

Oregon Bureau of Labor & Industries Centennial Anniversary Book



wage & hour ■ civil rights ■ apprenticeship & training

To The People of Oregon:

I am proud and honored to present this volume celebrating the 100th Anniversary of the Oregon Bureau of Labor and Industries. I have enormous pride in the important work done by the men and women of the Bureau as they protect the rights and interests of both workers and employers in the State of Oregon.

Oregon has a rich history of leadership when it comes to progressive labor legislation and regulation. We were the first state to designate a Labor Day (1887); the first to pass Wage and Hour protections; the second to establish Apprenticeship and Training for youth; a pioneer in the passage of child labor protections; and, in 1949, 15 years before the federal government, a leader in the establishment of civil rights protections based upon race, color, national origin and religion.

During my five-year tenure as Oregon's labor commissioner, I have worked hard to build upon this rich tradition of progressive action. We have extended rest and meal periods to Oregon's farm workers; established a new state prevailing wage standard for private-public projects; expanded Oregon's family leave protections; and indexed Oregon's minimum wage to the rising cost of living.

Finally, a note on the timing of this publication. Yes, we know we are a tad tardy - four years to be exact. Nonetheless, I want to thank all those whose hard work made this publication possible. And a little advice for my successor facing the same task in 2053: start four years early.

Once again, the Bureau is proud to serve and protect the rights of all Oregonians. I thank you for your support of our work on your behalf.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Gardner", with a long horizontal flourish extending to the right.

Dan Gardner, Commissioner
Bureau of Labor and Industries

BOLI: One Hundred Years of Service to Working Oregonians

Introduction

At the dawn of the twentieth century, America was undergoing a series of profound changes that were drastically altering the nation's economic, political, and social landscape.

The completion of the transcontinental railroad system and technological advances that fueled the nation's productive capacity led to the rapid expansion of industry and the rise of giant corporations in enterprises such as steel, oil, meatpacking, and coal. Seeking new employment opportunities presented by this expansion, more Americans left the farm for the city and took jobs as industrial wage earners. They were joined in the late nineteenth century by a new wave of immigrants who came to the United States seeking better lives and often found themselves clashing with native-born workers in their quest for opportunity and acceptance. Throughout the last two decades of the nineteenth century, these developments were accompanied by the rise of labor unions and the outbreak of fierce industrial conflict as workers sought to secure a larger share of the prosperity their labor was instrumental in creating. During the decade of the 1890s alone, armed workers battled Carnegie Steel and the state militia in Homestead, Pennsylvania, launched a strike against the Pullman company that led to a nation-wide injunction and the jailing of railroad union leader Eugene V. Debs, and engaged in dozens of lesser-known but equally militant clashes. For many Americans, the ferocity of these conflicts led to fears that the new industrial order might not be compatible with the maintenance of democratic values, equality of opportunity, and social stability.

These troubling developments did not manifest themselves to the same degree in Oregon.

The shift from farm to factory was less pronounced, with industrial wage earners accounting for only 5 percent of the state's population by the end of the nineteenth century. Nonetheless, there were some 4,000 manufacturers in the state by 1900, reflecting growth in such key industries as lumber, timber, and canning. As capital expanded, so, too, did labor, with the number of unions in Oregon doubling between 1900 and 1903, and the Oregon Federation of Labor, an affiliate of the American Federation of Labor, forming in 1903. Conflict between labor and capital was not as intense in Oregon as was the case in other parts of the country, but Oregonians were certainly well aware of the rapidly changing dynamics of their own economy and the social problems that had accompanied such changes elsewhere.ⁱ

During the first two decades of the twentieth century, a period that came to be known as the Progressive era, a national consensus had formed among many politicians, civic leaders, intellectuals, and clergy around a broad set of reforms that would regulate corporate behavior, improve conditions for workers, and limit industrial strife. Public demand for these reforms was also fueled by muckraking journalists and social crusaders who exposed the excesses of corrupt politicians and irresponsible corporations and publicized the plight of workers in mills, mines, and factories to a mass audience. Progressives believed that with government acting as an arbiter and referee, as president Theodore Roosevelt had done in helping to settle a national coal miners' strike in 1902, industrial conflict could be settled in ways that not only benefited the parties involved but also served the broader public interest. Roosevelt's intervention in the coal strike was the

harbinger of a period when citizens sought to assert their power through aggressive use of the initiative and referendum process, government began to regulate more closely the conduct of business and commerce, and expanded notions of workers' rights were introduced in both public discourse and public policy.

It was in this context that many states, including Oregon, established bureaus or agencies to oversee the conduct of labor relations and industrial affairs. Officially called the "Bureau of Labor Statistics and Inspector of Factories and Workshops," formation of the Oregon Bureau of Labor (BOL) was approved by the legislature on February 24, 1903 with bipartisan support. Speaking on behalf of the Bureau's creation, Governor George Chamberlain observed: "Troubles between capital and labor have not at any time seriously interfered with the business interests of the state." Still, proponents hoped that the new agency charged with enforcing "all laws enacted for the protection of the working classes" would help Oregon avoid the bitter conflicts raging in other parts of the country. Reflecting the Progressive belief that class conflict undermined efficiency and productivity, advocates declared that BOL "will save a large amount of wealth that is wasted in discord between capital and labor." The Bureau was initially granted three major areas of responsibility: inspection of factories, enforcement of new laws regulating child labor, and overseeing the number of hours women could work. The agency was also directed to compile statistics on labor and commerce in Oregon and report this data to the legislature. This emphasis on statistics embodied the Progressive faith that obtaining the best and most unbiased sources of information would result in better political decision-making and more enlightened public policy. Guided by these assumptions, the Bureau of Labor began to develop a regulatory apparatus for the

protection of Oregon's workers. It benefited from having an able and energetic man as its first commissioner in the person of O. P. Hoff, who led the fledgling agency through the first decades of its existence.ⁱⁱ

Introduction and Chapter I
O. P. Hoff

ⁱDavid Peterson del Mar, Oregon's Promise: An Interpretive History, Corvallis: Oregon State University Press, 2003, 98-100, Bureau of Labor, State of Oregon, "50 Years of Progress," 3-4.

ⁱⁱ "Fifty Years of Progress," 4-5.

Chapter I

O. P. Hoff, 1903-1919



O. P. Hoff, was a Norwegian immigrant who made his way to Oregon as a gold prospector after the Civil War. Hoff gained the bulk of his labor experience as an agent for the Southern Pacific Railroad. Regarded as not being too closely aligned with either management or labor, Hoff fit the prototype of the disinterested expert that Progressives thought best suited to represent the public interest. As he noted in his first biennial report to the legislature, although some might regard BOL as “solely a labor union affair,” the agency existed both “for the good of labor and the industrial advancement of the state.” Throughout his tenure Hoff attempted to maintain this balanced perspective on his role as labor commissioner.

Hoff was initially appointed to the post of labor commissioner but then stood for election quadrennially as required by Oregon law, a reflection of Oregonians’ desire for popular oversight of government and one that departed from the practice of most states whose labor commissioners were appointed rather than elected. During his first four years in office, Hoff operated as a one-man operation and did not obtain a staff until the 1910-12 biennium, when the legislature provided funding for the hiring of four deputy commissioners. The need for sufficient funding and resources to fulfill its mission, especially as industry grew larger and workers’ demands for services and protection increased, has remained an ongoing and at times contested issue throughout the Bureau’s 100-year history.¹

Hoff was an energetic man who traveled to all corners of the state seeking to understand the needs of workers and employers and the particular problems associated with work in different employment settings. Inspecting the state's businesses and factories was one of Hoff's earliest and most enduring preoccupations. Both legally and ethically, there had been a growing social trend towards requiring employers to assume greater responsibility for ensuring the safety of their workplaces. Public awareness of hazardous workplace conditions was exemplified by such incidents as the 1911 fire at the Triangle Shirtwaist Company in New York City that had killed 146 workers, mostly women, in a factory whose exits had been sealed. Hoff's investigations of Oregon factories and workplaces revealed the widespread existence of unsafe conditions. In his first biennial report, he found 212 industrial accidents and 27 fatalities, the latter occurring mostly in logging and sawmill operations. Two years later in 1906, he reported making 673 factory inspections and finding examples of dangerous or unsafe conditions in all but 20 of them. Among the problems he found were open elevator shafts and unguarded moving parts on machines. As Hoff's workplace investigations deepened his awareness of unsafe and inequitable conditions facing working Oregonians, he began to



