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U.S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION

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ADMINISTRATOR ANDREWS ASKED TO DEFINE STATUS OF DAILY NEWSPAPERS

Elmer F. Andrews, administrator of the Wage and Hour Division, U.S. Department of Labor, was asked today to define the status of daily newspapers under that section of the Fair Labor Standards Act which exempts "any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce."

The request was made in a letter to the Administrator from Elisha Hanson, attorney for a subcommittee of publishers representing the American Newspaper Publishers Association and 11 regional and State associations.

Hanson cited several cases in which, he said, strict application of the law would result in exaggerated salaries for reporters on the basis of time and a half for overtime.

Several days ago, Hanson filed a 50-page "factual statement" with Administrator Andrews. This was followed almost immediately by a 3-page statement by the American Newspaper Guild. The text of Hanson's letter, which amplified his previous statement, follows:

"By direction of the subcommittee representing the various newspaper publishers associations which on October 11 submitted a memorandum to you concerning the application of Sec. 13 (a) (2) to daily newspapers the greater part of whose selling or servicing is in intrastate commerce, I am asking you if it will not be possible in the very near future for you to issue a ruling as to the status of such newspapers under that section of the Act.

"Sec. 13 (a) (2) of the Act provides that the provisions of sections 6 and 7 shall not apply with respect to 'any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce.'

"Daily newspapers are not concerned with the minimum wage provisions of Section 6. They pay far more than the minimum now. They are concerned with the mandatory overtime requirements of Section 7, for the simple reason that if those provisions are held to apply to the newspaper publishing business, such application will make impossible for many, if not all daily newspapers, much of the service they now render.

"The memorandum of October 11 pointed out to you that if the overtime provisions of Section 7 be applied to the daily newspaper publishing business such application undoubtedly would greatly restrict the service of the press in gathering and disseminating information to the citizens of this country. Let me give you certain further specific examples of the restrictive nature of these provisions if they be applied.

"Reference was made in that memorandum to the service which the daily newspaper press renders during the period each year when the citizens of this country select their public officials.

"In any number of States at the moment there are both gubernatorial and senatorial elections in progress which require coverage by newspapers of the activities of the candidates of the major parties in those States. In New York, for example, many newspapers have assigned reporters to cover the campaigns of Governor Lehman and District Attorney Dewey, who are opposing one another for the Governorship, and in addition they have assigned reporters to cover the campaigns of Senator Wagner and Mr. O'Brian, who is his opponent for United States Senator, and still in addition they have assigned reporters to cover the campaigns of Messrs. Mead and Corsi who are candidates for the Senatorial vacancy created by the death of the late Senator Copeland.

"The New York campaign is relatively short by reason of the fact that the nominations were made in late September. Assuming that it consumes but a period of four weeks, this is what will happen to the newspaper press under Sec. 7 of the Act if that section be applied:

"Each reporter assigned to any one of those candidates will be expected to give the candidate complete coverage during all seven days of the week. There are a total of 168 hours in any week of seven days of which 44 hours are lawful hours to be worked under the terms of the Act and 124 hours are hours which must be compensated for at the mandatory time and one-half time pay for overtime. Reducing the 124 overtime hours to straight hours, one finds that if this section is to be applied then in order to render this service for a period of four weeks during an election following the effective date of the Act the newspaper will have to pay for 744 hours in addition to the 176 hours permitted by the Act.

"Inasmuch as the Act did not become effective until October 24 this year, the overtime for this particular campaign if it be applied to the newspapers will be approximately 408 for each reported employed during the period between October 24 and election day. This is the equivalent of more than nine weeks' extra pay for two weeks' service.

"Incident to the elections this fall, many State legislatures will meet early in January. Many of these legislative sessions will last 13 weeks. Assuming that a legislature does run for 13 weeks then by the application of the provisions of Sec. 7 of the Act to a daily newspaper that newspaper will be required to pay the straight-time rates for 2,418 hours of service above and beyond the regular pay for correspondents assigned specially to cover the legislature. Figured on the basis of a 44-hour week, this means that in serving their readers those newspapers which send reporters and correspondents away from home to cover a legislative session will have to pay their reporters or correspondents the equivalent of 54 weeks' salary in addition to the regular salary for the 13 weeks spent at the legislative session.

"In February, all of the major league and many of the minor league baseball teams go to spring training quarters in anticipation of the opening of the baseball season in April. The regular season runs for approximately six months with each team playing approximately three months at home and three months away from home during the season. Sports writers are assigned to cover these teams not only during their actual playing season but during the spring training and spring exhibition seasons as well. Assuming that one man is assigned to cover one team from the beginning of spring training until the completion of the regular schedule one will find that by the application of the mandatory overtime provision

of Sec. 7 of the Act, a newspaper, in order to serve its readers with information concerning their baseball team, will have to pay the equivalent of 80 weeks' salary in addition to the regular salary of the sports writer assigned to baseball during the period from February to October.

"The subcommittee realizes the many burdens that are imposed upon you now. It does not want to add to those burdens but it is essential at the earliest possible moment to have an authoritative ruling from you as to the status under Section 13 (a) (2) of daily newspapers, the greater part of whose business is in intrastate commerce.

"It is to that end that I am addressing this letter.

Very truly yours,

(Sgd.) Elisha Hanson

Elisha Hanson
Attorney for—

W. F. Wiley
Raymond B. Bottom
Roy A. Brown
JS Gray
H. W. Stodghill

Representing

The American Newspaper Publishers Association
The New England Daily Newspaper Association
The Del-Mar-Va Association
The Southern Newspaper Publishers Association
The Inland Daily Press Association
The Pacific Northwest Newspaper Association
The California Newspaper Publishers Association
The Pennsylvania Newspaper Publishers Assn.
The New York State Publishers Association
The New Jersey Press Association
The Virginia Press Association
The Ohio Newspaper Association