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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  
AMERICAN MINING CONGRESS AT SALT LAKE CITY, UTAH  
THURSDAY, AUGUST 31, 1939.

Earlier this month by invitation I addressed the International Union of Mine, Mill and Smelter Workers at its annual convention in Denver.

Today, likewise by invitation, I am addressing the American Mining Congress, representing the employers in the industry.

Thus, within less than a month, I have been asked to discuss the Fair Labor Standards Act of 1938 with both the employers and workers, a circumstance which may be taken as evidence that employers and workers alike recognize that they both have a considerable stake in the success of the law that puts a floor under wages and a ceiling over hours.

What is it that you employers of labor really want? I suppose you want a variety of things, but so far as labor relations are concerned I think I am correct in saying that you want dependable, healthy and efficient workers. Certainly you do not want the channels and instrumentalities of commerce used to spread ill health and inefficiency among your employees. You do not want commerce and the free flow of goods in commerce burdened. You do not want unfair competition in commerce based upon starvation wages. You don't want destructive labor conflicts burdening commerce or interfering with the free flow of goods in commerce. And, finally, you do not want interference with the orderly and fair marketing of goods in commerce.

These are the things you do not want. They are also the things the Fair Labor Standards Act sought to eliminate. And therefore Congress uses its powers under the interstate commerce clause "to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power." Such is the declaration of policy Congress wrote into the Act.

Half starved and discouraged workers are no good to themselves, to their families, to industry or to the country. That is the gist of the matter. And I don't believe anyone here will undertake to defend the contrary thesis.

Yet this is a vast country. Anyone who has spent a month traveling around over it, as I have just done, is mindful of the fact. More than three million square miles in area, it spans a continent, touching both the frigid zone on the North and the tropics on the South. Its people represent a mixture of all nationality and racial strains. It is a conglomerate of customs and cultures. Its coastal plains, river valleys and mountains present an almost infinite variety of economic interests. Within its borders we can find in use both the most primitive of industrial techniques and the latest adaptations of Twentieth Century industrial engineering.

Whenever an attempt is made to apply national controls to our economic mechanism so that the people may not perish as the hapless victims of economic forces, we become acutely conscious of the great diversity of American life and the difficulty of organizing it into a synthesis with justice to everybody and with no disadvantage to anyone.

Yet we should not forget that we dig iron and coal out of the ground so that we can bring them together and thereby produce steel. But we don't want steel except as a means to an end. You can't eat steel, you can't make satisfactory clothing of it; it is of little value alone in keeping out the heat of summer or the cold blasts of winter. In short, we want steel so that we can make stoves out of it in which to bake bread. What we want is not steel but bread. Or, to put it in different terms, the purpose of industry is to contribute to the comfort, the welfare and the happiness of the generality of mankind. Whatever contributes to that end is good; whatever defeats that end is evil. We don't plant and harvest wheat for the fun of it, nor do we dig copper, silver and iron ore out of the ground simply as a healthful exercise. Nor do we do these things merely to make profits for a few, or to make jobs, or to accumulate bank credits. The social justification of industry -- any industry -- is that it contributes to the happiness, the health and the welfare of the people; and it is difficult to think of any reason why any industry should be a matter of common concern unless it, somehow, can contribute to one of those larger ends.

No law of nation-wide application was ever enacted that did not entail a certain degree of hardship upon some of those it affects. No such law could be enacted. When Moses received the tablets on Mount Sinai there must have been numerous dissenters. "Thou shalt have no other gods before Me." Think of the bad news that must have conveyed to the makers of golden calves and graven images! Coming down the centuries to these times consider the many readjustments required by the Social Security law. And yet within four years the opposition to it virtually has ceased.

Certainly it entailed some hardships for certain employers who would prefer not to be taxed in order to accumulate a national fund out of which to compensate the aged who can no longer work. Unquestionably many individual workers who suffer pay roll deductions for the same purpose would rather have extra bread now instead of waiting until old age for it. But we know from bitter experience that there is no other just way, no more economical way, to provide subsistence for these old men and women when they no longer are useful to industry. The alternative of the poorhouse is no longer tolerable. Despite the inconvenience that may be visited upon a few here and there, we know in our hearts that Social Security is the better arrangement; and so we adapt ourselves to the necessary requirements and proceed to do business as usual.