Women and children working in adverse conditions ca. 1905

advocate corrective action. One of his initial recommendations was that employers be required to install guards on machinery with potentially hazardous moving parts.²

According to Hoff, workers were too often placed at risk by the refusal of employers to

accept responsibility for job safety. As one

employer informed Hoff: “The truth is it [addressing a workplace hazard] has been put off for so long that we will have become accustomed to it [and] we are unconscious of the danger and someone is injured.” Hoff could scarcely contain his displeasure over this kind of attitude. In his 1904 report to the legislature, he recounted a situation where he had warned an employer that a saw suspended by a rope could easily slip and result in a serious injury. A week after Hoff issued this warning, he learned that the rope had indeed snapped, ripping open the abdomen of the operator. The commissioner noted that the problem could have been solved with a \$.25 expenditure and complained that even after the incident, the employer was slow to remedy the situation.³

Like many Progressives, Hoff favored conciliation over conflict but in the case of factory inspection, quickly became an advocate for increased enforcement power for BOL. The initial factory inspection legislation had only granted the commissioner authority to recommend changes in hazardous conditions. In 1907, at Hoff’s urging, the legislature significantly expanded the commissioner’s ability to sanction uncooperative employers. Employers were now required to take action to remedy unsafe conditions and could be fined for non-compliance. In cases of willful violations, they would also be liable for damages. These expanded powers and improved staffing yielded almost immediate results, with Hoff reporting a 30 percent reduction in accidents in 1908. Yet BOL in 1911 still found 5,179 accidents had occurred over a two-year period and listed over eight pages of accidents in its report, including crushed toes, lost fingers, burns, and bruises. Hoff summarized the evolution of his views on job safety and BOL’s responsibilities in 1916. After touring 13 states and observing working conditions in 112 manufacturing plants in 26 localities, he concluded that “factory laws cannot be too

rigidly enforced.” To be sure, working Oregonians were better protected, and employers had become more aware and responsible as a result of the Bureau’s activities. Nonetheless, vigorous enforcement remained the key to ensuring that Oregon’s workplaces would remain safe environments.⁴

BOL was also charged with regulating the employment of child labor. This was yet another Progressive era preoccupation reflecting social revulsion over public revelations of children being exploited by unscrupulous employers, thereby compromising their “moral, intellectual, and physical development.” As the 1911 BOL report observed, child labor was a fundamental social challenge that could no longer be evaded or ignored: “The child labor condition in any state is one of the barometers which indicate the intellectual standard of the people.” Moreover, the labor movement and social reformers lamented that child labor undercut wages for adult workers, eroding efforts to establish wage standards in employment and forcing families to send their children to work. Responding to these imperatives, the 1903 law creating BOL contained several provisions applying to child labor. Children were required to attend school until age 14, were prohibited from working during school hours, limited in how many hours they could work, and barred from holding jobs in occupations deemed dangerous or unsafe. The child labor law was administered by a Child Labor Board headed by Millie Reid Trumbull, an important figure in the history of social welfare in Oregon. Trumbull served in this post from 1903-1931 and became one of the state’s foremost advocates on behalf of children.⁵



Millie Trumbull

Trumbull was a veteran of the settlement house movement and had worked in Chicago with the pioneering social crusaders Jane Addams and Florence Kelley before coming to Oregon. Although the legislature granted BOL authority to enforce child labor laws, it provided no funds for this task until 1911. Trumbull deeply resented the lack of resources devoted to her vital task. Comparing the funding provided the Oregon Historical Society with the legislature's allocation for the Industrial Welfare Commission, which succeeded the Child Labor Board in 1913, Trumbull tartly observed:

“One group has the task of protecting the living workers, the other to care for the relics of a dead and gone past.” Trumbull's complaint would become a persistent theme among BOL officials, who often found the legislature either unable or unwilling to appropriate sufficient resources to fund the Bureau's expanding responsibilities.⁶



Women working in a dress manufacturing workshop

Like Commissioner Hoff, Millie Trumbull had initially preferred conciliation to prosecution in attempting to eradicate the employment of children. Yet she noted that child labor was increasing due to the growing number of factories, the rising cost of living, and the accompanying stress on families that forced more children out of school and into the workplace. Trumbull forged a close relationship with the public schools, especially in Portland, and reported considerable progress in her quest to “protect and improve [children's] rights to an education.” Her efforts were threatened, however, by the labor shortages created by the outbreak of World War I. The number of work permits

granted minors rose from 3,096 in 1915-16 to 19,263 in 1919-20. Trumbull voiced concern about boys working in shipyards past midnight and the employment of “juvenile industrial hoboes’ who roamed across the Pacific Northwest in search of work. Affirming the sense of moral outrage that she never relinquished and which set a tone for BOL, she bluntly denounced the wartime rise in child labor: “Some parents seem to have gone money crazy and children are being sacrificed to the opportunity which the war industry has brought.”⁷

In keeping with the Progressive era’s commitment to protecting groups of workers believed to be vulnerable, the Bureau was also assigned responsibility for enforcing wage and hour laws applying to the employment of women. Indeed, it was the attempt to enforce the ten-hour day for women that had led to the famed Supreme Court case *Muller v. Oregon*, where the justices upheld Oregon’s law as a legitimate limit on the freedom of contract to advance a desirable social goal: the protection of women from overwork. O. P. Hoff was a strong advocate of protective legislation for women. When employers continued to violate the legal limit on the daily amount of hours women could work, he moved from a conciliatory to a more punitive approach, observing that employers could no longer claim ignorance of the law as an excuse for their non-compliance. In addition to enforcing wage and hour laws, BOL also sought better working conditions for women, as exemplified in a 1909 case where an Astoria retailer pleaded guilty to failing to provide female clerks with places to sit while performing their work. The storeowner was not fined but did agree to provide seats for her workers in order to meet BOL’s demand.⁸

With the creation of the Industrial Welfare Commission in 1913 and the legislature's passage of the nation's first enforceable minimum wage law, BOL became more aggressive in its defense of working women. The impetus for the minimum wage legislation, as was the case in other states, stemmed from research showing that women often earned wages below the level needed to support themselves and their families at a basic level of comfort. The Oregon Consumers' League, a reform organization led by the crusading priest Edwin O'Hara and researcher Caroline Gleason (later known as Sister Miriam Theresa), was instrumental in campaigning for expanded protection of women's employment rights. The new law limited women's work to a 9 hour daily and a 54 hour weekly maximum, provided for a 45 minute lunch break, and established a minimum weekly wage of \$8.64. Under Millie Trumbull's direction, the Industrial Welfare Commission inspected workplaces to ensure that employers were complying with the new regulations. However, as was the case with children, labor shortages during World War I led to requests from employers and women workers to relax regulations on the hours of work. Staunchly committed to the notion that women workers were susceptible to exploitation, Trumbull stood firm and vowed to resist "the hysteria which had threatened for a time to sweep aside every line of protection which had required years in the building."⁹

Although the Bureau devoted much attention to protecting women and children, it extended its services to all workers who were deprived of receiving wages for the labor they had performed. Early in his tenure, Hoff sought to curtail the practice of "crimping," a collusive arrangement between ship captains and boarding house owners that induced sailors to desert and allowed the conspirators to pocket the unpaid wages

owed the seamen. The passage of legislation regulating the conduct of private



A private employment agency on the corner of Ankeny & 12th, ca. 1910

employment agencies provided BOL with yet another new area of responsibility. The Bureau monitored the practices of private employment agencies and took action in cases where agencies misrepresented wage scales and working conditions in their efforts to attract employees. BOL worked to

obtain refunds for travel expenses and fees in cases where workers were enticed to take jobs under false pretenses. Ensuring that workers were paid for their labor would become one of BOL's most fundamental responsibilities, and it would increase its oversight under Hoff's successors to insist that employers live up to this most basic of obligations.

