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NEW YORK STATE FEDERATION OF LABOR AT NEW YORK CITY
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I am glad to be here again a guest at the annual convention of the New York State Federation of Labor. In our different ways, you and I are striving towards the same objective. All of us are working for a better-fed, better-clothed, better-housed and therefore a healthier and happier America. That is why organized labor fought so hard and so long to put the Fair Labor Standards Act on the statute books, and why it has cooperated so heartily and so effectively in helping us to enforce its provisions and to beat off attacks by its enemies.

I am happy to be here today because it gives me the chance to lay a ghost. The ghost to which I am referring has been reported seen around the offices of some of our legislators recently. He, she, or it is called by a long name, "Organized Labor's Supposed Apathy Towards the Wage-Hour Law."

Now you know and I know that this phantom exists only in the imaginations of the dime-an-hour lobbyists. But just for the record let's take a few passes at him, her, or it and see whether we meet the resistance of flesh and blood or whether we go through and come out the other side.

First, let us make the primary test. Who worked to build a federal ceiling over hours and a floor under wages? Who held meetings and passed resolutions calling the Nation's attention to the fact that the struc-

ture of our society could not long stand on the rotting foundation of sweat-shop pay for inhuman hours of toil? Who went before session after session of Congress and pleaded for the man and woman at the bottom of our economic heap? Who came to our rescue recently when we were threatened with emasculating amendments?

Organized labor rests on the twin pillars of reasonable working hours and decent wages. The workingmen of America long ago realized that if they depended solely upon the vagaries of the marketplace for a living wage, the majority of them would still be existing on the thin edge of poverty. By and large, it has only been in times of extreme shortage of man-power, such as occurred during the World War or when our first colonies were established, that the average wage for workers has risen without their organized demand. One of the pet methods of combatting unions has been to boast about the American standard of living and heap all the credit for it on the worker's so-called inalienable right to work for whatever his employer wants to give him. You never find anything in this propaganda about how much our standard of living is due to labor's long drawn out battle for shorter hours and higher pay. Without your victories on this front, our mass-production industry would have grown to only a fraction of its present size. Our great industrial expansion has been made possible by one important factor -- a large and wealthy market within the borders of the country.

Who constitute the bulk of this market? The very men and women whom you have been courageously banding together to help themselves and their fellows get a fairer share of the wealth they are producing in industry. And, believe me, it has taken courage to band people together for this purpose. We are still going through the days when men are beaten and shot

down for organizing their fellows for the purposes of collective bargaining. But in many industries today -- but by no means in all of them -- the industrial front at present is as peaceful as a church yard compared with that of fifty-odd years ago when a union man was looked upon by many "nice" people, editors and judges as an agent of the devil unfit for the society of decent folk.

If you trace the Fair Labor Standards Act back through the decades, you finally come to a room in a Pittsburgh Hotel where, 58 years ago this November, a small knot of trade union representatives wrote the constitution of the American Federation of Labor. Among other declarations of principles, they said:

"We believe the gaining of higher wages and the shorter workweek to be preliminary steps toward great and accompanying improvement in the condition of the working people."

They did not, it is true, ask that this objective be obtained through legislative action. In those days labor was pretty skeptical of labor legislation. And it must be said that, until fairly recently, labor had a right to be skeptical. In 1881 the precedent for government regulation of wages and hours was not a rosy one, from the workingman's point of view. The first legislation passed in the New World regarding laborers was designed to lower wages, not to raise them. When the Pilgrims settled at Plymouth in 1620 there was a great scarcity of man-power. Naturally, wages went up. The "free market" was supposed to raise prices and profits. When it also raised wages, something was wrong and it had to be restricted. Ten years after the Mayflower arrived at our shores a law was passed stipulating that "carpenters, joiners, bricklayers, sawyers and thatchers shall not take above two shillings a day." This type of wage

regulation is hoary with age. It goes back at least 3,000 years.

