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U.S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

ADDRESS SCHEDULED FOR DELIVERY BY COLONEL PHILIP B. FLEMING,
CORPS OF ENGINEERS
Before The
SOUTHERN STATES INDUSTRIAL COUNCIL AT ATLANTA, GEORGIA
January 23, 1940

When Congress enacted the Fair Labor Standards Act of 1938 it wrote into statute certain benefits which it intended should be received by employees engaged in interstate commerce, or in the production of goods for interstate commerce, and laid upon the employers of such workers certain obligations.

Our best estimates are that there are some 250,000 employers throughout the Nation and its possessions who are subject to the law, and that somewhat more than 12,000,000 workers are covered, in the sense that they are employed in interstate commerce or in the production of goods for interstate commerce and not specifically exempt. Most of these employees, of course, already were receiving more than the statutory minimum wage, which is at present 30 cents an hour, and working not more than 42 hours a week. For instance, on October 24, when these wage and hour requirements became effective, we estimated that only 690,000 had been receiving less than 30 cents an hour, and that only 2,380,000 were working longer than 42 hours a week, yet of those working longer hours, 718,000 already were being paid for overtime at the rate of time and a half.

Congress well knew that this is a very large country, indeed, and that its industrial affairs are extremely complex. It recognized the fact in its conscious effort to provide for flexibility in the statute. Workers in certain large categories, or in certain occupations, were wholly exempted. Provision was made for limited exemptions for seasonal industries and for the employment

of learners, apprentices and handicapped workers at wages less than the minimum under necessary safeguards. I mention only a few of those provisions intended to provide flexibility, especially for those industries that do not fit easily into any standard pattern, and for all industrial establishments under certain conditions when lack of such flexibility would impose undue hardships or curtail opportunities for employment.

We who are charged with the administration and enforcement of the law also are made aware daily of the breadth of our country and the complexity of its economic affairs. We did not write the law, but are pledged to administer and enforce it in accordance with the intent of Congress, and this we are trying to do with all the earnestness and energy we possess. We are trying to do it in a way that will result in maximum benefits to workers and a minimum of hardship to employers.

Within the last two or three months we have been perfecting the Wage and Hour Division organization in an effort to place the point of decision as close to those who will be affected by it as is physically possible. If you were to superimpose an industrial map of the country, showing the geographical location of each establishment affected by the law, over another map showing the fifteen regions into which we have decentralized our work for administrative purposes, you would notice that fully 75 per cent of all the establishments producing for interstate commerce are within a comfortable automobile drive of one of our regional or branch offices.

Each of the regional directors is now directly responsible to the Administrator. We have a straight line of authority from the inspector in the field right up to the Administrator, where policy decision must be made, and where final responsibility rests under the law.

The regional director, for example, is empowered to close cases of violations of the Act without court action where the total of the amount of wage restitution does not exceed $50,000. This he can do upon his own responsibility without consulting us at headquarters. If the violation has been wilful and flagrant, the regional director, in consultation with his regional attorney, will have much to say about the type of court action that shall be instituted, if court action is deemed to be necessary.

Heretofore it frequently has been necessary for applicants for certificates to permit the employment of apprentices and handicapped workers at wages less than the minimum to travel all the way to Washington to present such applications in person and to attend hearings thereon. We hope soon to be able to decentralize this phase of the work also and put it in the regional office, thus saving the employer the time and expense of a trip to the capital. He should be able to have his application handled on the spot through the offices of a regional director who has more familiarity with his business and a greater understanding of his problems than we might have in Washington.

Another phase of our program having to do with inspections, which are essential to any successful effort at enforcement, will commend itself, I am sure, to the sound judgment of employers. As you are aware, we are authorized to utilize, on a reimbursable basis, the inspection staffs of State Departments of labor in making inspections under the Wage and Hour law. It was found that many of the States, however, under their existing laws, could not make expenditures for this type of work in the expectation of reimbursement by the Federal government after the event. Seven States already have enacted enabling legislation to make this kind of cooperation effective. Our first agreement was made with North Carolina and became effective last November. Inspection work in that State already is being done by the State inspectors under our direction.

Within a month we expect to have concluded an agreement with Connecticut, and at a date not too far in the future, we hope to have comparable agreements with South Carolina, Oregon, and Minnesota also. The South Carolina agreement will be especially significant, because it will mean that all of Region 6 -- North and South Carolina -- will then be on a Federal-State cooperative basis, affording us a sizeable and important area in which to test out the effectiveness of this type of work.

The advantages to industry from Federal-State cooperation, I believe, are readily apparent. Duplication of effort is eliminated. The employer who previously had to receive two inspectors doing very similar work, now has but one inspector and one visit to deal with. I might say, too, that as our people grow in experience and skill, the time necessary for an inspection is being steadily reduced. A year ago it took at least a week, and sometimes two weeks, to complete one inspection. Today it is exceptional when more than four days are necessary, and usually the task is completed in two days or less. I should like to add that we are moving on to a program of systematic inspection. We shall not wait until a complaint has been made against a plant before we look into it, but will visit it as a matter of routine at periodic intervals. That will assure employers of general compliance, and eliminate the possibility of competitive inequities that result when a few find it possible to ignore a law with which their business rivals are forced to comply.

In the Wage and Hour Division we are convinced, on the basis of experience to date, that the Fair Labor Standards Act can be enforced quite as successfully as other statutes of nation-wide application, and we shall continue to work toward those techniques that will enable us to enforce it with a very minimum amount of inconvenience to the honest, complying employer.

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