

July 2021

Federal Legislation

Dicta Editorial Board

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FEDERAL LEGISLATION

Fair Labor Standards Act (Wage-Hour Law) Wage Orders Without Basis in Record.

New York State Bar Assn., Oct. 12, 1938

The first series of rules and regulations under the Fair Labor Standards Act (Wage-Hour Law), relating to Industry Committees, was issued by the Administrator on September 22, 1938. They contain a most amazing section (Sec. 12) providing that an Industry Committee "shall not be required to keep a stenographic transcript of any testimony that may be given before it or of its discussions." In view of such want of a record it is difficult to see how an Industry Committee can constitutionally perform its duties under the Act or how a wage order could constitutionally be issued on the basis of any Committee recommendation.

Section 8 (b) of the Act requires each Industry Committee to hear such witnesses and receive such evidence as may be necessary or appropriate to enable the Committee to recommend the highest minimum wage which the Committee determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industry. Furthermore, any classifications within an industry for wage-fixing purposes must be made by the Committee according to certain standards set forth in the Act. Finally, the Administrator, upon receiving the recommendations from an Industry Committee, is required to hold a hearing and to approve the Committee recommendations, "if he finds that the recommendations are made in accordance with law, are supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the industry committee, will carry out the purposes of this section."

It is submitted that recommendations by an Industry Committee with no record to support them, followed by administrative orders based on such recommendations without the existence of means for the Administrator to compare the evidence at his hearing with the evidence introduced before the Industry Committee, would necessarily have no legal force whatever.

OLD AGE FUND
COLORADO BAR ASSOCIATION

Attention to the Old Age Fund was last invited on May 15, 1937.

Since then two very deserving cases came to our attention, which threatened greatly to deplete or wipe out our balance but which were finally otherwise taken care of. One or two members knew of these probable demands and offered to respond to a call if additional funds became necessary.

To avoid an urgent call or "drive" for funds was one of the purposes of establishing this Fund. Formerly when cases of dire need arose they were overlooked or neglected unless some friend made a hurried and sometimes unseemly scramble for funds among the few who could be reached quickly.

These embarrassing situations should be and will be avoided if our members continue to make small contributions annually or substantial ones occasionally.

Contributions have varied from one to one hundred dollars, and each contributor is requested to remit to the Treasurer.

EDWARD RING,
WILLIAM E. HUTTON,
WILBUR F. DENIOUS,
Trustees.

Dated December 5, 1938.

WANT SOME NEW FALSE TEETH?

False teeth are personalty while in the owner's pocket, but they are part of the owner's body when in his mouth!

So a Los Angeles Appellate Court ruled in a suit brought by a film actor to collect on a personal property insurance policy. The teeth had been lost from his pocket.

JUSTICE BLACK

By Brandenburg & Brandenburg

Whatever else may be said of Justice Black, it certainly may be said he can perform a "stunt." In *Advance Sheets, Supreme Court, Vol. 83, No. 2, p. 37*, he said "The *cause* is reversed;" and again, ditto, *p. 66, "And the cause is reversed."*