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1. "MODIFIED" AS USED IN SECTION 154-45n G. C. SHOULD BE CONSTRUED TO MEAN "ALTERED" OR "CHANGED."

2. WAGE BOARD CONVENED BY DIRECTOR OF INDUSTRIAL RELATIONS, EMPOWERED UNDER SECTION 154-45n G. C. TO RECOMMEND AN INCREASE AS WELL AS A REDUCTION IN EXISTING WAGE RATES.

SYLLABUS:

1. The word "modified," as the same appears in Section 154-45n, General Code, should be construed to mean "altered" or "changed."

2. A wage board, convened by the Director of Industrial Relations, pursuant to the terms of Section 154-45n, General Code, is empowered, under the provisions of said section, to recommend an increase, as well as a reduction, in existing wage rates.

Columbus, Ohio, September 10, 1947

Hon. W. J. Rogers, Director, Department of Industrial Relations
Columbus, Ohio

Dear Sir:

Your request for my opinion reads:

"There has heretofore been established by the then Director of Industrial Relations, minimum fair wage standards in the hotel and restaurant occupations pursuant to the Minimum Wage Law of Ohio. Said wage rates which became effective July 1, 1936, were declared mandatory March 30, 1937, by the then Director of Industrial Relations, being known as Mandatory Order No. 3, which has been since said time and still is in full force and effect.

The present Director of Industrial Relations, pursuant to Section 154-45n of the General Code, which is hereinafter set forth, has appointed a new board to recommend whether or not the rate or rates contained in Mandatory Order No. 3 should be modified and to do the things required of said board pursuant to said section. Said board was organized and held its first meeting on July 22, 1947.

'154-45n. *Change in wage rates after one year; directory or mandatory order.*

At any time after a minimum fair wage order has been in effect for one year or more, whether during such period it has been directory or mandatory, the director may on his own motion after conferring with the superintendent and shall on petition of fifty or more residents of the state reconsider the minimum fair wage rates set therein and reconvene the same wage board or appoint a new board to recommend whether or not the rate or rates contained in such order should be *modified.* The report of such wage board shall be dealt with in the manner prescribed in Sections six and seven of this act provided that if the order under consideration has theretofore been made mandatory in whole or in part by the director under Section ten then the director in making any new order or confirming any old order shall have power to declare to what extent such order shall be directory and to what extent mandatory.'

A question has been raised before the board contending that the word 'modified' as used in said section means to reduce or limit and that the wage board, therefore, would have no right to recommend any raise in the established rate or rates under Mandatory Order No. 3.

It is the opinion of the Director of Industrial Relations, that the word 'modified', as used in said section, means to change or alter and that the wage board would have the right to recommend raising as well as lowering the minimum wage rates in said Mandatory Order No. 3.

I request, therefore, that you render an opinion, answering the following questions:

1. Does the word 'modified' as used in said Section 154-45n, of the General Code, legally mean to reduce or lower, or does it legally mean to change or vary and thus mean to raise as well as lower the fair wage rates above mentioned?

2. Does the wage board appointed pursuant to said Section 154-45n have power to recommend changes in wage rates which would include the raising as well as the reducing or lowering of the minimum wage rates above mentioned?"

It is a fundamental rule of statutory construction that in all cases the words of the statute are to be given their ordinary, natural and full meaning unless it is evident that the manifest purpose and intent of the Legislature would be defeated by so doing. In regard thereto, it is stated in 37 O. Jur., Sections 288 and 290, under the subject of "Statutes":

Section 288:

"As a general rule, words of a statute, in common use or

other than terms of art or science, will be construed in their ordinary acceptation and significance and with the meaning commonly attributed to them. Indeed, the intention of the legislature to use statutory phraseology in such manner has ever been presumed. Ordinarily, such words are to be given their natural, literal, and full meaning. These rules are applicable unless such an interpretation would be repugnant to the intention of the legislature, as plainly appears from a construction of the entire statute."

Section 290:

"Courts should be slow to impart any other than their natural and commonly understood meaning to terms employed in the framing of a statute. Too narrow a construction of terms is not favored. Statutory phraseology should not be given an unnatural, unusual, strained, arbitrary, forced, artificial, or remote meaning which may, in its last analysis, be technically correct but wholly at variance with the common understanding of men. A technical construction of words in common use is to be avoided. Nor should the legislature be regarded as having used terms in a statute in an obsolete sense."

