For release on delivery at
approximately 7:30 p.m.,
Tuesday, May 2, 1939

R-275

ADDRESS SCHEDULED FOR DELIVERY BY ELMER F. ANDREWS, ADMINISTRATOR
WAGE AND HOUR DIVISION, U. S. DEPARTMENT OF LABOR
Before The
AMERICAN TRADE ASSOCIATION, WASHINGTON, D. C.
MAY 2, 1939 AT 7:30 P. M.

A week ago Monday night we held a celebration of the first semi-anniversary of the effective date of the Fair Labor Standards Act of 1938.

The girls in the Wage and Hour Division put on their prettiest dresses, and the boys tapped a keg of beer and rustled up some sandwiches, and we had some moving pictures and a dance, and on the whole it was a very pleasant occasion.

My part in the festivities was to broadcast a speech summarizing, as best I could in the limited time, some of the outstanding accomplishments of the first six months.

I related in some detail a few of the experiences we have had in enforcement and I said that in my opinion the Act had been a powerful flood light focused upon some very shady corners of American industry, and that this alone would be justification for it, even if nothing more could be said of it. For a good many despicable business practices have been brought to light, and to recognize an evil and to get it clearly defined is the first necessary step to its eradication.

I have no intention of boring you tonight with a repetition of that radio talk, but a few things I said then may bear repetition. We began enforcement with just 23 inspectors in the field to cover the whole of this enormous country. Today we have 131. Our best estimate is that 11,000,000 workers are covered by the Act -- that is, that they are employed in interstate commerce, or in the

production of goods for interstate commerce and are not subject to any of the exemptions authorized by Congress. That means one inspector for every 84,000 covered workers, so you can see that the celebrated one-armed paper hanger with the hives was a mere loafer compared with us.

But there is a very interesting provision in the law which permits a worker, who has not been paid at least his 25 cents an hour and time and a half for overtime, to go into court and collect double the amount due him, plus a reasonable attorney's fee -- or would it be a little more exact to say an attorney's reasonable fee? And the effect of that is to give us a lot of help in enforcement. Every covered worker thus has become a sort of unofficial inspector, and his boss knows it, and if any employer is inclined to think that he can defy the government and get away with it, the knowledge that the boys back in the plant are probably keeping their own record of the hours worked and the pay they receive with one eye on Section 16 (b) is a powerful persuader on the side of compliance.

I have said a good many times that we experience little satisfaction in seeing people go to jail or in having to pay fines of up to $10,000. What we have tried to do, and what we intend to continue to try to do, is to see that workers get the benefits to which they are entitled, so that those benefits can trickle out to the whole community and to business itself. So where we could conscientiously do it, where the violation was unconscious, or was in no sense flagrant and no falsification of records was involved, we have in many cases succeeded in pointing out the error of the employer's ways, obtaining the payment of any back wages due, assuring ourselves that he will comply in the future and ending the case at that point. We can well afford to do that because experience

has convinced us that the overwhelming majority of employers are supporting the law, that they believe in it and are doing their best to comply.

But, where violations are flagrant and deliberate, and where records are falsified, we can be appropriately tough. So far we have gone to court in 19 cases, 14 involving requests for injunctions to halt illegal practices and five involving criminal charges. And we have won every case so far closed. I am not boasting; I am stating that as a fact.

Looking back on the past six months I think most of us can smile now at some of the dire predictions that were made by certain industrialists before the Fair Labor Standards Act was enacted. A lot of people just simply never would be able to pay 25 cents an hour and time and a half for overtime in excess of 44 hours, and would have to fold up and go out of business. Well they didn't fold up. They are still in business and meeting the requirements of the Act with a minimum of complaint. Every time an attempt has been made to reform the economic system for a hundred and fifty years the same cries of alarm have been heard. Business couldn't take it. It couldn't take the ten-hour day and survive, and it couldn't take workmen's compensation, and it couldn't take the eight-hour day for women and children, and it couldn't afford safety appliances, and it never, never could survive unemployment insurance and old age security. But all these things have come, and business has survived, and at last has embraced these social innovations and found them good. For the truth is that American industry is a wonderfully adaptive mechanism and on that basis is entitled to ungrudging respect.