The test of the desirability of any law is this: Is it just to the individual? Is it just to the whole people? In the light of these considerations, may we not test the Fair Labor Standards Act? What are its achievements to date: It has raised the wages of many thousands of American workers. It has eliminated excessive hours of employment for a number which we cannot definitely calculate. It has added millions of dollars to the mass buying power of the people. These are benefits distributed to labor, but they also are benefits in which industry has shared. The money has been spent for more or better food; for more or better clothing; for more or better housing. Yes, and there are new steel ranges in homes that did not have them before, more copper screens, more demand for the products of the metal mining industries. And to an appreciable extent the channels of commerce have been cleared of interference with the orderly and fair marketing of goods. Whatever your business may be, if you are producing goods for interstate commerce, you now have

assurance that your competitor must pay a living wage, that he may no longer underpay his own workers and use the proceeds to cut your throat in the market place.

So far as the metal mining industries are concerned, I don't think you have been having any difficulty about the minimum wage requirements of the law. I don't suppose any member of this Congress within years has paid as little as 25 cents an hour, or even as little as 30 cents an hour -- the standard which becomes effective in October. However, some of you are having trouble with the maximum hours provision. And because you are having some trouble about hours some of you may have leaped to the conclusion that the law itself is unsound, or that it ought to be amended so as to make a special exemption for metal mining.

In a general way, I am familiar with the arguments. Many of the mines, especially the smaller ones, must be operated continuously if they are to show a profit. To add an additional shift would be economic suicide. The cost of subsistence in the mining camps for additional workers would be prohibitive. Moreover, if working hours were shortened, some of the men might stray away on their days off and never come back. Besides, much of the underground work is highly skilled and can only be done effectively by one worker, or one group of workers. It would be hazardous to attempt to solve the overtime problem by sending men into the mines who are unfamiliar with the customary techniques and the topography of the mine shaft. To pay time and a half for overtime in excess of 44 hours a week (42 hours after next October 24) would be prohibitive. Moreover, the men themselves don't want either a 44- or a 42-hour week. They enjoy working overtime. They wouldn't know what to do with themselves if they were given a couple more hours off each week.

The ease with which employers have been able to read the minds of their workers, to tell us exactly just what they do or do not want in the way of hours and working conditions, has deeply impressed me. But the curious thing about it is that the workmen themselves haven't told us these things. We have received no communications from the miners, so far as I am aware, demanding that the Wage and Hour law be repealed, or that it be drastically amended. When I addressed the miners at Denver they didn't come to me after the meeting and tell me these things. It is remarkable, to say the least, that only the employers should be able to psychoanalyze these people and tell us their inmost thoughts.

As a matter of fact, we have received communications from the representatives of the miners that they support the law, have benefitted under its provisions, and do not want it amended to provide exemptions for the industry. Shortly before I left Washington I received just such a letter from the secretary of one miners' local here in the West.

"We have learned recently," he wrote, "that you are scheduled to address the mine operators' convention in Salt Lake City. The Wage and Hour law will be the major topic of the day and you will attend to present the Administration's side of the issue.

"Our union is anxious that you know the opinion organized labor of this district holds in regard to the Wage and Hour law. The members of this union are most emphatically in favor of the law. Though we are not too well informed on the workings of the Wage and Hour law in other mining districts, we can state with certainty that the employees of -- (here follows the name of the company) -- with which this union holds collective bargaining rights, have suffered no wage reduction, either in regard to their weekly, semi-monthly, or monthly earnings.

"Previous to the Wage and Hour law there was a 48-hour workweek schedule in practice here. The men were employed six days a week, eight hours a day. Muckers received \$5 and miners \$5.50 for the eight-hour shift. With the coming of the Wage and Hour law the workweek was quite necessarily shortened to 44 hours. This was met by shortening the individual work periods to seven hours and 20 minutes, with muckers receiving \$5 and miners \$5.50 for the seven-hour-and-twenty-minute shift. There has been no reduction of pay, only a reduction of hours.

"Employees of this company .... are looking forward to a seven-hour day with no reduction of pay when the 42-hour week takes effect in October.

"Employees here consider the mining companies of the Western States are well able to abide by the Wage and Hour law, due to the increased use of modern machinery and due to the government paying a premium price for gold and silver.

