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U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS  
165 West 46th Street  
New York, New York

WALLING WOULD PROHIBIT COUNTING TIPS AS WAGES

Wage-Hour Administrator Proposes Amendment to Fair Labor Standards Act

An amendment to the Fair Labor Standards Act which would assure all covered employes of minimum wages irrespective of tips, was proposed in a report sent to the United States Senate by L. Metcalfe Walling, administrator of the Wage-Hour and Public Contracts Divisions of the U. S. Department of Labor.

The change was proposed specifically for the benefit of railroad redcaps-- but Mr. Walling pointed out that its effect would be to prevent other industries covered by the Act from adopting "tip accounting" systems, which saddle the wages of service employes directly onto the public.

The administrator's suggestion was in response to a Senate resolution introduced by Senator Elbert D. Thomas of Utah. The Senate had asked for a survey of wage, hour and working conditions for redcaps in railroad and terminal companies, in relation to the Fair Labor Standards Act and other federal statutes.

The record of the Division's inquiry--comprising over 5,000 pages of testimony--showed that about 70 per cent of the nation's 4,500 redcaps received only tips as wages before the Wage and Hour Law went into effect. When the law became effective, requiring a minimum wage of 25 cents an hour during its first year and 30 cents an hour thereafter, railroads and railway terminals generally adopted a policy of counting tips received by redcaps as part of their wages. Known as the "Accounting and Guarantee Plan," this method of payment provided that any difference between the tips received by a redcap and the minimum wage due him for the hours worked would be paid by the company. In March, 1942, the U. S. Supreme Court upheld this system by ruling that tips received were "wages" within the meaning of the Act.

"The record shows clearly that the 'Accounting and Guarantee Plan' operated in many instances to deprive redcaps of the minimum wage rates guaranteed to them by the law," Walling said in the report. "Many redcaps who received less than the minimum wage in tips nevertheless reported that they had received the minimum wage, either under real or imagined intimidation from management, or out of fear that they would be discharged or disciplined if their tip earnings did not meet at least the minimum wage level."

In 1940 this plan was replaced in most companies by the 10-cents-a-bag system, under which redcaps were employed on a straight wage basis and required to collect 10 cents a bag from passengers, which they turned over to their employers. This system created friction between redcaps and employers, the report indicated, because the redcaps objected to turning over money which seemed to them to be in the nature of personal gratuities, and further because they thought the system reduced the tips or payments in excess of 10 cents which they received.

Many of the problems arising out of this system have been solved by collective bargaining, the report said. Mr. Walling noted that the Wage and Hour Division had never questioned the legality of the 10-cents-a-bag plan. The proposed amendment, he indicated, was aimed primarily at complete elimination of the "tips accounting plan."

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WALLING PROPOSES AMENDMENT TO FAIR LABOR STANDARDS ACT

Would Prohibit Redcap Tips  
Counting as Wages

An amendment to the Fair Labor Standards Act to prevent redcaps' tips being counted as part of the 30-cents-an-hour minimum wage guaranteed them under the Act, was proposed in a report sent to the U. S. Senate by L. Metcalfe Walling, administrator of the Wage-Hour and Public Contracts Divisions of the U. S. Department of Labor.

The proposal was advanced in a report to the Senate on a survey of wages, hours and working conditions for redcaps in railroad and terminal companies. The survey was ordered by the Senate in a resolution introduced by Senator Elbert D. Thomas of Utah.

Importance of Mr. Walling's suggestion was seen in the fact that the amendment, as proposed, would prevent other industries covered by the Act from adopting the "tips accounting plan" which the railroads originated.

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