid development and whose lasting traits will appear in a few years' time.

APPENDIX

The principal Acts mentioned in this article are listed below. An English translation of those marked with an asterisk will be found in the *Legislative Series* published by the International Labour Office.

No. 4,349 of 20 September 1904 respecting superannuation and pensions, as amended by various subsequent Acts.

*No. 4,661 of 6 September 1905 respecting the Sunday rest, amended by Act No. 9,105 of 12 August 1913 respecting rest periods on national holidays.

No. 9,688 of 11 October 1915 respecting industrial accidents, amended by Acts No. 12,631 of 16 July 1940 and No. 12,647 of 27 September 1940.

No. 10,650 of 30 April 1919 respecting the National Superannuation and Pension Fund for Railway Employees.

No. 11,110 of 11 February 1921 respecting the National Superannuation and Pension Fund for staffs of private undertakings engaging in public services.

*No. 11,127 of 8 June 1921 prohibiting the use of white phosphorus.

*No. 11,232 of 9 October 1923 respecting the Bank Employees' Superannuation and Pension Fund.

*No. 11,317 of 30 September 1924 regulating the employment of women and children, amended by Act No. 11,932 of 29 September 1934 respecting the employment of women.

*No. 11,338 of 9 September 1926 prohibiting night work in bakeries.

*No. 11,544 of 12 September 1929 respecting hours of work.

*No. 11,570 of 25 September 1929 fixing the procedure in cases of contravention of labour legislation.

*No. 11,640 of 7 October 1932 respecting the Saturday half-holiday.

*No. 11,729 of 21 September 1934 respecting the dismissal of salaried employees and wage earners.

No. 11,837 of 16 June 1934 respecting the closing hours of commercial establishments.

*No. 12,205 of 25 September 1935 prescribing the provision of seats in commercial and industrial undertakings.

No. 12,636 of 21 August 1940 respecting land settlement.

*No. 12,713 of 3 October 1941 respecting home work.