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U. S. DEPARTMENT OF LABOR
Wage and Hour Division
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ADDRESS SCHEDULED FOR DELIVERY BY ELMER F. ANDREWS, ADMINISTRATOR
WAGE AND HOUR DIVISION, U. S. DEPARTMENT OF LABOR
Before The
UNIVERSITY OF NEW HAMPSHIRE CONFERENCE ON LABOR AND INDUSTRIAL RELATIONS
DURHAM, NEW HAMPSHIRE, MAY 20, 1939 AT 12:45 P. M.

A little more than a hundred years ago a trades union congress, meeting in Boston, demanded the ten-hour day in factory employment.

Criticism was especially directed at the textile mills, the earliest large factories in New England, in which the 12- and 14-hour day was not at all unusual; and at this convention it was said, doubtless by some dangerous agitator of the period, that the mill owners "must be forced to shut their mills at a regular hour; there must be a certain time over which they shall not work, that all the inmates may have an opportunity to rest their weary limbs and to enjoy free and wholesome air."

Industrial New England was scandalized by this demand. Any such curtailment of working hours would be disastrous. Business "couldn't take it." The proposal for the 10-hour day was even denounced on moral grounds. One eminent citizen thundered that it would "open a wide door for idleness and vice." Long hours of work had made "the mechanical classes happy and prosperous, frugal, orderly and temperate." Shorter hours would lead to a "degraded state" for labor and induce "a spirit of discontent and insubordination to which our native mechanics have hitherto been stranger."

Even from the enlightened vantage point of 1939, we cannot afford to smile too broadly at the misplaced zeal of this early advocate of the status quo. The incident is worth relating because it represents a pattern that since has become familiar in every legislative effort to ameliorate the condition of labor.

First the reform is suggested. It is denounced as uneconomic and dangerous, if not downright immoral. Advocates of the reform are condemned by defenders of things as they are. Once they were called Republicans. Later they were called Democrats. Still later they were characterized as alien agitators, and finally as Bolsheviks. But at last the public conscience is aroused. A bill is written and laid before a legislative body. High-priced lobbyists rush forward to turn back the tide. The clamor of debate fills the press and echoes throughout the land. But eventually -- perhaps years later -- the bill is enacted. Then efforts are made to induce the courts to kill it. When that fails, a demand for outright repeal is voiced. But, finally, the excitement dies down, the law stays on the books, business adjusts itself to the changed circumstances, comes to embrace and love the new order, and eventually accepts it as part of the status quo which, in turn, must be defended to the death.

Whether the proposal is a regulation compelling employers to guard their machinery with safety appliances, or workmen's compensation, or minimum wage laws for women and children, or the raising of the age of compulsory school attendance, that has been the history of social progress in this country.

Now, this familiar pattern of response is a rather curious phenomenon when we remember how different has been the reaction in the case of legislative enactments designed for the benefit of business. We enact tariff

laws to nurture industries through their infancy, and then their adolescence, and finally through old age. We gave to the pioneer railroad builders a slice of the public domain equal in extent to all of New England, plus New York State, plus part of Pennsylvania. That was all right, because business lacked confidence and needed to be encouraged. We grant to business the protection of the patent laws, and, as a matter of course, use the public power to enforce the validity of business contracts. We spend millions of dollars every year to improve rivers and harbors for the benefit of commerce, grant postal subsidies to publishers, and send commercial attaches throughout the world to find opportunities for business in foreign lands.

I am not criticising any of these things; I am merely trying to point out how easy it is to obtain special benefits, and even privileges, for business, and how difficult it is, by contrast, to obtain reforms in the name of those who have only their labor to sell.

As early as 1913 a bill was introduced in Congress prescribing a minimum wage of \$9 a week for employees of employers engaged in interstate commerce. Twenty-five years later a Federal minimum wage law was enacted. We have won every case we have taken into the courts -- without a single exception. And we have now reached that point in the cycle where repeal is being demanded. Just the other day in Washington the Chamber of Commerce of the United States demanded outright repeal of the law and a certain business prognosticator, chiefly celebrated for the fact that his prognostications so frequently miss fire, calls it a "crazy" law that must be thrown into the ash can immediately.

Now what the Chamber of Commerce declares to be the true doctrine in convention assembled (at a session attended by 150 of its members while the remaining thousand or more delegates were out sampling the hospitality

of Washington) doesn't jibe at all with what business men tell me privately.

