The fourth meeting of the Second Restaurant Wage Board was held on Friday, March 8, 1957, at 10:30 a.m. in the offices of the State Labor Department, 92 Farmington Avenue, Hartford.

The following were present:

Representing the Employees:
Mrs. Margaret Holland
Mr. Leonard Lapointe
Representing the Public:
Mrs. Elwood Bissell
Judge William Halchick
Mr. George Paul
Representing the Employers:
Mrs. Ethel Forman
Mr. Leon Bissell
Mr. David LeFevour
Representing the State Labor Department:
Commissioner Renato E. Bisselini
Mr. Jesse Baldwin, Director of the Minimum Wage Division
Judge Burch: I'll see... maybe you could tell us about your difficulty.

Commissioner Piccini: I tried to review our staff notes, and I have prepared this statement which I have written this way.

A question has been raised regarding the regulations promulgated by our department and recommended by the second testament page thereof.

Several representatives of the male-female industry have asked for a clarification in the meaning of Section 120.49, and 120.57. The point raised involves the regulation of the regulations for compensations, over-time, and counterparts of people employed by employees requiring receipt of gratuities, as outlined in Section 120.49, i.e., if existing if excess of $50.00, even if gratuities is received in the form of full-time employment, if $50.00 per day in the case of part-time employment, is this type of employee considered to be a servient's employee and is the employer permitted to assess the allowance of 10 cents for gratuities as it is as a non-servient employee regardless of the amount he receives?

Judge Burch: There you have your problem.

Commissioner Piccini: Have I stated this clearly?

Several of the board members (in unison): Very clearly.

Commissioner Piccini: I am surprised. It is an involved sentence.

That is the question involved and while I think there may be some ambiguity involved, here I would rather get an opinion from the members of the board as to what their understanding of the situation is and be guided by their opinion in this matter and it may be necessary perhaps to change this wording to agree with whatever your opinion is.

Judge Burch: Does anybody care to offer any suggestions?

Mr. Lafave: Why don't we ask the two employer representatives to express themselves. If they understand it as we do, there is no argument.

Mr. Lafave: Would it help if I express my opinion?
JUDGE McCLURE: Somebody has to start the ball rolling.

MR. LEE: My recollection of this is it seemed quite clear and fine and again as we were talking this over the question came up as to whether or not were going to have service or non-service discrimination. So I decline to have it in the transcript. The definition divides the two groups and throughout our arguments we seemed to agree that the classification was based upon gratuities and in your directive here I think the key phrases, and they appear in both sections, are "whether or not the employees customarily receive gratuities" and when these definitions were read to us there seemed to be a safeguard enough to answer the question. That is why the misunderstanding has resulted. I think it is possible the emphasis in one paragraph against another, or one word against another group of words that brought about the misunderstanding. It is an ambiguity of language. We struggled with it. We interpreted them one way, you another. In both cases you state the key phrase is "whether or not the employees customarily receive gratuities" and that was our argument throughout the hearing, as I recall.

MRS. POLAND: I believe you are right in that.

COMMISSIONER BISCUIT: What you are saying is that the test that has to be applied is whether or not they customarily receive gratuities as defined in 190-206c?

JUDGE McCLURE: Does anybody have any suggestion to make?

MRS. POLAND: On what was this based? We came to this $100.00 a week gratuity business.

JUDGE McCLURE: I don't think we had as much definite consideration. We took this from the previous wage order and the minutes of the meeting say that yes, we are recommending a gratuity of $100.00 a week, and if that is accepted, and if the Board votes that action then I read the
Judge Walter, continued
definition in the previous order and the motion was put to a vote. The result was that five members were in favor and the three employer members did not vote. This is in the present order almost word for word, completely

MR. BALDWIN: I think the only thing that would make for attention is this $10.00

MR. FRANK: I think the thing that would make for attention is this $10.00

MR. BALDWIN: I think the only thing that would make for attention would be this $10.00

MR. FRANK: And I do think perhaps $10.00 should be raised to conform

MR. FRANK: I think perhaps $10.00 should be raised to conform with what can normally be expected for a tip at this time or $5 an hour in the basis of a 40-hour week. This comes to $16.64. That is my feeling if a

COMMISSIONER GROUCH: That is a very good point. I am not clear as to how much latitude we have at this point.