The American Federation of Labor in its infancy concentrated its forces on obtaining higher wages through collective agreements with employers. This meant organizing and to this Samuel Gompers and other early labor leaders applied themselves with tremendous energy and success. During the many years he was president of the Federation, Gompers went up and down the country thundering the gospel of shorter hours and increased pay. Workers joined the organization by the thousands and under his leadership they nailed together a wage and hour structure which was the envy of the world.

Many of you lived through that pioneering period and remember it vividly. It is good, however, for the rest of us to be reminded once in awhile of the fact that there was a time, not so far back, when 14 hours, and later 12 hours, were considered a standard workday. Sam Gompers buried the 12-hour day and then stood watch over the grave to see that it didn't come back to life.

As the Federation progressed, however, it realized that there was a great group of workers in the slum areas of industry who were going to be difficult, if not impossible, to organize. Something had to be done for them for both humanitarian and economic reasons. Common decency dictated that no American should have to work intolerably long hours for slave wages. Common sense dictated that organized labor would have to protect itself from attacks from below.

Finding itself blocked in its attempts to do anything for these workers through collective bargaining, labor turned to the Government. After battles which were as hard fought as those on the organizing front, it succeeded in putting through many legislatures regulatory measures setting up certain basic minimum standards of employment. By this process, certain

States, with New York among the most outstanding, became model localities in which to work.

But, as with every voctory, this one had its drawbacks. Most of the sweatshop employers gave up their practices. But the rest of them ran away and pitched their tents where they would be free to operate without the hampering influence of progressive labor laws. And these runaway employers became a menace, through low-price competition, to the decent standards which labor had struggled so valiantly to establish. The next step became obvious -- a federal law which would make the whole country subject to the same standards.

This idea was given tremendous impetus by the devastating effects of the depression when growing hordes of unemployed threatened the whole wage and hour structure. When a man is reduced to the breadline, he cares very little for standards of work and pay. Anything to him is better than what he has.

Labor won its first victory for wage and hour legislation on a national scale with the enactment of the National Industrial Recovery Act, in 1933. And it was a real victory. Hours of work in industry took the largest single dip in history. During the two years from 1933 to 1935, the average weekly hours in manufacturing dropped from 51 to a fraction over 40. Federal wage and hour legislation had proved its value.

Having realized this, organized labor, following invalidation of NIRA, pushed for a permanent federal minimum wage and maximum hour law. It was this drive which resulted in placing the Fair Labor Standards Act on the statute books.

Again, I would like to repeat -- when the Fair Labor Standards Act was having tough sledding through three sessions of Congress, it was not the employer groups but organized labor which stood by and gave it the necessary

boost. The results of that support are written into the statute.

What are the basic wage and hour provisions of the law? The law provides that every worker engaged in interstate commerce or in the production of goods for interstate commerce must be paid at least 25 cents an hour until October 24 of this year when the minimum is automatically stepped up to 30 cents an hour. The eventual minimum -- 40 cents an hour -- does not go into effect until 6 years from now. Provisions, however, are made for setting minimum wage rates between 30 and 40 cents, industry by industry.

The hour provisions of the Act provide that workers must be paid at least time and a half their regular rate of pay for all hours worked over 44 in any one week. After October 24 next, overtime rates must be paid for all hours over 42 a week. A year from then, the standard workweek drops to 40 hours.

At first blush it might appear that the law leaves entirely untouched the carpenter, or the bricklayer, or the tile-setter or other skilled workers who make, let us say, from $1 to $1.50 an hour. It might seem, without a little study, that the law immediately benefits only those unfortunates whose economic position is so weak they cannot resort to collective bargaining. But let's delve a little deeper. You all know from painful experience that disastrous periods of idleness are encountered by our carpenter, tile-setter or sheet metal worker. This is due to the fact that there is not always in the community a sufficient number of people able to pay for the skills these workers are able to perform.