In Carter v. Youngstown, 146 O. S., 203, it was held as disclosed by the syllabus:

"1. In the construction of statutes the purpose in every instance is to ascertain and give effect to the legislative intent, and it is well settled that none of the language employed therein should be disregarded, and that all of the terms used should be given their usual and ordinary meaning and signification except where the lawmaking body has indicated that the language is not so used."

Similarly, in Baker v. Mining Co., 146 O. S. 600, it was held:

"3. In the absence of any definition of the intended meaning of words or terms used in a legislative enactment they will, in the interpretation of the act, be given their common, ordinary and accepted meaning in the connection in which they are used."

The word "modify" is defined in Webster's New International Dictionary, Second Edition, as follows:

"To change somewhat the form or qualities of; to alter somewhat; as, to *modify* the terms of a contract."

Given in said work as an obsolete definition of the word is:

"To limit; also, to mitigate; assuage."

In Strain v. Southerton, 148 O. S. 153, decided on June 18, 1947 by the Supreme Court of this state, speaking through Zimmerman, J., in commenting on the substance of Sections 154-45n and 154-45c of the General Code, stated:

> "Section 154-45n provides that the director may change his orders through the same procedure by which he originally made them, and Section 154-45c permits changes in administrative regulations."

And in Lucas County Commissioners v. Fulton County Commissioners, 3 O. Dec. 159, it was held:

> "The term 'modify,' in a statute authorizing the court to modify a report of commissioners as to the amount of compensation to be paid for property injured in the construction of ditches, etc., was said to mean 'change.' "

Reference to judicial decisions of other states wherein courts were called upon to ascertain the meaning of the word "modify", as used in the constitutions and statutes of their respective states, discloses that said word has been uniformly interpreted to mean "to change" or "to alter". Thus, in Edwards v. Cooper, 168 Ind. 54, it was held:

> "The word 'modified,' as used in Acts 1901, p. 608, c. 262, §1, providing that, on the original hearing of an application for the construction of a district sewer, the 'resolution shall be confirmed or "modified," ' is to be given the meaning intended by the definition of the verb 'modify' in the Encyclopedic Dictionary: 'To change or alter the external qualities or incidents of anything; to vary; to alter; to give a new form, character, force, or appearance to'—and therefore the board of public works, after hearing a resolution to construct a district sewer, had power, without a further hearing, to modify the resolution so as to provide for the construction of such projected order."

In Morris v. The Broadview, Inc., 328 Ill. App. 267, decided by the Appellate Court of the First District of Illinois on March 11, 1946, it was stated with respect to the meaning of the word "modify":

> "* * * Each of the parties quote definitions of the terms 'amend,' 'alter' and 'modify' to support their respective positions.

> These words are in general use and their meaning is not uncertain. Each means, to change."

A case directly apposite is Jarman v. Collins-Hill Co., 226 Iowa 1247, decided by the Supreme Court of Iowa on June 20, 1939. In said case it was held:

> "4. The statutory provision giving the industrial commissioner power to 'modify' the decision of the arbitrator is the power to change, and to increase as well as reduce, the arbitration award."

With respect to such holding, it is stated in the opinion of the court:

> "(4) II. Section 1447, supra, provides that the commissioner, sitting in review of the arbitration award, 'may affirm, modify, or reverse the decision of the board'. Appellant advances the proposition that the power to modify the decision of the arbitrator is the power only to reduce, and the commissioner did not have jurisdiction to increase the award of the arbitrator. This contention cannot be sustained.
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> It was the duty of the commissioner to hear the parties, consider all evidence and additional evidence and conserve the substantial rights of all parties to the hearing. The power given the commissioner to modify the decision of the arbitrator is the power to change, the power to increase, as well as reduce, the arbitration award."

In the light of the controlling authorities above set out, it would appear, and it is accordingly my opinion, that:

1. The word "modified", as the same appears in Section 154-45n, General Code, should be construed to mean "altered" or "changed".

2. A wage board, convened by the Director of Industrial Relations pursuant to the terms of Section 154-45n, General Code, is empowered, under the provisions of said section, to recommend an increase, as well as a reduction, in existing wage rates.

Respectfully,

HUGH S. JENKINS,
Attorney General.