MR. LAFAVOUR: This is a standpoint, a question of how broad we can

COMMISSIONER GROUCH: Maybe we should ask Mr. Baldwin what would be

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MR. BALWIN: In fact, you are changing the rates if you do that. You are setting up a different rate. You would have to have the wage order in effect six months. You couldn't make any change until then and you would have to re-examine the whole process or setting up hearings and go the same thing you did to establish this.

MR. LOUIS RICCIUTI: Wouldn't that also be an ambiguity since our original definition in our discussion has always been considered 3½ an hour so that I don't think there would be any legal change. This is more or less of a misinterpretation that it violates the basis of the wage order had put in instead of 3½ this cut it lower. I think it would be in order legally as long as we are going to clarify these two sections let it stay at 3½ an hour without mentioning $9.00.

MR. BALWIN: You couldn't change $9.00.

MR. LOUIS RICCIUTI: That is lower than our agreed minimum. It should not have been put in there.

COMMISSIONER RICCIUTI: Why do you feel this change the rate?

MR. BALWIN: You are bringing in another group. You are permitting another group. You want to say those in the $16.00 group will be considered as service employees and people below that non-service.

MR. LOUIS RICCIUTI: 3½ we have agreed to as deduction for gratuities.

MR. BALWIN: No, you say that is the maximum. You can take anything between $9.00. They may not have earned 3½. You can take it as low as $9.00.

COMMISSIONER RICCIUTI: It is a scale down.

MR. BALWIN: Yes. Do you have the right to change any rate?

MR. LOUIS RICCIUTI: Then it is all right. That is the minimum.
Commissioner Bichel, continued:

MR. BOGARD: This ought to be charged. I think we can get together again and have some changes.

JUDGE MALTZ: Sorry since your matter was postponed, it was filed

MRS. POGNIA: I thought it was a good discussion when I spoke about it.

MR. BALZER: It has to be in effect six months.

COMMISSIONER RICELD: Six months from December 1. It would go to

June 1. Why didn't you come to agreement on this other point and I think that
will clarify it enough. Then you can leave the standard at $10.00 per week.

MR. POGIANI: I think we had a discussion about the

notion that the notion of the understanding of the Board was that we were concerned with

getting those people to the classifications on the basis of whether they get tips or not rather than where they were working when they got them.

COMMISSIONER RICELD: If that is the consensus of opinion, do you

think there ought to be a vote?

JUDGE MALTZ: Let me see how many agree with this. All those who

are willing to agree to this proposition say "aye".

(Folks were not counted at this time but there was

a later vote.)

MR. POGIANI: The people who customarily receive tips are considered

service employees.

MR. LARSECH: Regardless of where they work.

MR. POGIANI: Whether behind the scenes or in front of the people.

COMMISSIONER RICELD: If they get $12.00 per week as a full-time

employee or $2.00 per day in case of part-time employees.

MR. POGIANI: We left the table on Saturday night.

MRS. HARRIS: My question was whether we should consider.

MR. POGIANI: We would want to explain our position. That is one of the

full reasons. There must have been a reason to state counterpoints, counterme,
Mr. Baldwin, continued

counterparties. It must have been that as a special reason. It would have been very simple if it was intended when this original draft set to say those who receive more than a specified amount are service employees and those who receive less are non-service. There must have been something more than that because of the way this is worded. Mr. Paul pointed out, it appears that those employees who do not customarily receive gratuities or defined bonuses are excluded. Employees merely from performance to please the hosts and who do not customarily receive gratuities as defined above, are not necessarily excluded. This customarily referred to the counterparts and counterparts. That is the reason why we think the way it is worded here is the way it should be interpreted and the only way.

Mr. Paul: What would you do if the Beverly Inn were a party on the front lawn?

Mr. Baldwin: You set up a table. Seriously it has presented a lot of problems to us. Drive-ins are one. A lot of other things came up that created problems. I am explaining our position on it. I am not a lawyer. Perhaps the Judge can tell us. It is ambiguous enough so that we can interpret it this way and interpret it one way or the other.

Judge Milholland: There is a danger by anything where comes this order to exclude persons who are not as it is drawn and to exclude persons who are. You are changing a rule as regards certain people. That can be done from six months after the first of last December. If it is a matter of making clear what the draft not to end in the selection of service employee, I should think we could get by with that. Your suggestion, Mr. Paul, has to leave out the words

Mr. Paul: "Month of..." it was a question rather than a suggestion.
COMMISSIONER RICHARD: I feel very confident that if the Board decides
that this is the way that should be interpreted that if there is any later
law or take the fact that the Board in fact went over this matter would
certainly seem to me to be prevailing in the matter and I don't think it is
necessary to change my way of thinking.