"Aside from the worth of the Wage and Hour law to the miners of the Western States, we also consider the Wage and Hour law a far-reaching answer to the serious economic problems of this age -- a means of employing more Americans and insuring for them better wages and proper working conditions."

Now that's what the representative of one large body of employees in mining tells me. And it is significant, I think, that these particular miners are looking beyond their own immediate benefits from the law to the benefits that will accrue to workers in other industries and to the country as a whole. This is not to say, of course, that no problem exists when it comes to the business of arranging practical hourly working schedules.

I am not trying to belittle the problem, but I do suspect that it is not as difficult as some of you think and that further experience with the law may demonstrate to you that your fears, in part at least, are unfounded.

While we recognize that some of the suggestions we have made to the American Mining Congress, as to how the mining industry may accommodate its operations to the strict requirements of the Act without payment of any overtime compensation, have not adequately met the problems with which all of you are confronted, you must believe me when I say that those problems have been a matter of very real and studious concern both to our economists and legal staff in the Wage and Hour Division. That study of the needs of the industry for greater flexibility in working schedules is continuing and we solicit your cooperation. What we desire from the industry are facts upon which we can base our efforts, and not arguments. To furnish objective data will require greater effort than to furnish arguments, but I am sure you will find the effort worth while. We shall communicate with you to solicit such information as you can give us.

We ventured to suggest one method by which, it seemed to us, it might be possible to meet the working requirements of the industry without hardship as to the overtime payment requirements. We pointed out that the law is flexible. While it requires that no employee may be worked more than 44 hours a week without payment of overtime, there is nothing in it fixing the hours that may be worked in one day. We suggested that the workweek might be fixed so that an employee may work 11 consecutive days of 8 hours each and then lay off three days. By way of illustration, we pointed out that Jim Brown's workweek might be fixed so that he would start work at noon on Saturday, and at the same time the following Saturday.

Brown's working hours would be from 8 a.m. to 4:30 p.m. with a half hour out for lunch between 12 and 12:30. He would work Monday, Tuesday, Wednesday, Thursday and Friday and Saturday morning of one workweek, and Saturday afternoon, Sunday, Monday, Tuesday, Wednesday and Thursday of the following workweek. He would then lay off Friday, Saturday and Sunday, and resume the same schedule on the following Monday. The only limitation on this plan would be that the workweek could not be changed unless the change is intended to be permanent.

In the same manner, a mine operator, by beginning the workweek for different employees or groups of employees at different times and thereby working one group of employees while another group is off, might operate continuously 21 hours a day (if he established three seven-hour shifts) or 24 hours a day (if he established three eight-hour shifts) without being required to pay any overtime compensation.

And then, of course, you are aware of the flexibility as to hours conferred by the Act [Section 7 (b) (1) and (b) (2)] where certain types of collective bargaining agreements are in force.

Some of the mine operators have found that our suggestions do give them a way out. Naturally no single plan that we can offer will fit the practical needs of every mine operator in the country. However, we have laid down certain guiding principles as to the definition of the workweek, when it may begin and when it may end. It may be that with the definition of the workweek in mind, and the intimate knowledge they possess of their own operations, an employer and his employees may together devise a work schedule which will be convenient to the employees and which will meet the hours requirements of the Act without calling for any overtime

payments. I think it is a pretty encouraging thing about the ordinary American worker that he will cooperate in any sporting proposition that is for the mutual advantage of himself and his employer.

I am not one of those who maintain that the Wage and Hour law is perfect in every detail, that it cannot be improved in a single sentence or by the subtraction of a single comma. However, industries seem to be getting along without benefit of special privileges and exceptions, and some that last autumn were cocksure they would never survive under the Fair Labor Standards Act obviously have adjusted their operations to the new order of things and are not having the trouble they anticipated.

You know, we are all more or less conservative by nature. We like the old, familiar way of doing things, and we feel uncomfortable when it is proposed that we alter our settled habits, industrially or personally. I don't care so much for change myself. When I go home from work at night I want to find my slippers in the same old place, my dressing gown on the same old hook, and when my wife takes one of her housecleaning streaks and changes things around so that I can't find my slippers just exactly where they were yesterday and the day before I feel uncomfortable and wonder what the world is coming to, anyway. Just such habits, of course, carry over into our businesses. But the time comes when we get used to the new way and find that we are better off because of it.