Everybody sees -- certainly every industrialist sees -- the advantage of maintaining a high wage level. You can't move the output of modern mass production unless a whole lot of people have money to buy. I think that's fairly

axiomatic. Every manufacturer sees it, but what Mr. A. hoped was that while Messrs. B, C, and D would pay high wages so that their employees could buy Mr. A's output, Mr. A himself naturally would like the advantage for himself of both an active market for his goods and a low wage scale in his plant so that he could pocket the difference. Our economic system just won't work that way. The Fair Labor Standards Act has brought Mr. A's wage rates up to at least a minimum of decency, and Messrs. B, C, and D now have the assurance that their standards are not going to be undercut by A. According to a recent survey 16,000,000 American families receive incomes of $1200 a year or less. What do you suppose would happen if each of those families could get enough more so that they could afford an additional new shirt each year for every male member of the family, and a new cotton dress each for mother and the girls? What would happen to the cotton growers, to the cotton ginners and compressors, to the textile trades and the apparel industry, to the dry goods merchants and the haberdashers?

Few human institutions are perfect, and we do not claim perfection for the Fair Labor Standards Act. Six months of experience have indicated to us a number of spots that seem to need bolstering up. Congress sensed that experience probably would indicate the need of amendments or revisions here and there, and instructed the Administrator to recommend further legislation which in his opinion is desirable.

In accordance with that provision I recommended the adoption of several amendments which were worked out in collaboration between the Wage and Hour Division and the House Committee on Labor, and were based upon actual day by day experience in administration and enforcement over the last six months.

One recommendation was to provide for special industry committees to fix

minimum wages in Puerto Rico and the Virgin Islands without regard to the wage minima fixed in the statute. That procedure would assure a fair wage in the Islands while protecting the industries of the mainland.

It was proposed to provide uniform hour exemptions -- up to 12 hours a day and 56 a week -- for enumerated operations in connection with the movement and preparation of agricultural commodities, whether or not engaged within the area of production. In many cases the perishability and seasonality of farm products require a flexibility in hours which this provision would furnish. This would moderate, if not entirely eliminate, possible hardships. At the same time the exemption for employees engaged in the ginning of cotton would be extended so that they would be exempted from both the wage and hour provisions, whether or not employed within the area of production.

Another amendment authorized the Administrator to make regulations necessary to carry out the provisions of the Act, including special authority with respect to industrial homework and voluntary constant wage plans consistent with the time and a half penalty provisions for overtime work. Employers who comply with the regulations of the Administrator would be given civil and criminal immunity.

It was suggested to exempt from the wage and hour provisions all employees receiving a guaranteed monthly salary of $200 or more. One of the major complaints of both employees and employers has resulted from the application of the overtime provisions to these higher salaried workers whose duties require flexibility in working time.

It was further intended to exempt from both wage and hour provisions switchboard operators employed in public telephone exchanges with less than 350

stations. Frequently the rural exchange is in the home of the operator and she spends only part of her working time attending to the switchboard. Application of the Act to such persons threatens to curtail telephone service in rural areas.

Another amendment authorized the Administrator to release goods produced in violation of the wage and hour standards from the prohibition against shipment or sale in interstate commerce where it is found that the person or persons having the goods acquired them without knowledge of the violation. This would protect the innocent pruchaser of so-called "hot goods" but otherwise continue in force the prohibition against shipment of goods produced in violation of the law.

Another provision applied to the bringing of civil suits to restrain violations in the district wherein the defendant is found, or of which he is an inhabitant, or in which he transacts business.

This, in brief, is what we recommended. The Norton bill, as reported out by the committee, changes some of these provisions and adds others. We continue to be for what we recommended. As for those further changes now suggested we have certain reservations. This does not seem to be the occasion or the place for extended discussion and analysis. Certainly we are opposed to any attempt to deprive any needful worker of the benefits he now enjoys under the Fair Labor Standards Act.

For whatever success we have had in enforcement to date we are indebted to many factors. First, to a popular law which squares with the public conscience. Second, to the fact that most employers in interstate commerce have given us wholehearted support. They have been as anxious as we are to eliminate from our economy the unfair competitor who steals his profits from the pockets of his workers. Third, to the trade associations that generally have stood loyally by

us, helped us to inform their members of the provisions of the act, and have wholeheartedly assisted in the work of the industry committees.

We shall need, and shall hope to deserve, your continued support. And it is my conviction that if we continue to co-operate in seeing that the game is played according to these new, but certainly not arduous rules, we can help to build a better market for business and therefore a more prosperous and happier America.

###

(1055)