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RADIO TALK SCHEDULED FOR DELIVERY BY ELMER F. ANDREWS, ADMINISTRATOR
WAGE AND HOUR DIVISION, U. S. DEPARTMENT OF LABOR
Over
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SIX MONTHS OF WAGE AND HOUR PROGRESS

By the light of a smoking coal oil lamp in the kitchen of a tenement home in a New England factory town, a young woman, whom we may call Mary Jones (which isn't her name) told to the accompaniment of tears how she had lost her job.

Mary worked in a shoe stitching factory and had been making as little as $5 or $6 for a 44-hour week. She had heard of the Fair Labor Standards Act, which had gone into effect a little while before, and she had looked forward in excited expectancy to the 25 cents an hour she would receive under its provisions. The workweek was to be pegged at 44 hours, and for full time she would make not less than $11 a week, besides time and a half when she worked overtime.

But in Mary's case it hadn't worked out that way. There in the kitchen she said: "The boss told me, 'If you want the job, you will get your $5. If you want $11, you can get out.' He changed my time card by re-marking with ink, and after he changed it, it only showed me working three days from 7:30 to 4:30, even though I had worked 44 hours. He gave me $10.47 when I cried after he changed my time card. Then Joe, the floor man, came up to me and said, 'I'm sorry. I should have told you this a week ago--you can't work here any more.' Joe handed me the new time card for me to sign, but I would not sign it. I signed my right time card showing 44 hours worked."

Mary had spunk. She knew her rights and she meant to have them. But fear shook her resolution. After all, wasn't $5 a week better than nothing at all?

"I went to the boss many times," she confessed, "and last Monday offered to give him back $4 if he would give me my job and promised to punch the clock as he wanted me to. I was told he had no job for me. I am one of five children with a stepfather and a stepmother and I have to work."

Present in the lamp-lighted kitchen that winter night were two inspectors of the Wage and Hour Division of the Department of Labor. The following day they went to the plant and checked over the records. They seemed to be in order, though it struck the inspectors as curious that so many of the employees were working short hours -- in some cases only a day or two a week. It was hard to reconcile that fact with the employer's bland statement that he was experiencing great difficulty in getting help.

The inspectors stood in the snow outside the plant and watched the workers as they came and went. And they found that many of them, after putting in all day at the factory, returned at night, though no overtime appeared on their time cards.

Away from the factory, interviewed behind drawn curtains in their own homes, employees told the sordid story of their exploitation. They had been forced to delay checking in on the time clock until hours after they already had been at work, and to check out hours before they quit.

That employer was indicted by the government and pleaded guilty to violating the Fair Labor Standards Act. He was fined $1,500 and today he is making restitution of back wages under pain of still stiffer penalties. Mary Jones has her job back and is receiving the pay to which she is entitled.

A manufacturer in another state showed up in the guise of a public benefactor, deeply concerned about the problems of youth in a troubled world and determined magnanimously to teach them a useful trade. Immediately after the Wage and Hour Law became effective he re-named his factory a "school". Those of his employees who were unable to make 25 cents

an hour at the piece rates he wanted to pay were dubbed "students", and he didn't charge them a cent for tuition. They continued to work at the same machines they had tended before, making stockings for sportswear -- and the philanthropist sold the stockings in interstate commerce. The Wage and Hour Division ended that practice, and this employer also is making restitution to the "students" whom he had defrauded.

A lumber manufacturer had been the subject of many complaints. His books seemed to be in proper shape. But he was buying the output of 65 neighboring sawmills at a price so low that it made it impossible for them to pay 25 cents an hour. A Federal Court in this case, at the instance of the Wage and Hour Division, has enjoined the shipment in interstate commerce of two and a half million board feet of finished lumber and railroad ties produced for this company. The lumber is valued conservatively at $50,000, and the manufacturer may be stuck with most of it. It would have been cheaper to have made sure that the lumber was produced in conformity with the law in the first place.

This is our first "hot goods" case -- goods in the hands of a wholesaler or dealer produced in violation of the law. Parenthetically, I may say that if there was any doubt of our right under the Constitution to proceed against "hot goods", that doubt, I believe, has been removed by a decision of the United States Supreme Court just a week ago today in a case arising under the Agricultural Adjustment Act of 1938. In this decision it was held that Congress can forbid interstate shipment of goods produced in excess of crop quotas. It would seem to follow, therefore, that Congress also can forbid interstate shipment of goods produced in violations of prescribed labor standards. This decision, taken together with another upholding the National Labor Relations Board in a case involving a widened interpretation of interstate commerce, should remove, I believe, any lingering doubts as to the constitutionality of the wage-hour law.