Hoff did not confine himself to merely enforcing the laws; early on, he adopted a more expansive vision of the labor commissioner's role. Reflecting the reform spirit of his times, his distaste for the exploitation of workers, and his attachment to democratic values, he used his position as bully pulpit from which he attempted to shape public opinion on a variety of social issues. One of his most deeply felt concerns was the status of Oregon's teachers. Observing that teachers were "about the poorest paid class of wage earners in the State," Hoff sharply questioned the values and priorities of Oregonians: "Is there not something wrong in our economic affairs that permit those who are training the minds of the children of this commonwealth to be so poorly paid? He also denounced the social tendency to treat female domestics as servants and not accord them the dignity and

respect they were due, asserting that “the woman who holds the health of the family in her hands should be no inferior person.”¹⁰

In addition to his advocacy on behalf of working women, Hoff spoke out frequently on the importance of the labor movement as a vehicle for social justice and social harmony. “Organization of wage earners is recognized as a principal defense of the American standard of life,” he declared in 1909. “Labor unions, properly conducted, are a benefit to the State, to capital, and to humanity in general.” Hoff deplored strikes and lockouts as “wasteful” and used his office to help mediate labor conflict, noting approvingly that Oregon had fewer strikes than other states. Instead of strikes, Hoff urged labor to promote the union label in order to assure the public that it was patronizing businesses where workers were treated fairly. He also lobbied for Election Day to be made a compulsory holiday, a move he believed would increase working-class participation and advance the cause of democracy in Oregon.¹¹

Hoff’s social progressivism did not extend to immigrant workers, however. Since Chinese and Japanese immigrants had first come to the West Coast and the Pacific Northwest in the second half of the nineteenth century, they had often encountered



Chinese immigrants working in a cannery, early 1900's

hostility from native-born workers. Native-born workers feared, not without some justification, that the new arrivals might be used by employers to undercut their wages and standard of living. This fear of economic competition mixed with racial and ethnic hostility, forming a potent political brew that

led to unions and their political allies seeking to restrict and even ban employment and immigration of workers from Asian countries. Labor organization in Oregon had in part been fueled by antagonism towards Chinese and Japanese workers and among the demands that labor made when BOL was established was that the new agency track “to what extent [Chinese and Japanese] employment comes in competition with the white industrial classes of the state.”¹²

O. P Hoff not only collected and reported data on Chinese and Japanese employment but unequivocally declared his opposition to workers of Asian origin. “The Chinese and Japanese laborer has always been a menace to the white laboring man and woman,” he declared in 1907. “Every honest means must be used to stop Oriental immigration to this country” for “unless stopped, [it] will, by reason of [its] large numbers, undertake to control the political, as well as the economical affairs of this country.” Several years later, Hoff rejected the argument that Chinese and Japanese workers were performing labor that native-born workers were unwilling to do: “The claim that there is work that can not be done by the Orientals that our own people will not do is not borne out by the facts.” His ethnic and racial antagonism was not just reserved for Asia workers; he also denounced “the most ignorant classes from Southern Europe” as threat to the status of incumbent workers. Hoff’s stance on immigrant workers reflected both the economic fears and ethnic stereotyping prevalent in Oregon and the Pacific Northwest during the late nineteenth and twentieth centuries and represented the most serious blemish on BOL’s otherwise distinguished record of advancing the rights and defending the interests of working Oregonians.¹³

After serving as labor commissioner for sixteen years, O. P. Hoff went on to become Oregon's state treasurer. Under Hoff, BOL's responsibilities had rapidly expanded, underscoring Progressive-era Oregon's commitment to using state government as a vehicle to protect the rights and interests of workers. The agency also gained growing acceptance from employers who increasingly realized that holding all businesses to a uniform set of standards diminished destructive competition and created a more stable environment for managerial decision-making. Using the system of factory inspection BOL had developed as an example of the benefits of regulation, Hoff observed in his final report to the legislature that the agency's actions had "reduced the hazards of industry and ... been equally beneficial to industry itself by a marked and noticeable increase in the efficiency of and a more contented spirit on the part of workers." And Hoff also established BOL as not simply a vehicle of administration and enforcement but also a voice of conscience, not hesitating to express his moral and ethical concerns about the status of workers, the practices of employers, or the health of democracy. Future commissioners would all be influenced by this legacy as they contended with new challenges and assumed additional responsibilities.¹⁴

¹"Fifty Years of Progress, 5-7, BOL First Biennial Report (hereafter, "Biennial Report" refers to reports issued by the Bureau of Labor).

²First Biennial Report, Second Biennial Report.

³First Biennial Report.

⁴Third Biennial Report, Fifth Biennial Report, Seventh Biennial Report.

⁵Seventh Biennial Report.

⁶“Fifty Years of Progress,” Eighth Biennial Report.

⁷Fourth Biennial Report, Eighth Biennial Report.

⁸On *Muller v Oregon*, see Robert D. Johnston, The Radical Middle Class: Populist Democracy and the Question of Capitalism in Progressive Era Portland, Oregon, Princeton: Princeton University Press, 2003, pp. Fourth Biennial Report, Fifth Biennial Report.

⁹“Fifty Years of Progress,” Eighth Biennial Report.

¹⁰First Biennial Report, Second Biennial Report.

¹¹Second Biennial Report, Third Biennial Report.

¹²First Biennial Report.

¹³Del Mar, Oregon’s Promise, 108-111, “Fifty Years of Progress,” 8, First Biennial Report, Second Biennial Report, Third Biennial Report, Fifth Biennial Report.

¹⁴Eighth Biennial Report.

Chapter II

Charles H. Gram, 1919-1943



O. P. Hoff was replaced as BOL commissioner by Charles H. Gram, who had served as a deputy commissioner at the agency since 1907. Like Hoff, Gram was a Scandinavian immigrant who had come to Oregon as a teenager in the late nineteenth century and worked in sawmills and at a Portland transfer company. In contrast to Hoff, Gram had been closely associated with the labor movement prior to joining BOL, having served as president of both the Portland Central Labor Council and the Oregon Federation of Labor. Although Gram retained his sympathies for the labor movement, he conducted the office in the nonpartisan fashion begun by his predecessor. This approach clearly resonated with the public, who returned him to office six times during a period of considerable social volatility in both Oregon's and the nation's political history.¹

By the time Gram assumed office in 1919, the reform impulse that had animated the Progressive era had begun to wane. The Bolshevik Revolution of 1917 and a wave of nation-wide strikes that occurred after World War I led to a conservative backlash and dampened social enthusiasm for reform. As the decade of the 1920s unfolded, Oregonians sought to cope with the onslaught of rapid social change, as exemplified by new forms of transportation (the automobile), communications (the radio), and consumption (the rise of installment buying and chain stores). In Oregon as elsewhere, these coping mechanisms often involved embracing traditional values and suppressing

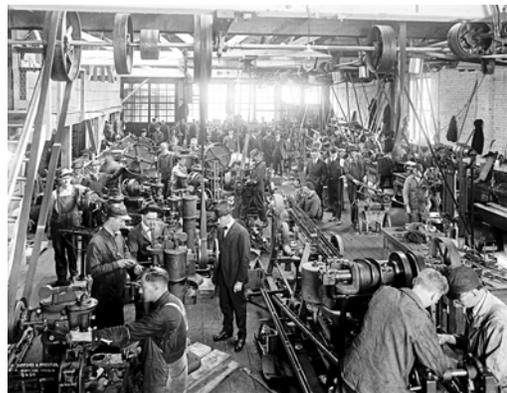
perceived disruptors of social order and stability, as evidenced by the Ku Klux Klan's rise as a political force. The 1920s were also a decade when the political thrust was to defend business interests over those of labor, although under Governor Walter Pierce's administration, Oregon remained committed to pursuing Progressive principles in the areas of conservation, tax policy, and management of public utilities. In spite of this less welcoming social and political atmosphere, Charles Gram and BOL maintained the agency's commitments to safeguarding the interests of working Oregonians and even extended its reach in several critical areas.

