

U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS  
165 West 46th Street  
New York 19, N. Y.  
Washington 25, D. C.

WAGE-HOUR REPORT CHARGES STATE NULLIFICATION

Report  
page  
refer-  
ences

Direct efforts by six states at nullification of the Federal Fair Labor Standards Act were charged in the Annual Report to Congress of the Wage-Hour and Public Contracts Divisions, U. S. Department of Labor, made public today by L. Metcalfe Walling, p. 4 Administrator.

Of nearly \$17,000,000 in restitution of illegally withheld wages to 390,000 employees in 20,000 establishments last year, more than one third of the cases involved pp. 9-10 failure to pay the minimum of 30 to 40 cents an hour despite supposedly universal high war-time wages, the report states.

"The slackening of Federal enforcement (through a 20 percent appropriation cut) is particularly serious now," the report continues. "At the very time that the Congress was reducing the appropriation in the spring of 1943, six states were passing laws that discriminated against wage claims, reducing to periods of as little as six months the time in which a worker may sue to collect wages legally due him, while not similarly p. 4 reducing the period in which the butcher or baker or landlord may sue the worker. Some of this legislation refers specifically to the Fair Labor Standards Act. Some may be unconstitutional. All is aimed at its defeat in practice. In addition, one state has had a one year statute of limitations applying to claims under the Act since the early days in which it was in force and another state has had a one year non-discriminatory statute for a much longer period.

"It should be remembered that one of the factors in the collection of back wages illegally withheld is the existence of that section of the Fair Labor Standards Act which provides for private suits in any court of competent jurisdiction with double damages. Under Federal law, even the Federal courts are governed by the applicable state statute of limitations. Such new state legislation thus effectively hampers enforcement of the Act and gives to employers who flout the law an unfair competitive advantage over those who obey and over all employers in the other states whose applicable statutes of limitations run to six years or more.

"In order to minimize this unfair competitive advantage, the Divisions must inspect intensively enough to find the violation before the statute of limitations has run. To end this unfair competitive advantage requires more enforcement, not less.

"It must be remembered that the Fair Labor Standards Act benefited especially the unorganized workers and those weak in bargaining power. Strong unions had already, long before 1938, mostly achieved higher pay than the minimum and overtime provisions as good or better. It is obvious that this is even more true of enforcement than of the p. 3 Act itself. Any union, however weak economically, may be presumed to know of the existence of the Act and to be able to inform its members of their right to private redress which the Act provides. Enforcement of the Act is therefore in most cases the sole protection of the weak and unorganized, including a great mass of white collar workers."

In a discussion of possible changes in the Act, the report emphasizes the same pp. 6-7 point by citing the behavior of wages following the last war: high wages were slashed less and less quickly than low wages.

\*\*\*