In a middle western state an organization of business men provided a new company, emigrating from another state, with a factory building to induce it to settle in the community. It is pleasant to find such altruism in what we so often are told is a cynical age, but it appears there was a catch in this arrangement. Our inspectors report that some of the workmen who built the factory were forced to take half their wages in the stock of the company. Men and women were engaged to work in the factory and forced to put in six weeks for nothing while "learning" the operations. When they did get a little pay, they had to kick back 10 per cent of it, also to buy stock. It was this money that paid for the factory. And now it is charged that the mayor of the town is having a stooge buy up the workers' stock at 40 cents on the dollar, and as fast as the workers are separated from it, the stock is turned over to the owners of the plant. So here, apparently, you have the employees themselves paying for the plant in which they enjoy the privilege of working six weeks for nothing! The Wage and Hour Division is sifting these complaints with a view to appropriate action.

In an Eastern town workers in a clothing factory were paid 2 cents an hour -- 88 cents for a 44-hour week. The employer said they were learners and that it took anywhere from nine months to a year for one of them to learn to operate a sewing machine. And this in a community where plenty of experienced clothing workers are out of jobs! Here again we are gathering the facts, and if they bear out the complaints the workers will be given protection.

In another case we obtained an injunction to suppress an evil all too common. A runaway gypsy plant moved to a small community in an effort to get cheap labor. The community has been misled into believing that it was obtaining a boon -- an opportunity for the employment of its

people. But the employer paid eight cents an hour and less; wages so low that the public relief agencies, Federal, State and local, were called upon to supplement the earnings of his employees to enable them to exist. Instead of securing a boon, the community actually was providing a subsidy out of the taxes its people paid to enable an unscrupulous employer to secure an unfair advantage over competitors who were paying decent wages and keeping their employees off the relief rolls. One of the reasons for wage and hour legislation is to prevent this sort of thing, an evil recognized by the United States Supreme Court when, in a decision delivered by Chief Justice Hughes upholding State minimum wage legislation, it said:

"The exploitation of a class of workers who are in an unequal position with respect to bargaining power and are thus relatively defenseless against the denial of a living wage, is not only detrimental to their health and well-being, but casts a direct burden for their support upon the community. What these workers lose in wages the taxpayers are called upon to pay. The bare cost of living must be met ..... The community is not bound to provide what is in effect a subsidy for unconscionable employers."

If any American imagines that he has no stake in wage and hour legislation, let him ask himself whether he is willing to pay out of his own pocket to the tax collector to feed and clothe the underpaid workers of industry. We propose, by even-handed enforcement of the Fair Labor Standards Act, to make employers pay their own labor costs, and not the public.

The Fair Labor Standards Act went into effect October 24. Today, April 24, marks the completion of the first six months of our experience in administration and enforcement. This is an appropriate hour in which to sum up progress of the first half year and to chart, if possible, the course for the future. (983)

works 42 hours a week -- the statutory workweek after next October 24 -- will receive $2.10 more in his pay envelope than he is now getting -- $630,000 more each week for the entire group, or $32,760,000 more a year. Of the remaining 10,700,000 covered by the Act, some have received time and a half for overtime this year, or have had their working week shortened, and it seems safe to assume that they will receive still more overtime pay next year. The purchasing power of the nation has been increased, and the additional money, having gone to the lowest paid workers, has been and will continue to be spent for food, clothing and shelter, which will bring new business to those who have goods to sell and open up new opportunities for employment to thousands of men and women still without jobs.

As to compliance with the law to date I can speak with considerable assurance. I don't ordinarily hear about the people who are getting the benefits to which they are entitled, but I hear in tones of thunder about those who believe they are not getting their benefits. If any considerable number of workers were not getting at least the 25-cent minimum and time and a half for overtime they would be registering a kick. For we have encouraged them to kick, have flooded the country with complaint forms, have opened up offices in many cities where they can get help in filling out those forms.

We have not had 11,000,000 complaints. We haven't had a hundred thousand complaints. We have had just 11,910, or about one complaint for each 11,000 workers covered. That is pretty good evidence of general compliance.