MR. PAUL: Do it by interpretation.

MS. POLAND: I like the way it is written. There are many, well others
who girls wait on tables in waiters where they get no tips, a black ring, and
I believe that was put in there to even those people who work in places like
that and I believe it should stay.

MR. PAUL: No, wasn't suggesting taking that out. Just leave the black
ring. Let the test be if they get tips.

COMMISSIONER RICHARD: There would be difficulty in determining how
where they take both booths and counters.

MS. POLAND: It's all all right.

MR. LOUIS HICKEL: What would happen if you had an employee who
spent $10.00 per week in gratuities? Could they then take the full
allowance of 35c times the number of hours that she worked, in spite of the fact
she only got $10.00 for a week?

MR. BALDWIN: Yes, she must sign a statement for the amount above $10.00.

If they want to deduct 35c and it is more than $10.00 they would have to sign
a statement that she received at least 35c an hour as a deduction to that.

COMMISSIONER RICHARD: She should not do that if she had not received it.

MR. BALDWIN: There are three types of forms: one for part time employee,
one for full time employees and one for the one who receives more than $10.00 or
$10.00 and signs for 35c or 25c. Whatever the amount might be between the two,
I don't think we should change my wording. We are looking for the intent.
MR. BALDWIN, continued

If the conditions were that was when you intended when you voted that
even though it may not be 1 vote, it could be satisfied that way.

JUDGE MALFEZ: You would like to know what the feeling here is.

COMMISSIONER KANCUT: Well, said you clearly, Judge, I support this
these residents people came to see me. In talking to them, I noticed
there was some logic to their position. If I interpreted it as the way I
felt it ought to be interpreted on the basis of what they told me, it would
come to me it would leave me open to an attack from the other side. They
might say it doesn't say that: we don't care what the residents people say.
We think you have made the wrong thing. If the board tells me, this is
what we intended: This is the way it ought to be interpreting. I feel
reasonably free to interpret it that way. That is the real reason why
you were called together. At this point I have a mandate from you people
to interpret it in this fashion.

MR. BALDWIN: Was that a unanimous vote? (According to the previous vote
[page 75.]

JUDGE MALFEZ: There were certain men who didn't vote. All you voted
voted in favor of it. Let us try again.

MR. BALDWIN: All in favor raise their right hand.

JUDGE MALFEZ: (All votes negative)

MR. BALDWIN: Let me not argue. I am not at any more.

COMMISSIONER KANCUT: That is all, Judge. I am very grateful.

JUDGE MALFEZ: I think we can consider ourselves at liberty to go.

Meeting adjourned, 11:00 a.m.
**Minimum Wage Rates for Women, Minor, and Adult Males Employed in the Restaurant Occupation**

**Wage Rates for Male Males**

<table>
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<tr>
<th>Hours</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Full Time</td>
<td>Not less than $3.75 per hour</td>
</tr>
<tr>
<td>Part Time</td>
<td>Not less than $1.70 per hour</td>
</tr>
<tr>
<td>Overtime</td>
<td>Not less than $8.70 per hour</td>
</tr>
</tbody>
</table>

In addition to the applicable minimum cash wage, an employee working five hours or less on any day shall receive a meal on each day. An employee working more than five hours shall receive two meals on each day. When meals are not furnished as provided herein, the employee shall be paid $1.00 for each meal not furnished.

**Overtime**

Not less than $6.00 per hour for all hours worked in excess of 40 weekly.

**Exceptions to Full Time Work**

The minimum weekly wage rates provided above for full time employees shall not be provided for any employee in any week except in the following cases:

1. New employees who have been hired after the beginning of the week and whose employment has been terminated before the end of the week.
2. Occasional voluntary absence of a full-time worker.

In cases (a) and (b) the basic minimum weekly wage may be prorated on an hourly basis for that week. The hourly rate of a full-time employee shall be computed by dividing the employee's weekly wage by the number of hours between forty and forty-eight that constitutes his regular work week.