Now let us turn a moment to Helen Smith, who had been getting $7 a week in a shoe factory. The minimum wage provisions of the Fair Labor Standards Act gives her, let us say, an additional $4 each week in her pay envelope. It is quite true, of course, that Helen isn't going to rush out

and build a skyscraper or a flock of apartment houses to increase the number of jobs for skilled craftsmen.

Helen will, however -- and you can count on it -- rush out and get a needed dress or a new hat or stockings or buy more food or go to the movies more often. It is true that Helen's extra $4 alone won't have any measurable effect on speeding the wheels of industry. But just multiply her $4 or $3, or $2, by the hundreds of thousands of Helen Smiths and John Does whose wages are raised by application of the Fair Labor Standards Act, and see what happens.

A tremendous total effect is certain. The clothier, the butcher, the baker, the grocer, the furniture dealer -- all feel a distinct increase in the volume of business corresponding to the increased purchasing power of the mass of the people. The farmer sells more foodstuffs. So do the processors, wholesalers and jobbers and all the units which fit into our modern and highly complex system of distribution. They in turn require more help and are able to pay better wages. As this money is circulated in increased amounts more homes will be built, more automobiles purchased -- and more skilled workers will find full time employment at continued good wages.

That is the way the economic system works. It takes a lot of people with money to spend to keep our industrial machine running full blast. You simply cannot have prosperity when some millions of people can't buy anything at all and have to be fed and clothed by those of us who have jobs, and when other millions earn so little that all they can afford is just enough food to keep body and soul together and just enough clothing to keep them out of a nudist camp.

Let me quote you some figures which bring my thought down to hard earth. The Social Security Board has just released the results of

tabulations it made of the actual earnings of all the industrial and commercial workers in the West Central states of Minnesota, Iowa, Missouri, Kansas, Nebraska and the two Dakotas. Statisticians have been guessing for years about these earnings but here, for the first time, are the cold facts. The average annual wage paid these 3,000,000 workers in 1937 was the princely sum of $778. The largest group, those between the ages of 20 and 25, averaged only $482 for their year's work. In none of these seven states did more than 4 out of 100 workers earn as much as $3,000. And the figures included executives as well as workers. This was in the year of our Lord, 1937, the most prosperous year since 1929.

Think of those figures and then ask yourself whether every man, woman and child in this country doesn't have a very large stake in wage and hour legislation. They will continue to have a stake in such legislation until we learn that mass production is impossible without mass purchasing power. We will never have permanent prosperity in this country until we learn that lesson and really do something about it.

Let us turn back to the Fair Labor Standards Act and flip through its other provisions. As we do this, we find that the law is interwoven with the principle of collective bargaining.

Section 7(b) of the Act contains an actual incentive to union recognition. It grants a partial exemption from the overtime provisions of the Act to employers who have made agreements as a result of collective bargaining with bona fide unions. These agreements must restrict the hours of work to 1,000 in six months or 2,000 hours on an annual basis. In case such an agreement is concluded, the employer does not have to pay overtime rates unless his employees work more than 12 hours in any workday or 56 hours in any workweek. As you can see, this is a

real aid for organized labor. An employer who has spent years fighting union recognition may think twice when the dollars and cents penalty of overtime pay stares him in the face.

Section 16(b) makes it possible for employees to sue their employers in court, and, if they can prove a violation of the law, they can collect double the back wages due them, plus a reasonable attorney's fee. This section specifically states that action to recover such back wages can be instituted by representatives of employees. Congress wrote this provision into the statute because it wanted employees to be able to collect the wages due them by their own action and through their labor unions.

Another example of labor's representation in the provisions of the Act is the section relating to industry committees. The Act provides, as you know, for the appointment of industry committees for each industry covered by the Act as soon as practicable. It is the job of each committee to recommend to the Administrator the highest possible minimum wage (between 30 and 40 cents an hour) which the industry can afford to pay without substantially curtailing employment. In the first place, labor is given equal representation with employers and the public on the membership of each committee. In the second place, one of the factors which the committee is required to take into consideration in reaching its decision as to the wage it will recommend is stated in the Act as: "the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing."