Early in Gram's tenure, BOL expanded its oversight of workplace safety, asserting that "we hold accident prevention to be our most responsible duty." One area that had especially concerned both O. P. Hoff and Charles Gram was the danger posed by improperly maintained steam boilers. Between 1918 and 1920, ten workers had died in boiler accidents, and Gram expressed concern that while neighboring states were setting safety standards, Oregon was becoming a "dumping ground" for defective or unsafe boilers. In 1920, the legislature directed BOL to inspect steam boilers to ensure their safe operation. Initially, the legislature provided no funding for boiler inspection, but eventually, inspection fees were imposed upon businesses to fund BOL inspectors, whose efforts were supplemented by insurance company personnel. In the first biennium after the law was enacted, inspectors designated as "dangerous" 900 out of the 3,200 boilers they had inspected, testifying to the magnitude of the problem the new legislation was seeking to address. Like his predecessor, Gram insisted that the bureau receive sufficient funds to fulfill its obligations. He praised Oregon's strong labor laws but expressed concern that "these laws have become but promissory notes, impressive to be sure, of the

good will of the people of Oregon, but of no avail until translated into reality by proper financial support necessary to a complete administration.” The issue of adequate funding, especially for workplace inspection, would become even more acute during the Depression with sharply reduced state funding and diminished fee collection from businesses forced to close as a result of hard times.²

The agency’s oversight responsibilities increased throughout the 1920s to include inspection of plumbing, air tanks, electrical wiring, and elevators. BOL’s growing workload was documented in the agency’s 1925-26 report to the legislature, showing that the number of factory inspections had risen from 678 in 1905 to 2,572 in 1915 to 5,944 in 1926. Inspectors recommended over 13,000 changes to ensure the safety of factory equipment in 1925-26 alone.

The bureau, however, did not rely solely on inspection to ensure workplace safety. In 1919, it launched a joint safety education and accident prevention initiative with the Oregon Industrial Accident Commission and a regional branch of the National Safety Council, devoting special attention to hazardous conditions in the lumber industry. The Industrial Accident Commission went on to assume primary responsibility for educating workers, employers, and the public about accident prevention while BOL’s safety efforts continued to focus on factory inspections.³



*Bureau of Labor Inspector
at a machine shop, 1920*

Although the bureau described accident prevention as its “most responsible duty,” dealing with wage claims was, according to Gram, “the most trying work of BOL.” Workers often incorrectly believed that the Bureau had the authority to force employers to pay back wages and were disappointed to learn that their expectations for redress could not be met. Although many claims of failure to pay wages reflected misunderstandings and no employer wrongdoing, agency officials did find numerous examples where workers, especially those lacking union representation, had valid complaints against their employers. Gram was especially concerned by what he saw as the serious social implications of employers failing to pay workers for their labor: “When a man sells his labor power and that is his only resource and [he] is then unable to realize on it,” Gram observed, “a wretched state of affairs is at once created.” Non-payment of wages robbed workers of the self-respect associated with productive labor, reduced the consumer dollars that were spent in local communities, and fueled suspicion and distrust between workers and employers. Writing in the context of post World War I strife, the Bolshevik Revolution, and radical critiques of the existing social order, Gram issued the following warning shortly after assuming office: “...we know that to deal with the worker unjustly and to default in payment of wages is to encourage and breed dangerous radicalism.” With these concerns in mind, he committed BOL to aggressive action on behalf of wage claims and attempted to expand the agency’s authority in this area.⁴

Examples of defrauding included instances where workers were compelled to buy company stock as a condition of employment and subsequently found themselves unable to recoup their investment when the business closed. Workers in most cases had no right to a lien on their employers’ assets and were preyed upon by unscrupulous attorneys who

promised results that they knew would not be forthcoming. BOL was also concerned about the repeated deductions of hospital and medical fees in migratory camps, a practice that exploited the vulnerability of mobile workers and in some cases failed to deliver on the promise of medical coverage. At Gram's urging, the legislature enacted a law in 1925 that guaranteed regular pay days. However, the law's coverage was limited to certain businesses and did not allow BOL to seek legal action against violators. Since "debtors were willing to take advantage of persons in no position to enforce their claims in a court of justice," the commissioner judged "the effect of the law [to be] simply zero." Summarizing his views on wage claims and advocating greater regulatory power at a time when it was politically less popular, Gram declared: "It has been said that we have more laws than needed, but our experience has proved that there should be greater



*Young men and boys at a
Portland Brickyard, ca. 1930*

protection furnished the classes of workers described herein [those being defrauded of wages]." It was not until 1931 that Oregon legislators, influenced by the onset of the Depression, granted BOL the authority to seek court action against employers for back wages as Gram had requested.⁵

The devastating impact of the Depression on working Oregonians presented BOL with an unprecedented set of challenges. Both of the state's main industries, lumber and agriculture, suffered immensely. Between 1929 and 1933, employment in lumber plunged by 40 per cent, personal income fell 56 percent, and farmers suffered a 64 percent decline in total cash income. Governor Julius Meier responded cautiously to the

crisis, cutting state budgets severely, providing limited funds for relief, and approving an old-age pension plan that left counties short of sufficient resources to implement its provisions. Commissioner Gram spoke out vigorously on behalf of stronger measures to deal with the extreme circumstances facing working Oregonians. His reaction was animated by a strong sense of moral outrage about business ethics which he denounced as undermining the status of working people: “Independent self-sustenance must be advanced as the first and best definition of success and regardless of considerations of business or profit, must be made available to our outcast citizens who have been induced to abandon that standard by the tactics of modern industry.”⁶

Anticipating the programs that emerged during Franklin Roosevelt’s New Deal, Gram advocated a broad series of government interventions aimed at creating jobs and reviving the state’s economy. He defined the problem facing the nation as one of “underconsumption” rather than “overproduction,” insisting that “until the needs of workers are fully supplied through the natural purchasing power of their employment, there is underconsumption.” He proposed providing unemployed workers with jobs working on forest protection, road and track repair, and land cultivation. He also called for shortening the workday to 5-6 hours to make employment more readily available. At the root of Gram’s argument was his profound belief in the dignity and value of productive labor: “Is it not better that a man be required to earn what he needs than to



Depression Era Lumber Camp at Silver Falls

give it to him as a dole? And, in advocating that Oregon's old-age pension system be adequately funded by the use of payroll taxes, Gram not only foresaw the advent of Social Security but also offered a forthright vision of how BOL under his leadership viewed its responsibilities: "We believe it is the duty of the state to provide for all its citizens by furnishing employment to all those who are able-bodied and in need; and to care for all who on account of age or infirmities are unable to care for themselves."⁷

Gram's aggressive advocacy of a strong government role in addressing the challenges posed by the Depression was largely rejected by Governor Meier and his successor, Charles Martin, both of whom were opposed to greater state intervention in economic and industrial affairs. Yet in spite of gubernatorial coolness to BOL's more visionary suggestions and serious budget cuts that hampered its effectiveness, the agency moved on several fronts to protect the interests of workers during the Depression years.

With so many Oregonians out of work, the agency assumed a larger role in helping the unemployed find jobs. Since 1915, BOL had been empowered to regulate the conduct of fee-



Bureau of Labor Employment Office, May 1934

charging private employment agencies as a result of concerns that workers were at times paying for services that were not actually provided. One of Commissioner Gram's first major initiatives upon assuming office in 1919 had been his participation in the formation

of the United States Employment Service, which encouraged states to operate their own employment services under federal supervision. State affiliates were established in Eugene, Marshfield, Portland, and Salem. By the early years of the Depression, workers began to rely much more heavily on the state employment offices. Between 1930 and 1932, the state agencies assisted 183,000 workers with job placement while private agencies offered aid to only 25,000 jobseekers. Here, then, was an area where BOL was able to expand its authority and provide needed services to Oregonians in their quest for security and employment. The bureau ceded oversight of public employment services in 1935, when the Oregon State Employment Service was created and placed under the authority of the Unemployment Compensation Commission.⁸

The Bureau also continued its oversight of working conditions for women and minors. In 1931, the Industrial Welfare Commission and the Board of Inspectors of Child Labor were merged to form the State Welfare Commission, with the labor commissioner serving as executive secretary. The commission was hampered by a lack of funding and relied on BOL to cover at least some of its expenses. One of the commission's primary responsibilities, setting minimum wages for women workers, became quite contentious under the pressure of a depressed economy. The commission relied on the recommendations of conference boards comprised of representatives from employers, labor, and the public that investigated demands to raise or lower wages. In 1931, cannery employers petitioned to lower the minimum hourly wage for women workers from 27 ½ cents to 25 cents per hour. The conference board recommended that the reduction be granted, but the commission decided to maintain wages at the previous level. Yet it subsequently approved the request of women cannery workers for a 5 cent

reduction in their hourly wages so that they would not be undercut by male workers being hired at a lower rate. For the most part, the commission was reluctant to comply with requests to lower wages or to allow increases in the hours women could work. And throughout the 1930s, the commission issued orders setting wages for an expanding number of occupations in both the manufacturing and service arenas.⁹

