


U. S. DEPARTMENT OF LABOR  
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NEW YORK - January 10 - L. Metcalfe Walling, Administrator of the Fair Labor Standards Act, today delivered to the Congress his annual report for the fiscal year 1946, in which he reiterates his requests of 1944 and 1945 to make the Act more effective by adoption of two measures which would have averted situations resulting in retroactive pay suits similar to those currently filed by workers for so-called portal-to-portal pay.

One measure renews Mr. Walling's request, made in his 1944 and 1945 annual reports, that the Administrator be granted the "power, subject to court-review, to issue authoritative definitions of general terms used in the statute, so that employers complying with his definitions would be protected from liability for the period such rulings are in effect." The other recommendation, which also would have affected back pay suits, was Mr. Walling's reiteration of the need for "a statute of limitations in the Fair Labor Standards Act, to apply to employee suits for back wages and damages."

The report presented to the Congress today covers the year ended June 30, 1946. Following is an excerpt on the subject of administrative powers:

"At the present time the Administrator can give only advisory opinions which are at best his informed guess and prediction of what the courts will decide. Any court in the land, State or Federal, has jurisdiction to entertain suits under the Act and inevitably will interpret it in deciding these cases. Accordingly, the Administrator recommends that the Act be amended to give the Administrator power to make regulations necessary or appropriate to implement the Act's provisions, including the definitions of terms used in the Act, and to protect employers from any civil or criminal liability where they are complying with the Administrator's regulations. The Treasury regulations issued under the Revenue Acts are almost an exact precedent for the procedure now proposed."

Related to the administrative powers proposal is Mr. Walling's recommendation for a reasonable statute of limitations. The need for such a statute,

he says in the report, is urgent because "varying State standards give competitive advantages to violators in States with lowered statutes of limitations and penalize many workers in the collection of wages due." Citing the need for protection for both employees and employers with respect to wage claims, the report states further: "an employee should be given a reasonable time to bring action to recover wages due him, with due regard for the sound public policy back of statutory limitation suits to put a definite limit on the time an employer has to figure contingent liability."

Discussing further the recommendation that the Act be amended to give the Administrator the power to issue authoritative definitions of general terms used in the statute, the report points out that under the nation's enormously complex economic system "changes may and often do result in changes in the applicability of the provisions of the Act." For that reason the Administrator reiterated his 1944 and 1945 recommendations to the Congress in the current report as follows:

"The Act should contain provisions under which the rights of employees under its terms are safeguarded and under which difficulties caused to employers by pending decision or retroactivity are minimized."

Because of the war, the report states, the Administrator made few recommendations to the Congress for amendment of the Act during that period. "With the resumption of peacetime activities, however," it declares, "it is now time to review this basic economic charter for low-paid workers in terms of its fundamental objectives, to formalize the recommendations which have been made to Congressional committees, particularly of the last Congress, to suggest other means of increasing the benefits of the Act for covered wage earners and of extending coverage to additional workers."

Foremost among these is the Administrator's recommendation that the Congress establish the minimum wage under the Act, now 40 cents an hour, at 65 cents "as an immediate objective more appropriate to the nation's industrial and economic capacities." Increases in the cost of living, the report points out, have reduced the purchasing power of the 40-cent minimum wage to 27 cents, or, "in terms of its yearly equivalent, to the shockingly low figure of \$540."

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This, Mr. Walling said, "means that an immediate minimum wage of at least 60 cents an hour would be needed merely to restore the modest initial objective established by the Congress when our national economy was producing little more than half the physical volume of goods and services it is turning out today; and that a minimum wage of 65 cents would be needed to achieve even a minor improvement in the living standards of low-income groups over the low pre-war level."

Other recommendations by the Administrator urged the Congress to broaden the Act's child labor provisions to make their coverage co-extensive with the law's general wage and hour provisions, and to extend coverage and narrow existing exemptions to bring the benefits of the law to nearly 3,500,000 more workers. The Act now covers approximately 20,000,000 workers.

The changes he recommends include giving seamen the benefit of minimum wage protection, clearing up the "no-man's-land" in the motor carrier industry with the chaotic confusion as to coverage at the present time, extending and equalizing the application of the Act to rail and over-the-road transportation, and simplifying the Act's present exemptions in the agricultural and food processing field.

Mr. Walling especially urged that the "area of production" exemption be eliminated from the Act. This involves a "complex system of exemptions now available to the agricultural processing and handling industries," but experience gained in administration of the law since 1938, he emphasized, "indicates that the workers employed in these industries can obtain the benefits of the Act without ill effects on the industries involved."

Finally, Mr. Walling asked that the Congress give the Administrator power to sue on behalf of employees for their illegally withheld wages. This, he explained today, would be not only "a more appropriate means of enforcement of a broad statute like the Fair Labor Standards Act in the public interest than relying primarily on private lawsuits, as at present, but also would make interpretation and enforcement more uniform and enable a single authority, the Administrator set up by the Congress to control the policy and development of the law, instead of leaving it to private parties."

Commenting on his recommendations as a whole, Mr. Walling stated: "These comprehensive recommendations, based on eight years' experience under the law, are not only practicable but highly necessary, not only to make the law the effective economic charter for the low-paid worker the Congress and the American people intended, but a fair standard for the operation of our economy on a definite basis without sudden unanticipated liability."