Since last summer I have made dozens of speeches throughout the country from Boston to San Francisco and from the Lakes to New Orleans, and everywhere I have gone business men have come up to me after the meeting and shaken my hand, and told me that they are strong for the Fair Labor Standards Act, and that they want it enforced up to the hilt. As a matter of fact, a good many business men, through their trade associations, have helped mightily in obtaining compliance with the law from some of their own members, and even turned over to us for prosecution violators found within their own ranks. I think we are entitled to a "recount" from the United States Chamber of Commerce.

I have had a good deal of experience with business men, large and small, and I have found that most of them are as sensitive to humanitarian considerations as the rest of us, and the sight of poverty and suffering distresses them as much as it does me. There aren't many of them who really want to steal their profits out of the pockets of their employees. They know that when they don't pay their workers enough to live on, the rest of us, as taxpayers, have got to make up the difference in the form of relief. No really rugged, self-reliant individualist wants to be a parasite on the body politic.

I have noticed that the man who pays good wages is usually pretty proud of the fact, and he holds his head a little higher in his community because of it. And I also have noticed that the fellow who pays starvation wages generally has a hang-dog look, and is apologetic about it; or he blusters and shouts a good deal, which is usually a pronounced symptom of what the psychologists call the inferiority complex.

Most business men want to pay good wages, but in the past many of them were afraid that if they did they would be undercut by some shady competitor who pays starvation wages. Well, they now have a law that is right down their alley and, with their help, we are going to see that nobody pays starvation wages.

My situation today is unusually fortunate, because I am told that in this audience there are representatives of both employers and of labor. I have made speeches to employer groups, and I have made speeches to employee groups, but it isn't often that I am able to get them both into one room where I can talk to them both at the same time.

To the employers, I want to say this: Those of you who have made any adjustments that were required in order to pay the statutory 25 cents an hour with time and a half for overtime in excess of 44 hours a week have probably discovered by this time that you aren't hurt as badly as you may have thought you were going to be. New England is a relatively high wage area, and it isn't likely that the average plant ever did have more than a few people working for less than \$11 for a 44-hour week, and, of course, the few dollars that might be saved by trying to pay less just aren't worth bothering about.

I want to call your attention to Section 16 (b) of the Act which provides that "Any employer who violates the provisions of Section 6 or Section 7 of this Act (the provisions prescribing minimum wages and maximum hours) shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an ADDITIONAL equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf

of himself or themselves and other employees similarly situated, or such employee or employees may designate an agent or representative to maintain such action for and in behalf of all employees similarly situated. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action."

So, you see, even though we never heard of you, even though we never sent an inspector to your plant, even though we had never received a complaint, you still might not escape very expensive consequences if you violate the law.

One more important point I want to stress is the necessity of keeping accurate and adequate records. I imagine I can hear some of you groan over that statement. I know how tiresome and time-consuming it must be to have to fill out forms and questionnaires for agencies of government, But the records I am talking about are different. We aren't going to send you any blanks to be filled out, or any questionnaires. What we must insist upon are just the ordinary, run-of-mine payroll records which most of you undoubtedly keep any way.

The law provides that every employer subject to any provision of the Act "shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him as the Administrator shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder." We have issued regulations on the records to be kept by employers, and I will be glad to send a copy of them to any of you who want it.

You will notice that the law prescribes no particular form for these records. We also prescribe no particular form, but we do insist that records shall show the following: The name and home address of the employee, his date of birth if he is under 19, the hours worked each workday and each workweek, the total wages paid and the date of payment. Where the employee works overtime, the records also must show the regular rate of pay and the basis upon which wages are paid, wages at regular rate of pay for each workweek, excluding extra compensation attributable to the excess of the overtime rate over the regular rate, and the extra wages for each workweek paid for overtime. In the case of employers who furnish board, lodging or other facilities as part of compensation, the deduction or addition made for such facilities must be shown.

That may sound complicated, but it isn't. Every well run business keeps payroll records, and it doesn't involve much trouble to add any items we require which you do not now enter.

The records should be preserved for at least four years. One employer in Philadelphia customarily destroyed all time cards after keeping them only two weeks. Naturally, when we got a complaint and went to the plant to investigate, there were no records to enable us to determine whether the employer had complied with the law or not. The employer might have found himself in serious difficulty if he had not been able to make a satisfactory adjustment.

Simple as these requirements really are, you would be surprised to know how frequently the phrase, "failure to keep adequate records," occurs in the cases we have taken to court. "Falsification of records" occurs less frequently. But that shows criminal intent and we know how to deal with it. Failure to keep accurate records may be due to nothing more than

carelessness, but it can be a source of great difficulty both to us and to employers themselves.