During Charles Gram's years in office, the bureau also became involved in the resolution of labor disputes. Influenced by the World War I-inspired War Labor Board's success in diminishing labor conflict and concerned by outbreaks of worker militancy following the war, the legislature in 1919 created the State Board of Conciliation and Arbitration. The board was the first of its kind in the country and operated under BOL's supervision. The three-member board, composed of representatives from employers, workers, and the public, helped to conciliate labor-management conflicts over wages and working conditions and when the parties agreed, to act as an arbitrator, but shunned



Striking Longshoreman, May 1934

involvement once a strike or a lockout had occurred. The board consistently rejected adopting a compulsory approach, explaining that "any settlement of a dispute that is brought about through a manly spirit of kindness and compromise on what is seen to be an honest desire to be fair is preferable." Initially, the board's activities were limited. For example, from 1920-1922, its services were used on only eleven occasions. By the 1930s, however, with the resurgence of the labor movement and the increasing militancy

of workers, the board began to play a larger and much more prominent role in attempting to mediate labor conflict.¹⁰

Indeed, Commissioner Gram demonstrated considerable personal courage during his intercession in a bitter lumber and sawmill workers' strike in the spring of 1935. Governor Charles Martin, who had rejected New Deal social policy and was virulently antiunion, sent the Oregon National Guard in to protect strikebreakers at the Stimson Mill in Washington County. Joined by local police, the Guard threatened to begin shooting picketers if they did not disperse. It took the personal, on-site intervention of Gram and Otto Hartwig, head of the state Industrial Accident Commission and himself a former Oregon AFL president, to persuade the pickets to leave, thereby averting bloodshed. In helping to settle this two-month long strike involving 7,000 workers, the bureau took the unusual step of agreeing to oversee a hiring hall as part of helping the parties to resolve their differences. The bureau's involvement was less dramatic on other occasions, but the commissioner remained active in dispute resolution as union organizing accelerated with the creation of the Committee on Industrial Organization (CIO) and its ensuing competition with the AFL for the loyalties of workers. Between 1938 and 1940 alone, the conciliation board with BOL's support became involved in 34 disputes affecting 7,000 workers. The board eagerly accepted this new level of responsibility, with Charles Gram declaring that labor conflict would be more easily resolved if unions and employers were to avail themselves of the bureau's services.¹¹

The bureau's attitude towards Chinese and Japanese workers also appeared to change under Gram's leadership. The agency did continue to compile statistics on Chinese and Japanese Oregonians, documenting their property holdings and expenditures

on domestic and foreign products. This reporting, which reflected ongoing public



antipathy towards Asians, did not cease until 1929. At the same time, BOL began to show greater sensitivity to the plight of ethnic workers. In 1925, Charles Gram joined with his counterparts from California and Washington in

Chinese immigrant workers in the 1930's

warning Chinese contractors for

Alaska canneries about exploiting Japanese, Chinese, Mexican, and Filipino workers, who he described as “ordinarily a most helpless and defenseless type.” Gram subsequently reported some progress in persuading the contractors to treat their workers more fairly, especially in the payment of wages.¹²

The Bureau also undertook initiatives in several areas that would later become objects of more extensive activity. In 1923, Gram helped launch and chaired the Seasonal Employment Commission, bringing together growers, canners, and other employers in the agricultural and food processing industries to discuss their workforce needs. The commission’s principal activity was publicizing the availability of jobs with the aim of addressing the mismatch between supply and demand that was endemic to a seasonal industry. Following World War II, the treatment of farm workers would receive much greater attention as workers of color replaced the native-born, and conditions in the fields deteriorated. The agency also began to develop rules and regulations governing

apprenticeships. BOL's role in this arena would expand greatly under Gram's successors as post World War II Oregon faced serious shortages of skilled craftspersons.

After 36 years at BOL, including 24 years as labor commissioner, Charles Gram retired in 1943 at the age of 76. He was the oldest serving state official at the time of his departure. When Gram assumed office in 1919, the bureau had a staff of seven. By the end of his tenure, it had been grown to thirty-two, attesting to both BOL's expanded duties and the commissioner's ability to convince the legislature to provide adequate funding for the agency to meet its obligations. Under Gram, BOL had become more involved in ensuring workplace safety, moved directly into the arena of dispute resolution in labor conflicts, and grown much more aggressive in defending the rights of working Oregonians to be fairly and promptly paid for their labor. Faced with the daunting circumstances of the Depression, bitter clashes between labor and management, and the beginning of World War II, Gram insisted that the state's responsibility to defend the safety and security of working Oregonians not only be maintained but extended. His comment on the regulation of private employment agencies eloquently summarized his views on BOL's role and the contributions he made to upholding its mission: "It is our experience that all the regulations possible will not make one go straight without continual watching, if he is not so inclined."¹³ Throughout Charles Gram's six terms in office, BOL's "continual watching" had helped to make Oregon's workplaces safer and fairer. He also succeeded in firmly establishing the bureau as a respected, influential force in shaping social policy and advancing the public interest.

¹Fiftieth Anniversary Report.

²Ninth Biennial Report, Tenth Biennial Report, Twelfth Biennial Report, Seventeenth Biennial Report.

³Ninth Biennial Report, Twelfth Biennial Report, Twenty-Fifth Biennial Report.

⁴Ninth Biennial Report, Eleventh Biennial Report, Twelfth Biennial Report.

⁵Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, and Fifteenth Biennial Reports.

⁶Robert E. Burton, "The New Deal in Oregon," in John Braeman, Robert H. Bremner, and David Brody (eds.), The New Deal: The State and Local Levels, Columbus: Ohio State University Press, 1975, 356-357, David Peterson del Mar, Oregon's Promise: An Interpretive History, Corvallis: Oregon State University Press, 2003, 185-86, Fifteenth Biennial Report.

⁷Fourteenth, Fifteenth, Sixteenth Biennial Reports.

⁸Ninth, Fifteenth, Twenty-fifth Biennial Reports.

⁹Fifteenth Biennial Report.

¹⁰Ninth, Tenth Biennial Reports.

¹¹Gary Murrell, Iron Pants: Oregon's Anti-New Deal Governor, Charles Henry Martin. Pullman: Washington State University Press, 2000, 168, Seventeenth and Eighteenth Biennial Reports.

¹²Twelfth Biennial Report.

¹³Tenth Biennial Report.

Chapter III

William E. Kimsey, 1943-1955



Charles Gram was succeeded by William E. Kimsey, a veteran Bureau of Labor official who had served on the State Board of Conciliation and Arbitration since the early 1920s and was elevated to the post of deputy labor commissioner several years before Gram's retirement. Kimsey took office amid tumultuous changes prompted by America's entry into World War II and guided the agency through the complex process of conversion to a peacetime economy. Under Kimsey, BOL would assume major new responsibilities that emerged from new social and economic demands that war and its aftermath imposed on Oregonians. And while the bureau would extend its jurisdiction into new arenas, it would also shed some of its previous obligations as part of a post-war redefinition of its duties.

World War II had a profound impact on Oregon, prompted by the growth of new industries to meet wartime demand and the need for additional sources of labor to replace workers who had entered the military. President Franklin Roosevelt's Executive Order 8002, prompted by pressure from African Americans led by union and civil rights leader A. Philip Randolph, opened defense industry jobs to African Americans. Attracted especially to jobs in newly opened shipyards, African-Americans moved into the state, with their numbers in Portland alone increasing fivefold by 1944. More Mexicans entered Oregon through the bracero program, an arrangement between the American and Mexican governments that permitted employers to contract for the services of agricultural

workers for a specified period.