If there are some features of the Wage and Hour law that you don't like, just go back and reread the record of what many manufacturers said when it was first proposed to compel them by law to protect their machinery with safety devices. Read up on all the wails that went up when workmen's compensation laws were first proposed. Every change for

the better in the rules under which we live causes discomfort to some people, but in time they come to accept and even to defend it.

I should regret to see any ill-considered changes in the Fair Labor Standards Act. Almost every industry can make out some sort of a case against certain of its features. But if Congress yielded to all such clamors for exemptions, first to one and then another, the time soon would come when the protection, both to industry and to workers, which was written into the statute in accordance with the conscience of the people, would be whittled away and we would be back where we started. I personally should not wish to see sweeping amendments made before we have had more experience with the law and can appraise all of its effects. And if and when the time comes to amend, I think we should be extremely careful to see that the amendments accomplish exactly what we wish to accomplish, without opening the door wide for the chiselers and the sweatshoppers to sneak through.

One reason why I think the presumed hardships to the metal mining industries have been exaggerated is the fact that employment in it has steadily increased this year over last. In metalliferous mining, and in the smelting and refining of copper, lead and zinc, employment reached its low point in July of 1938. That was three months before the Fair Labor Standards Act went into effect. The Federal Government wasn't telling you then what maximum hours you could work. Yet from an index figure of 100.8 in metalliferous mining in July, (based upon Bureau of Labor Statistics studies in which January, 1932, equals 100) employment rose to 117.4 in October, the month the law became effective, to 125.6 in November, 126.4 in December, 127 in January, and stood at 123.7 in March of this year --

nearly 23 points higher than in July. The index of average weekly hours rose from 103.2 in July of 1938 to 113.8 in March. In the smelting and refining of copper, lead and zinc, employment rose from an index figure of 128 in July to 144.2 in March, and weekly hours from 94 in July to 95.7 in March.

After the pickup in weekly hours in metalliferous mining in August, 1938, there was hardly any change afterwards, but employment rose steadily until it became stable around 125 in November. In smelting and refining of copper, lead and zinc, the weekly hours apparently had already been reduced to the requirements of the Act before the Act came into effect. The only change there was in employment.

Don't misunderstand me. I do not say that this improvement was due altogether to the Fair Labor Standards Act. But by the same token you certainly cannot maintain that the Act discouraged the industry and curtailed employment.

Shorter hours may have had an adverse effect on the stability of employment. If so, it can only be a temporary effect. But first of all it should be said that the mining industry never has been known to possess a high degree of labor stability, and it should further be said that it was the very factor which certain members of the mining industry now hold up as making for stability which produced the opposite effect. It is not normal for men to work unremittingly for long periods of time without relaxation. Only men who prefer to work when in some way constrained to do so, will attempt it -- without in the end really doing it. As soon as they have a stake they "blow." The result is a steady stream of men into and out of the industry.

Long before the Fair Labor Standards Act was enacted the automobile was beginning to alter this situation. The newly acquired ease with which men could come and go, as a matter of course, started to attract a group of men with family ties and other normal associations. These men know how to work and play in moderation and in the end make much more dependable workers than the easy-come, easy-go miners of the old tradition. Shorter hours are likely to hasten the change. For the time being the change may be causing some trouble, but in the long run it is all to the good -- all to the good both to the industry and to the society it is intended to serve.

We are ingenious people. Almost within the memory of men still living we have spider-webbed the continent with steel rails tunnelled the mountains and bridged the rivers. We have dug deeper into the earth than ever before and dwarfed the Tower of Babel with structures that scrape the sky. We breakfast in New York and dine in Los Angeles. Wherever we are we can make our voices heard instantaneously in any part of the world. We have turned the forests into homes, made the rivers turn the factory wheels, milk the cows and light the country side. No obstacle of Nature, or of terrain, or of heat or cold, has been able to prevail against the genius of American enterprise.

Are we to conclude now that the necessity of snipping a couple of hours off the workweek is so great an obstacle to our expanding enterprise that we must helplessly surrender before it? Of course not. We will take it in our stride and march on to new conquests over poverty and disease toward that bright day when all men shall share more abundantly in the riches of our continent.