**Diversified Employment**

If service and non-service duties of an employee are interchanged and the duties are definitely segregated and recorded, the appropriate hourly rate or prorated weekly rate for each type of work may be used.
ADDITIONAL DAILY WAGE. $1.00 in addition to the applicable minimum wage rate to date on any day in which the spread of hours exceeds twelve. The term "spread of hours" means the total time between the beginning and ending of the work day, including both working and non-working time.

MINIMUM DAILY EARNINGS GUARANTEED. An employee who by request or permission of the employer reports for duty on any day whether or not assigned to actual work shall be paid at least $1.00 for that day unless conditions are such that an employee is not prevented against by the employer from leaving the work place at any time during the hours of the work day. lodging shall mean living accommodations which are adequate, clean, and sanitary. Employees shall not be required to share a bed. When lodgings are furnished by the employer, as part of the minimum wage, they shall not be evaluated in excess of the following:

<table>
<thead>
<tr>
<th>Item</th>
<th>Allowance</th>
</tr>
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<tbody>
<tr>
<td>Room occupied alone</td>
<td>$6.00 per week</td>
</tr>
<tr>
<td>Room shared</td>
<td>$4.00 per week</td>
</tr>
</tbody>
</table>

No allowance shall be made for lodging covering a period of less than a full week except in cases where non full time employees are hired after the beginning of the week or services of a full time employee are terminated before the end of the week.

AN EMPLOYEE, as a condition of employment, requires a service EMPLOYER to wear a uniform or part of a uniform of a distinctive style or design other than a plain white or a dark dress, such uniform shall be supplied and laundered by the employer at no cost to the employee. All non-service employees shall have available uniforms provided by the employer at no cost to the employee.

The minimum wage rates established herein shall not apply to those special fees licensed or handicapped workers, or apprentices or persons under an interlock program approved by the Connecticut Department of Labor.

ADDITIONAL REGULATIONS

EMPLOYER OF LABOR. All time shall be reckoned on the nearest unit of time or wage.

REPORT. No deposit shall be required by an employer from any employee for a uniform or for any other purpose except by permission of the Connecticut Department of Labor.
Paragraph 4: Any employee who is required or permitted to travel from one establishment to another after the beginning or before the close of the work day, shall be compensated for travel time at the same rate as for working time, and shall be reimbursed for cost of transportation.

Paragraph 5: No person whose earning capacity has been impaired shall be paid at less than the minimum wage until a special license issued in accordance with the provisions of Section 379R of the General Statutes, Revised 1969, has been obtained by the employer from the Connecticut Department of Labor.

Paragraph 6: The provisions of this order shall apply to any worker in a restaurant occupation for the entire work period, unless in the course of his employment he is engaged to the fullest of an occupation covered by law or by another wage order and the time as agent is segregated and recorded.

Paragraph 7: Deductions from wages due or to become due by reason of the employee's personal services are prohibited by statute. (Section 750, Section 818.)

No employee shall be required to work more than five consecutive hours after reporting for work without a meal period of not less than thirty minutes. On-duty meal period will be permitted only when the nature of the work prevents an employee from being relieved of all duties, and such on-duty meal period shall be counted as hours worked.

The employer shall keep at the place of employment, for a period of three years, accurate and legible records in ink, for each employee as follows:
1. Name;
2. Address;
3. Working certificates as proof of age for minor employees (16 to 18 years);
4. Occupations;
5. Daily and weekly hours worked, showing the beginning and ending hours of each work period;
6. Total daily or weekly basic wage;
7. Overtime wage as a separate item from basic wage;
8. Total additions to or deductions from wages each pay period;
9. Total wages paid each pay period;
10. Statements signed by employee as to gratuities received as called for in definition of service employees.

The employer shall keep at the place of employment, for a period of three years, accurate and legible records in ink, for each employee as follows:
1. Name;
2. Address;
3. Occupation;
4. Daily and weekly hours worked, showing the beginning and ending hours of each work period;
5. Total daily or weekly basic wage;
6. Overtime wage as a separate item from basic wage;
7. Total additions to or deductions from wages each pay period;
8. Total wages paid each pay period;
9. Statements signed by employee as to gratuities received as called for in definition of service employees.