Women and minors also obtained employment in war industries and other businesses facing labor shortages. These rapidly changing work force demographics presented BOL with new challenges as it

sought to balance the acute need for labor with maintaining standards and protections for workers that had been painstakingly crafted over the course of three decades.¹



Braceros at a camp in Southern Oregon

BOL was especially concerned by the influx of minors into the work force. The number of work permits issued to minors increased from 2,845 in 1940-41 to 72,918 by the end of 1944, and the bureau noted “hundreds of cases of altered birth or baptismal certificates and worthless affidavits” that were submitted by young people falsely attesting to their age. Oregon law changed during the war to require school attendance through the twelfth grade, and BOL insisted that child labor standards be “strictly enforced.” Although more untrained workers were entering industry, the agency expressed pride that accident and injury rates had not markedly increased. BOL did allow some modification in the number of hours that women and minors could work in response to labor demand. Yet the agency still insisted that fundamental protections be maintained and did not hesitate to fine employers who violated wage and hour standards applicable to women and minors. The state also experienced minimal lost time from

labor disputes, reflecting the willingness of most workers to forego labor militancy in the interests of supporting the war effort.²

Looking ahead to the end of war, Commissioner Kimsey outlined BOL's approach to the task of conversion to a peacetime economy. Reflecting popular sentiment in spite of the desire of some women to remain in the labor force, he asserted

that: "Every possible adjustment to restore family heads to their accustomed place in the economic picture must be made." Kimsey also looked to private industry rather than public employment to be the primary source of new jobs



*Children living at the North Plains
Migrant Labor Camp, 1942*

and anticipated a shift from high paying war industry jobs to jobs in the service sector that offered lower wages. Along with other policy makers across the country, Kimsey and the Bureau were clearly concerned about the stresses involved in converting from a wartime economy to a peacetime economy, with many observers fearing plunging consumer demand, high unemployment, a sputtering economy, and social unrest as real possibilities following the war. As it turned out, many of these fears failed to materialize. In fact, Oregon continued to experience population growth, industrial expansion, and new job opportunities as demands for housing and consumer goods increased, and Cold War tensions with the Soviet Union boosted federal spending and industrial employment.³

In thinking about Oregon's workforce needs, BOL began to place a much greater emphasis on job training, and one of the hallmarks of Kimsey's administration was an expansion of the agency's commitment to develop and sustain a growing network of apprenticeship programs. Since 1931, Oregon had established a state commission that



Women join the trades during the war effort.

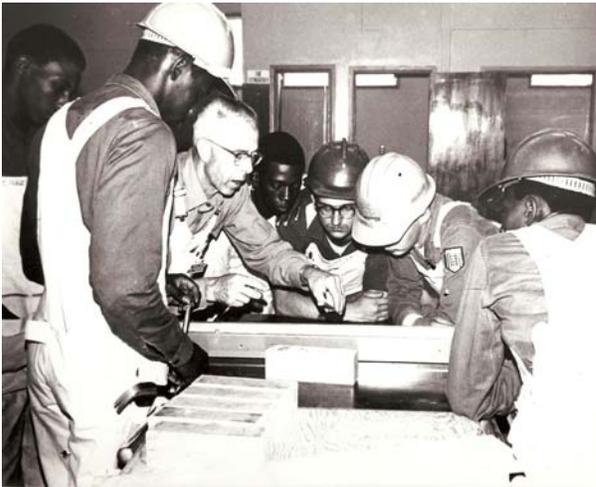
was empowered to develop rules and regulations to govern apprenticeship programs in both the vocational and construction trades. It was not until World War II, however, and in the immediate post-war years, that the state and BOL devoted major attention and resources to the

supervision and encouragement of apprenticeship training.

As a 1950 apprenticeship conference report noted, "depleted by years of depression, war, death, and retirement," Oregon faced severe shortages of skilled workers that threatened to impede its continuing industrial expansion and economic prosperity. At BOL's urging the legislature increased its support for apprenticeship programs, providing funds for a full-time director in 1945 and additional resources to promote the activities of the Oregon State Apprenticeship Council. A year later, the bureau reported the existence of 1,388 approved apprenticeship programs. The State Council, comprised of employer, union, and public representatives and the state director of vocational education, oversaw 27 local apprenticeship councils, 16 state councils, and 64 sub-

councils that developed guidelines and standards for craft and vocational programs. Apprenticeship was especially attractive to returning veterans, who comprised 87 percent of registered apprenticeships in 1948 and whose enrollments remained high throughout the immediate post-war period.⁴

BOL aggressively touted not only the economic but also the social benefits of apprenticeship. By providing “skilled craftsmen capable of doing the required work in their trades quickly, efficiently, and in the best interests of the taxpaying public,” apprenticeship played a crucial role in helping build the infrastructure for an expanding state economy. The Bureau also asserted, perhaps with some exaggeration, that apprenticeship was a deterrent to juvenile delinquency, a major social concern during the



An early carpentry apprenticeship program

1950s: “Seldom is a well-trained and employed craftsman involved with the law.” Nonetheless, as a vehicle that helped ease the transition of veterans into civilian life and provided young people with the opportunity to enter a respected, well-paid profession,

apprenticeship became one of the BOL’s most visible and valued programs. Although the legislature in 1949 limited shifted administration of vocational apprenticeship away from the bureau to the State Department of Vocational Rehabilitation, BOL retained oversight of trade and craft programs. Its commitment to ensuring quality apprenticeship training would continue under Kimsey’s successors.⁵

In 1949, BOL took on one of the post World War II period's most compelling challenges: enforcing a new Oregon law barring discrimination in employment. During World War II, the federal government had established the Fair Employment Practices Committee (FEPC) to help enforce President Roosevelt's executive order opening the



State officials and representatives from the Urban League sign the Fair Employment Practices Act, 1950

defense industry to African Americans.

When efforts to extend the FEPC failed following the war, states moved to implement their own enforcement mechanisms, and Oregon became the sixth state to enact a Fair Employment Practices Act. The law was an

acknowledgment of Oregon's troubled history with regard to ethnic and racial minorities and also a response to the

growing numbers of African Americans who had migrated to Oregon during World War II. Although these new arrivals found good-paying jobs in the defense industry, they often encountered a hostile reception from local citizens and continued to face discrimination in seeking housing and other employment opportunities.⁶

The new law barred discrimination in employment on the basis of race, religion, color, or national origin and applied to both employers and unions. In keeping with BOL's tradition of preferring conciliation over legal action in its initial discharge of a new responsibility, Kimsey declared: "Elimination of discrimination can best be accomplished by reason and not by force. This law, to be effective, must be sustained by

the moral attitude of the public.” To that end, the Bureau devoted considerable attention to educating business, labor, and the public about their duties and obligations regarding fair employment practices. In the first year after the law was passed, Bureau of Labor staff addressed 31 audiences totaling 1650 persons,



Urban League launched a campaign to get this bus company to hire black drivers

distributed 26,000 pieces of literature to 3,400 organizations, and supported local efforts to improve social relations among different racial and ethnic groups.⁷

Although the agency was often successful in helping settle cases without resorting to public hearings or enforcement decrees, it did not hesitate to act against recalcitrant parties bent on circumventing the law. In 1951, when a local lodge of the Brotherhood of Railway Carmen refused to admit African-American members, BOL obtained a cease and desist order. The local lodge disbanded rather than open its ranks, and it took intervention by the national union to obtain compliance. For the most part, however, the bureau was able to resolve discrimination complaints without the need for legal action. It also reported progress in making job applications and classified ads non-discriminatory, opening up more occupations to racial minorities, and convincing state agencies that their fears over public reaction to interacting with workers of color employed in government service were unfounded.⁸

In another arena, however, BOL's capacity to carry out its responsibilities was seriously tested. Commissioner Kimsey reported a tremendous increase in the demand for inspections resulting from rapid growth in home and business construction during the post World War II period. Electrical installation was a particular area of concern, with the number of inspections rising by 300 percent between the 1946-48 and 1948-50 bienniums. Additional funding from the legislature allowed the agency to hire twelve new inspectors in 1949 but with the continuing construction boom, BOL struggled to fulfill its obligations. Recognizing this burden, the legislature in 1952 shifted the responsibility for factory inspection to the Industrial Accident Commission, limiting BOL's jurisdiction to boiler, electrical, and pressure vessel inspection.

This shift acknowledged the bureau's expanded role in the areas of training and employment, along with its new responsibilities in civil rights enforcement. Before relinquishing its factory inspection obligation, BOL proudly noted that it had visited 12,226 factories between 1950 and 1952 and recommended 11,115 changes to improve safety, testifying to its faithful performance of these duties over the first 50 years of its existence.⁹



Clarence "Stanton" Duke, the first African American broadcaster in Oregon, covers a local basketball game on KGON, 1959.