Of the 11,910 complaints, many are duplicates -- two or three persons reporting the same circumstances. Of the remainder, 4,145 seem to be valid. A great many, of course, are based upon misunderstanding of the law, or were filed by workers who are not employed in interstate commerce and, therefore, must look to their own state legislatures for wage and hour protection.

A city's slums, in the dim light of midnight, may wear to the casual observer a not unpleasing aspect. Deep shadows mellow crass outlines and touch with beauty the sagging roofs. But presently the sun comes up and one sees revealed the broken windows, and the sunken walls, and the ramshackle stairways, the piles of filth and the rats scurrying about among the overturned garbage cans. Always we have had slum areas on the edges of our economic system. But we used to see them through the hazy shadows of our own ignorance or indifference, and we took refuge in the mumbo jumbo of old shibboleths. The Fair Labor Standards Act has been a strong flood light thrown upon the dark places of American industry. The unpleasant things we could not see before, and the things we did not wish to see, stand revealed. We cannot duck them. No amount of talk about the beauties of rugged individualism will obliterate them. Long tolerated despicable practices have been brought to light, and we now know where the scrubbing brush and the fumigator are needed. Were there no other benefits with which we could credit the law, the light it has shed upon these dark corners of industry alone would be its justification.

But we have substantial accomplishments to report. When the law became effective last October we estimated that eleven million workers engaged in interstate commerce, or in the production of goods for interstate commerce, were covered. Of these, we had reason to believe 300,000 were then receiving less than 25 cents an hour. We think we are safe in saying that most of these have had their wages raised. We also know that some 550,000 are receiving less than 30 cents an hour, the minimum wage that becomes mandatory next October. Since we do not know how much less each is receiving, we cannot talk about the possible wage increase for the entire group with certainty, but we can follow up those 300,000 who are now receiving 25 cents an hour for the first time and who will receive 30 cents an hour for the first time next autumn. Each of these employees who (983)

Every complaint that seems to be valid must be carefully analyzed. Usually more information is needed and field inspectors must go out and patiently interview employers and workers and carefully check factory records. That takes time.

Nineteen cases have gone to the courts. Of these, five were criminal prosecutions, 14 were applications for injunctions. Still other reported violations have been referred to the Department of Justice for possible future prosecution. At every point, the Wage and Hour Division has been upheld in the courts. So far we have not lost a single case--not one. Fines levied in four criminal cases totalled $31,500 of which $17,000 was suspended pending the full restitution of wages to the employees which the employer had pocketed and proof of future compliance. Restitution of pay to workers under the six injunctions already granted has amounted to approximately $12,000.

In some cases violations have been due to ignorance of the law on the part of employers or to misunderstanding. Frequently, it has been necessary merely to point out the violation to bring the employer into line and to obtain restitution of wages due. Naturally, we prefer this method, wherever possible, to the expense and delay of criminal prosecutions or court proceedings; and frequently, where the case is not flagrant and no falsification of records is involved we utilize this procedure, because our major objective, as we see it, is to obtain for the workers of the country the benefits Congress intended them to have rather than the multiplication of litigation. Many thousands of dollars have been added to workers' pay by this method. In Atlanta, Georgia, the other day a single employer paid $6,416 to 139 employees -- an average of $47 apiece -- and is now complying with the law.

We began enforcement six months ago with a small headquarters staff and with only 23 inspectors in the field to cover the whole of this enormous country, an average of less than one inspector for every two states. Today we have a field force of 131. It is still a skeleton staff, inadequate fully to render the service to which employees and employers both are entitled. We expect to add to the personnel as money is made available by Congress and inspectors can be properly trained.

The law, as you are doubtless aware, gives to the worker who is not paid at least the prescribed minimum rates the right to collect through court action double the amount of his withheld wages, plus a reasonable attorney's fee. Employers should not for a moment lose sight of that provision. Aggrieved employees do not need permission from me or anybody else to use this avenue of redress, and a few employee lawsuits could be far more expensive to the employer than voluntary, wholehearted compliance.

So much for six months of progress under the Fair Labor Standards Act. We have tried to proceed cautiously, well aware that we could find few precedents for our guidance. But slowly and carefully, we have been forging stout tools for administration and enforcement. Most of them have been tested, in the courts and out, and found good. We enter the second six months with renewed confidence in our ability to make the law work, secure in the knowledge we now possess that the public is behind us, with a firmly grounded conviction that we can look to the vast majority of the country's employers to help us give substance to the dream of a better and happier America.

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