The first wage order under this section of the Act was announced the other day when I approved the unanimous recommendation of the Hosiery Industry Committee to raise the minimum wage of full-fashioned hosiery workers to 40 cents and of seamless hosiery workers to 32½ cents an hour.

We estimate that 46,000 employees will receive pay boosts on September 18, when this order goes into effect.

This is what William Green, President of the American Federation of Labor, says about the Act:

"The enactment of the law places upon organized labor a three-fold responsibility. (1) It is vitally important to labor that minimum wages, to be determined by industry committees and embodied in wage orders of the Administrator, are set at rates as high as all available facts can justify... (2) It is equally important to labor to make certain that all minimum standards prescribed under this act are being observed. Not only can employers, violating the Act, be prosecuted in the courts, heavily fined and imprisoned, but workers who are paid less than the minimum wage, or whose overtime rates are not paid by employers, can collect (through court action) twice the amount withheld from them. The Act specifically provides that court action to recover such wage loss may be brought by designated representatives of workers concerned ... (3) Most important of all is the duty of labor to secure, through organization and collective bargaining, labor standards higher than the minimum standards."

Now, how about results? We estimate that 300,000 workers in the country who were entitled to the benefits of the Act were receiving below 25 cents an hour before it went into effect last October. Their wages were raised. They will be raised again this coming October 24 when the minimum rises to 30 cents an hour. At the same time, some 250,000 employees, who are receiving between 25 and 30 cents an hour will also get pay boosts. Raises have not necessarily been limited to these groups but may have extended up the line into the higher-paid brackets in order to maintain the existing differentials for skills and classifications.

The maximum hour provisions of the law have also poured money into the pockets of the workers. When the standard 44-hour week went into effect last October, we estimate that nearly 1,400,000 workers were putting in more than 44 hours a week. Those who had not been getting extra pay for overtime either began receiving time and a half for their overtime or else had their workweek reduced, making way for the hiring of additional people. It is estimated that this will happen to at least 350,000 additional employees this coming October when the standard workweek drops to 42 hours. Thus, we are gradually climbing out of the industrial cellar.

In addition, we have been able, by means of the Wage and Hour law, to throw a strong flood'light upon some of the slum areas of American industry which many people didn't even know existed; areas in which men and women and children had been crushed down to the starvation level until the taxpayers had to come to their relief. I could tell you of girls working in a Massachusetts shoe factory for as little as $4 or $5 a week, and, in addition, were forced to falsify their payroll records. I could tell you of a woman in Georgia who walked many miles to a factory, worked eight hours and then trudged home at night with 50 cents as the total reward for her day of toil. I could tell you of women working in an Eastern clothing factory for two cents an hour because their employer said they were "learners". I could enumerate scores, yes hundreds, of such instances. If it is true that the first step in the eradication of an evil is to clearly understand it, then the strong light that has been thrown by the Wage and Hour law upon some of these shady practices must rank as one of the great gains we have made in the last year. We have done and are doing our best to put a stop to such practices.

New York has had its share of violators. We have already been com-

pelled to bring eight of them into court where they have been fined a total of $31,000, of which $5,00 was paid and the rest suspended on condition that the employees be paid the back wages due them in full. To date more than $12,000 in back wages have been ordered paid in this fashion, in addition to several thousand more dollars given employees through restitutions without court action. I should also like to call your attention to five prosecutions in other parts of the country in which I believe you will be interested. They bear out your conclusion that a federal statute was necessary to protect progressive state labor laws. These firms were gypsy employers who had run away to a cheap labor market.

Until recently we have been handicapped by lack of funds. However, during the closing days of the recent session, Congress voted an increased appropriation. As a result you can expect in the future swifter and more effective action from the Wage and Hour Division wherever such action is necessary. Into this state alone during the next few months, we will probably be able to send at least 25 additional inspectors.