In submitting BOL's twenty-fifth biennial report to the legislature in 1953, W. E. Kimsey attached a 50-year history of the agency's accomplishments. Throughout his

years as commissioner, Kimsey had been less public than his predecessors in using his office as a bully pulpit, preferring to fulfill BOL's responsibilities in a more understated, low-key manner. In part, this approach reflected broad public acceptance of the agency's mission, greater awareness from employers about their legal and ethical obligations to their employees, and a consensus that "the welfare of the state demanded the enactment and enforcement of such [labor] laws." Yet Kimsey also placed himself and BOL in a broader moral context in his introduction to the 50th anniversary report. The agency's expanding role in protecting working Oregonians, he observed, "grew out of the fundamental decency of Oregonians, who believed themselves their brother's keeper." Repeating an image used by his predecessor Charles Gram, Kimsey described "the laws we have administered during 50 years" as "the promissory notes of Oregonians to humanity. It has been the duty of the Bureau of Labor to make these notes negotiable."¹⁰

¹David Peterson del Mar, Oregon's Promise: An Interpretive History, Corvallis: Oregon State University Press, 2003, 200-202.

²Twentieth Biennial Report, Twenty-Second Biennial Report, Twenty-Third Biennial Report.

³Twenty-First Biennial Report, Del Mar, Oregon's Promise.

⁴Twenty-Second Biennial Report, Twenty-Third Biennial Report, Twenty-Fourth Biennial Report.

⁵Ibid.

⁶Andrew Edmund Kersten, Race, Jobs, and the War: The FEPC in the Midwest, Urbana: University of Illinois Press, 2000, 16-20, Del Mar, Oregon's Promise, 204-206.

⁷Twenty-Fourth Biennial Report.

⁸Bureau of Labor, "Fifty Years of Progress," 49, Twenty-Sixth Biennial Report.

⁹Twenty-Fourth Biennial Report, Twenty-Sixth Biennial Report.

¹⁰“Fifty Years of Progress,” 1.

Chapter IV

Norman O. Nilsen, 1955-1973



After William Kimsey decided not to seek re-election, he was succeeded as labor commissioner by Norman Nilsen in 1955. Like Kimsey and Charles Gram before him, Nilsen was a Bureau of Labor veteran, having previously served as director of the agency's apprenticeship division. A Norwegian immigrant, Nilsen had been orphaned at age fourteen and had, at one time, worked as a union plumber. These experiences profoundly shaped Nilsen's approach as labor commissioner. As he explained in an interview just before his retirement: "I was a working stiff myself for many years. And I felt that any American had the right to a job or to live where he wanted. The laboring person should always have dignity. And this was something we always tried to give people who sought our services."¹

Animated by the philosophy, Norman Nilsen would both build on and extend the work of his predecessors, especially in leading BOL's response to calls for social change and challenges to the status quo that arose during the 1960s. Some of the Bureau's previous responsibilities, such as electrical, boiler, and elevator inspections and conciliation services, were transferred to other agencies during Nilsen's administration. However, as the cry for social equality and inclusion grew louder in both the state and the nation, BOL not only stepped up its activities in the civil rights arena and also began to confront a broader set of discriminatory practices, most notably as they affected women and older Oregonians. The Bureau also became much more involved in monitoring and

seeking improvements in the conditions facing farm workers, who played a vital role in Oregon's critical agricultural sector.

A law passed in 1959 requiring that a prevailing wage be paid on public construction projects added a new set of enforcement responsibilities to the Bureau's jurisdiction, and the establishment of the Oregon Conciliation Service in 1957 gave the agency additional obligations in the area of labor-management relations. Finally, under Nilsen, BOL's research division authored a series of penetrating reports on new social and economic trends in Oregon, calling attention to the changing needs of working Oregonians and challenging policy makers to extend both protection and opportunity to a more diverse and evolving work force. Operating in an environment in which government was asked to assume new duties and spearhead social reform, the Bureau embraced its traditional role as a voice for working Oregonians with new vigor and aggressiveness during Norman Nilsen's long tenure as labor commissioner.

The conditions encountered by migrant farm workers who entered Oregon to harvest crops became a major new preoccupation of BOL shortly after Nilsen assumed



*Robert Kennedy visits the
Valley Migrant League*

office. During the mid-1950s, church organizations became active in assisting these workers and calling for legislative action to address the often deplorable circumstances under which they worked and lived. Prodded especially by the Oregon Council of Churches, who estimated that 30,000-40,000 migrant

workers were present in Oregon each year, the legislature launched an investigation, and

BOL established a migrant labor division in 1958. In BOL's 1954-1956 biennial report, Commissioner Nilsen bluntly summarized the problem: "Unorganized, virtually unprotected by social legislation, and ineligible for many of the education, health, and welfare benefits... migrants frequently find maintenance of even a minimum standard of living an impossibility." A Bureau sponsored study that appeared in 1959, written by Tom Current and Mark Martinez Infante, was aptly titled: "And Migrant Problems Demand Attention." This candid report, based on numerous interviews with migrant workers, was unsparing in identifying the magnitude of the problem and underscored BOL's commitment to address the problem. One immediate result of this flurry of activity was the passage of the Farm Labor Contractor Act in 1959. This legislation required crew leaders overseeing farm workers to be licensed by the state. At the same time, the Wage and Hour Division assumed responsibility for inspecting conditions in the fields where migrants worked and the camps where they lived during harvest time. With these steps, BOL began to assist a vulnerable population of workers, many of Mexican descent, and subject growers, labor contractors, and crew leaders to heightened oversight and scrutiny.²



Russian migrants at the Valley Migrant League, 1967

Throughout the 1950s and 1960s, however, BOL reports reflected the difficulties the agency faced in attempting to improve conditions for farm workers. The Bureau was hampered by a lack of personnel available to inspect fields

and labor camps, although it did add part-time inspectors during peak harvest months in an effort to expand its oversight. Some success was reported in weeding out unscrupulous and irresponsible contractors who failed to honor the terms of their agreements with farm workers, especially with regard to wages. Yet BOL noted that after “seven years of pleading,” it had failed to convince many growers and farm labor contractors that written contracts would be preferable to oral agreements in outlining the terms of employment with farm workers. The extent of the problem was spotlighted in the Bureau’s 1964 report, which estimated the presence of 20,500 migrant workers at peak harvest time. BOL conducted 1,469 inspections of sanitation in the fields and 335 checks on conditions in camps where farm workers lived. In the mid-Willamette Valley, 50 percent of the fields inspected were found to have substandard sanitation, usually with regard to toilet facilities and access to clean drinking water. Towards the end of Nilsen’s tenure, farm labor contractors were required to file surety bonds with the commissioner and provide workers with written statements outlining the terms and conditions of their pay and employment. Yet this arrangement contained many loopholes and was characterized as “unworkable” in the Bureau’s 1972 report. The continuing power imbalance between farm workers and growers, coupled with BOL’s lack of resources and limited enforcement power, clearly frustrated an agency committed to improving conditions in the fields.³

Farm workers were not the only group of workers BOL took special steps to assist under Nilsen’s administration. Portland’s African-American population had doubled between 1950 and 1970, and organizations like the Urban League and the NAACP vocally pressed for fair treatment in housing, education, and employment. Latinos, too,

became more aggressive in demanding their rights. In this context BOL became an important vehicle by which state government could affirm its commitment to ensuring full citizenship for people of color. BOL's civil rights responsibilities expanded beyond enforcing fair employment practices to encompass admissions policies to vocational and professional training schools and ensuring equal access to public accommodations and housing. In 1957, the Bureau established a Civil Rights Division to administer and coordinate these functions, and this new entity quickly became a visible public presence seeking to ensure fair treatment for all Oregonians under the law.⁴

BOL maintained its strong commitment to “education, persuasion, conferences, and conciliation” in its approach to civil rights, continuing to make presentations to



Fair Housing Laws changed opportunities for African Americans in Oregon

community and civic groups (Bureau staff made over 400 presentations during the 1956-58 biennium), encouraging the formation of local inter-group councils and human rights commissions, and monitoring hate crimes and other manifestations of racial or

ethnic intimidation. Throughout the late 1950s and early 1960s, BOL reported progress in a number of areas, citing the growing ranks of Portland teachers who were of African-American, Asian, and Native American descent and the breaking of the color line in fields such as banking, real estate, apprenticeship, and union leadership. The Bureau

helped begin a job development program for minorities in Portland, worked with labor and management to open up jobs on the waterfront, and in the late 1960s, launched an effort to help members of the Umatilla tribe near Pendleton to start businesses. Yet in spite of this progress, the Bureau's statement in its 1962-1964 report reflected a keen awareness of the need for vigorous civil rights oversight and enforcement: "There is no time for complacency when any citizen in the state faces discrimination based on his race, religion, color, or national origin."⁵