DEFINITIONS

Restaurant occupations shall include any activity concerned with the preparation and serving of food or beverages for human consumption to the public, to employees, to members, to guests of members, or to paying guests, in any restaurant establishment as hereinafter defined. For the purpose of this order, it shall include in addition to the activities of persons directly or indirectly concerned with the actual preparation and serving of food or beverages, all supplementary and incidental...
activities, including but not limited to the work of hostesses, head
waiters, telephone operators, check room employes, cigarette girls, clenan-
cers, waiters, elevator operators, office workers, waiters, and all similar
tivities whatsoever, when performed in connection with any restaurant
establishment. Those employees may be excluded if the major part of their
activities are devoted to work unrelated to the restaurant establishment as
herein defined.

For the purpose of this order, the term "restaurant occupance" shall
not include the following:

(a) Musicians and entertainers not also employed in other
restaurant occupances in the establishment.

(b) Nurses and student nurses in hospitals, convalescent homes, san-
itariums, schools, recognized or licensed by the State Health
Department and persons engaged in serving meals to patients there-
in unless also employed in a related restaurant occupance.

(c) An executive who meets each of the following requirements:

1. Receives a minimum salary of $50.00 per week.

2. Has as his or her primary duty the management of the
enterprise in which employed, or a customarily recognized
department or subdivision thereof.

3. Customarily and regularly directs the work of two or more
other employees therein.

4. Has authority to hire and discharge other employees, or
make suggestions and recommendations as to hiring or
promotion or any other change of status of other employees are
given particular weight.

5. Devotes at least 50% of the hours worked to activities
which are directly and closely related to the perform-
ance of exempt work.

6. Activities of an educational, religious or non-profit organi-
tation where the services rendered are usually on a voluntary basis
and where the employer-employee relationship does not exist.

A "RESTAURANT OCCUPANCE" shall include that place or part thereof where for
remuneration, food or beverage for human consumption is prepared or served
on the premises or elsewhere, through such service as tea lunch, cafeteria,
breakfast, lunch, table or counter service, counter, whether such
establishment is operated as the principal business of the employer, or as
a department or unit of another business; or in connection with institutions
such as manufacturing establishments or other places of employment, clubs,
hospitals, convalescent homes, sanitariums, schools and col-
leges, camps, clubs, fraternal, dairy barns and housing homes or tourist
houses serving five or more guests per meal.
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44. A RESTAURANT EMPLOYEE shall mean any female or male who is employed or permitted to work in any restaurant occupation or establishment.

45. A SERVICE EMPLOYEE shall mean any employee who serves or is engaged in the conveyance of refreshments, alcoholic beverages, or tobacco to customers of such premises, and who customarily receives gratuities. For the purposes of this order, a person shall be considered to customarily receive gratuities unless a minimum of $2.00 per week in gratuities is received in the case of full time employees or $0.50 per day in the case of part time employees, as evidenced by signed statements of the employees, stating unequivocally that such worker did or did not customarily receive gratuities as herein required, which must be maintained as part of the records of the employer.

46. A NON-SERVICE EMPLOYEE shall mean an employee other than a service employee, as herein defined. A non-service employee shall include, but is not limited to countergirls, counterwaitresses and those employees serving food or beverages to patrons seated at tables or booths and who do not customarily receive gratuities as defined above.

47. A NON-SERVICE EMPLOYEE shall mean an employee other than a service employee, as herein defined. A non-service employee shall include, but is not limited to counterwaiters, counterwaitresses and those employees serving food or beverages to patrons seated at tables or booths, and who do not customarily receive gratuities as defined above.

48. "SCHEDULED" shall include all time during which an employee is required to be on the employer's premises or to be on duty, or to be at the prescribed work place, and all time during which an employee is employed or permitted to work, whether or not required to do so, provided that time allowed for meals shall be excluded unless the employee is required or permitted to work. Such time includes, but shall not be limited to, the time when an employee is required to wait on the premises while no work is provided by the employer.

49. "FULL-TIME EMPLOYEE" shall mean any person employed to work forty to forty-eight hours per week, whether as a regular employee for a fixed or indeterminate time or as an hourly employee for particular weeks.

50. "PART-TIME EMPLOYEE" shall mean any employee for any reason not directed by the employer and not engaged by employer or employees to evade the minimum wage standard.

51. "EMPLOYER" shall mean any person, other than himself or herself, who cannot employ, authorize, or permit to work any restaurant employees in any restaurant establishment.

52. "MINOR" shall mean any person between the ages of sixteen and eighteen.