What, then, do we ask of you? Not a great deal. If you are in interstate commerce and not exempt under any of the provisions of the Act, we ask you to pay not less than 25 cents an hour and time and a half for overtime in excess of 44 hours a week. And we ask you to keep accurate records. That's all.

In return, we have definite benefits to offer you. The first, which I already have mentioned, is protection against competition based upon starvation wages. The second is a logical expectation of sharing in the increased sales which inevitably result from increased mass buying power. In order to give your own employees more money to spend with the other fellow, you increase your costs, but don't forget that many thousands of people who work for the other fellow also will have more money to spend with you.

Now, a word to employees: Probably not many here worked for less than 25 cents an hour before last October. Most of you no doubt earned a good deal more than that. At first glance, you may wonder just how you are going to benefit under the law.

Well, let me again stress the overtime benefit of time and a half. Suppose you get a dollar an hour. Then your overtime rate is \$1.50 an hour -- not time and a half the legal minimum wage but time and a half your regular rate of pay. If you work 48 hours a week you receive \$2 more a week for those extra four hours.

Perhaps you would rather have your workweek shortened to 44 hours than to collect overtime. If that becomes your work schedule you have four hours more a week in which to go fishing, or play golf, or take care

of the yard and garden at home. If your employer elects to discontinue overtime work, the chances are that he will put on more help, which means that some other deserving fellow will get a change to get off relief and take care of his family.

You also will share from any increased business that results from putting even a modest floor under wages. If you work in a textile factory your job becomes more and more secure in direct proportion to the amount of textiles sold. The rich people have never been able to buy enough sheets and pillow cases and shirts and dresses to keep the textile mills running full blast. They never will be able to. There aren't enough of them. Textile mills, like other mass production establishments, can only be kept going on full schedule by virtue of the purchases of the millions, and that means the wage workers. Additional money paid out in wages to those at the bottom of the heap is spent, and has to be spent, for the merest necessities of life -- food, clothing and shelter. The girl whose pay is raised from \$6 to \$11 a week can afford an extra dress or two, the man who, for the first time, is getting paid extra for his overtime, can, and probably will, outfit himself in new shirts and underwear.

There is still another opportunity, and obligation, for workers in the Fair Labor Standards Act. Congress provided a method for increasing the minimum wage above 25 cents, but not above 40 cents an hour, by means of wage orders based upon recommendations of industry committees. The committee for each industry is appointed by the Administrator and must include representatives of the public, of the employees and of employers in equal numbers. Certainly, it is to the interests of labor, through its representation on these committees, to work for as high minimum wages as the circumstances and the law permit.

I already have outlined the provision which enables the aggrieved worker to bring suit for double the lawful wages which his employer may have withheld. If I were a factory employee and had any doubt as to whether or not I was getting the wage to which I was entitled, I certainly should get a little pocket notebook and I would jot down in it every day the time I went to work, the time I took out for lunch, and the time I quit. That kind of a record would be of considerable value in case you wanted to make a complaint.

As to complaints, we accept them from anybody and everybody. Forms are provided for the purpose which may be obtained of any representative of the Wage and Hour Division, or by writing to us in Washington. The forms call for the information which we need in making an investigation. Complaints may be made anonymously, though naturally we'd prefer to have the name and address of the complainant so that we will know where to start in making an investigation. You may not be dismissed for making a complaint, and our inspectors have a right to question you at the place where you work or anywhere else. Employers understand this -- or, at least, I hope they do.

And speaking of complaints, we have had about 15,000 so far. That seems like a good many, and so it is, but not so many in proportion to the 11,000,000 workers covered by the Act. Of these 15,000 a good many are duplicates -- that is, two or more persons reporting the same circumstances. Many come from persons who are not employed in interstate commerce and therefore are not covered by the Act. Some are made as the result of misunderstanding of some phase of the law. Take the residue of valid complaints and it seems to us that their relatively small number is pretty good evidence that the law generally is being complied with.

That's one reason why I believe employers generally are complying with the law, and I think they are doing it for the most part because they want to. They see benefits for themselves as well as benefits for the workers.

Moreover, I think the law is here to stay, despite the protests of our prognosticator and the resolutions of the United States Chamber of Commerce. I think it is here to stay because it represents a popular demand which will not be denied.

And I think it only fair to warn those few employers who don't want the law and would like to have it repealed or amended into innocuous desuetude that they are short-sighted. For if this moderate and wholly reasonable attempt to improve the lot of the workers is defeated, they are certain to have to deal later on with some other form of control that will be far more drastic.

Enlightened employers, together with intelligent representatives of labor, will be well advised that it is in their own interests to help us make this law work.