I should like to tell you the story of one New York case before I close. We heard about this violation through an anonymous letter received at the regional office here.

It read in part, as follows:

"I am writing in behalf of the homework I am doing. Since the Wage-Hour Law has been in effect, this firm was supposed to pay its homeworkers 25 cents an hour, so he stopped giving out homework not to pay this rate. Instead he put his employee in a store to give this work out for him. I'll explain it to you. You go to this store and buy the materials needed for this work and he gives you credit for it. You do this homework bought from the store and when it is completed you return it to the factory to

sell it to them. I think he should be reported as these homeworkers are really working for him, and this here store that is put up is only a blind to cover him up. I sincerely hope that this matter is looked into as there are quite a few school children doing this work for their mothers, and also imparing their eyesight. If his workers do complain, he wouldn't give them any more work.

"I am sorry I cannot give my name for many reasons and as an American I hope to see this thing looked into. Thanking you ever so much."

When this letter was received, an inspector from the Wage and Hour office in New York jumped a subway train, for the plant was in the metropolitan area, and looked the situation over. He found the facts as detailed in the anonymous letter were correct. The company made window shade pulls. The crocheting work on the rings or tassels was being done by women and children in their homes for a few cents a day. The company was using a fancy subterfuge to get around the Fair Labor Standards Act. They set up a store from which the homeworkers would "buy" the raw material and to which they would later "sell" the finished product. In addition they had falsified their records. Monkeying with the Wage-Hour Law cost the owner of this company $1,500 in fines. The homeworkers are to get a total of $4,500 due them in unpaid minimum wages and overtime. These workers will get as restitution amounts greater than their total wages for the last nine months. The court decided that this buyer-seller arrangement was as false as the employer's records.

What are the conditions under which some of these homeworkers labor? Some of you know. I certainly do, because, as Industrial Commissioner of New York, homework was one of the evils which we had to fight. Because some of our legislators have been taken in unwittingly by homework employers

who paint this occupation as a rosy one indulged in by housewives only during their spare moments, I should like to read you an extract from a witnessed statement made by one of the employees of this firm. The woman says:

"I start to do this crocheted work at 6 A.M. every morning and I continue until 11 P.M. every night. I also work on Sunday. Last week I made myself 29 gross of rayon shade pulls. I was paid $7.29.

"My children, Louis (12) and Anthony (10) do not crochet. They help me tying up the dozens and carrying the work to the factory in a push cart."

Seven dollars and twenty-nine cents for seven days of labor, from six in the morning until eleven at night! Does this sound like a rosy, spare-time occupation? In computing the wages of these homeworkers on an hourly basis, we found that they ran as low as 4 cents an hour. Four cents an hour is 32 cents for an eight-hour day.

Progress, once made, must be defended. The Fair Labor Standards Act is no exception to this rule, as we learned during the last session of Congress. The pillars of the status quo don't stop fighting just because a progressive measure they have been opposing is enacted into law. First, they try through the courts to obtain judicial repeal. Since they did not believe that a move in this direction would be worthwhile, they have already taken the second step, which is to attempt to whittle away the Act by amendments. In that, they were almost successful, as you well know.

I am not so naive as to believe that our opponents are by any means through. On the contrary, they have only had their appetites whetted. Next January the dime-an-hour bloc may be expected to come to Washington to renew its demands.

I believe that most employers throughout the country who are paying

decent wages and maintaining reasonable hours of work are in favor of this Act. They would like to help protect it because they do not want to return to anarchy in labor costs, with the competitive rewards going to the sweat-shop.

The public is behind this Act. It is just as anxious to wipe out the slums of industry, as it is to tear down the slums of housing. But the public is not organized. It looked to labor for leadership in putting this law on the statute books. It looks to you for leadership in the fight to keep it there.

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