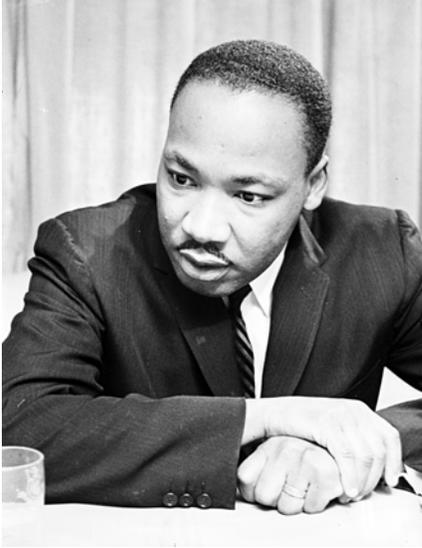
By the late 1960s and early 1970s, BOL reported a rising backlog of civil rights complaints (390 by the end of the 1970-72 biennium), and the agency expressed its solidarity with the rising tide of impatience and militancy driving these complaints: "It has become evident that in our democracy the perpetually discriminated against, those historically deprived and forever frustrated, cannot and will not always act like free, privileged, and polite middle-class persons." Indeed, the administration of the Civil Rights Division became a contested political issue during the 1970s, pitting BOL against the executive branch of state government. Republicans, led by Governor Tom McCall and supportive state legislators, sought to relocate the Civil Rights Division and place it under the authority of the state attorney general. This proposed move was in part prompted by wrangling between Commissioner Nilsen and Attorney General Lee Johnson over BOL's complaints that Johnson's office was excessively charging the Bureau for the use of its attorneys in civil rights cases and was not responding expeditiously to requests for their services. Norman Nilsen also feared that the Civil Rights Division would be subject to greater political pressure if it were transferred to the

executive branch and noted that if civil rights complaints were filed against state agencies, investigations of charges might be compromised.⁶

BOL was able to successfully resist these attempts to transfer the Civil Rights Division and took steps to increase the division's efficiency. The Bureau sought and eventually obtained new powers of subpoena while also streamlining procedures in order to make appeals of the labor commissioner's final judgments heard more expeditiously. In the area of housing, where resistance to integration of neighborhoods was especially pronounced, BOL also became more aggressive in its intervention. In a highly visible case during the early 1960s, Commissioner Nilsen issued a cease and desist order against a Portland contractor who reneged on his promise to build a home for an African-American couple. BOL also worked to promote "voluntary affirmative action programs" with Oregon businesses and in the early 1970s, contracted with the Equal Employment Opportunity Commission to conduct an outreach program that would ensure Latino access to job training and placement programs. Although BOL never relinquished its belief in the importance of educational efforts to change social attitudes on racism and prejudice, by the end of Norman Nilsen's terms in office, it had become much more committed to vigorous enforcement as a vital tool in fulfilling the responsibilities of the Civil Rights Division.⁷

Demands during the 1960s for fair treatment for people of color encouraged the rise of new social movements that identified discriminatory practices faced by women and senior citizens. Once again, BOL assumed additional obligations in ensuring that female and older Oregonians would receive equal protection and opportunity under the law. Following the passage of a 1959 law barring age discrimination in both public and

private sector employment, BOL established a “Senior Workers Division” and held 23 conferences across the state to publicize and explain the new law. The new law was a response to several critical developments: growing life expectancies that swelled the ranks of older workers and an economy that was beginning to shift from a foundation in



*Martin Luther King Jr.
addresses the Urban
League in Portland, 1961*

manufacturing and extractive industries towards service-oriented occupations. Many workers in their 40s and 50s faced difficulties finding new employment, and the Senior Workers Division developed a dual strategy to assist them after the passage of the 1959 law.⁸

Noting the aging of Oregon’s work force and its diminishing pool of younger workers, Bureau officials spent considerable time not only explaining to employers their obligations under the law but also emphasizing that they should regard older workers as assets. In addition to educating employers, BOL initiated a “Creative Job Search Technique” (CJST) program in 1962 that helped older workers to develop personal strategies for job seeking, acquire new skills, and position themselves to meet the changing needs of the job market. The program reported considerable success in helping older workers find jobs or seek out additional training. One out of every four participants in CJST, which was conducted by BOL staff under the aegis of Portland State College, found work within a few weeks of completing the program, and one in seven participants went on to take additional courses to help upgrade their skills. Acknowledging these

successes, the legislature in 1965 funded an expansion of the program and helped CJST to obtain matching federal dollars. This additional funding allowed BOL to offer the program on a statewide basis and to reach over 13,000 workers during its two years of existence. Unfortunately, CJST was discontinued during the 1966-1968 biennium when its funding was terminated, an experience that would become more common as the federal resources available for job and employment training were reduced during the



Oregon's Labor and Industries Building was built in 1963 on the Capitol Mall in Salem

acceleration of the Vietnam War.⁹

In addition to addressing racial, ethnic, and age discrimination, the Bureau also responded to the budding social movement seeking fair and equal treatment for women.

Throughout BOL's history the agency had conscientiously enforced protective legislation governing wages, hours, and working conditions for women. This emphasis shifted under Norman Nilsen's leadership as women began to insist on having equal access to jobs once exclusively reserved for men. In part, the shift from protective measures towards ensuring equal treatment was prompted by the growing numbers of women entering the labor force. Between 1950 and 1960, the ranks of working women in Oregon increased 32 percent from 162,000 to 214,500. By 1966, women constituted 38 percent of the Oregon labor force, and this trend was recognized by the legislature when

it followed the federal Civil Rights Act of 1964 with its own directive barring discrimination in employment on the basis of sex.¹⁰

Even before the enactment of laws prohibiting sex discrimination in employment, BOL had expressed concern over the clustering of women in lower paying service and clerical jobs and noted the special burden facing the increasing number of women who were single heads of households. After acquiring the responsibility to enforce the new law, BOL formed an advisory committee that held hearings across the state and helped the Bureau develop policies to address sex discrimination. One important change that the committee recommended was dropping the protective standards for women historically enforced by the Wage and Hour Commission, most notably rest periods and limits on overtime that were now regarded as discriminatory. In 1970, further reflecting the spirit of the times, the advisory committee suggested that BOL “hire a qualified woman at a non-discriminatory salary range” to oversee the agency’s enforcement efforts.¹¹

By 1972, BOL had developed guidelines for employees on how to eliminate discrimination against women in hiring, wages, and promotional opportunities. In keeping with its historic pattern of backing up conciliation with enforcement, the Bureau took referrals from the federal Equal Employment Opportunity Commission (EEOC) in addition to dealing with complaints filed with it directly, totaling 331 in the 1970-72 biennium. The Bureau’s report from this period succinctly explained the impetus behind these complaints and underscored its commitment to ensuring fair treatment for working women in Oregon: “Women, in general, will no longer accept a secondary role in the world of work.”¹²

Early in Norman Nilsen's administration, the Bureau took on a new obligation regarding public construction and expanded its duties in the labor-management relations arena. In 1959, the legislature passed a law requiring that a prevailing wage be paid on state-funded public works projects. This legislation was a state version of the federal Davis-Bacon Act that provided for the prevailing wage to be paid workers employed on federally funded public works projects. The law affirmed the state's commitment to maintaining wage standards, limiting cutthroat competition in the bidding process, and ensuring quality work on construction projects funded by the state for community betterment. Yet, as Commissioner Nilsen observed, the new law posed yet another unfunded mandate for BOL, since the legislature provided no new funding for its administration. Moreover, the power to determine prevailing wage rates was left up to labor and management, with the commissioner being permitted to intervene only when the parties themselves were unable to agree. Circumstances improved in 1966 when the Bureau was granted authority to set rates annually. Eventually, the Wage and Hour Division assumed responsibility for administration, but the need for additional staff remained, thereby limiting BOL's ability to ensure the law's smooth and efficient functioning.¹³

Besides its new obligations in inspecting migrant labor camps, enforcing anti-discrimination laws, and determining prevailing wage rates, BOL's duties expanded in some of the traditional areas under its purview during Nilsen's administration. In 1957, the Oregon Conciliation Service was established on a full-time basis to help resolve labor-management disputes and enhance the effectiveness of the collective bargaining process. Several years later, the labor commissioner was given authority to determine

appropriate bargaining units in health care facilities, an area where demands for union representation were steadily increasing. The passage of a 1963 law providing for collective bargaining in Oregon’s public sector led to more requests for the Conciliation Service’s involvement in helping settle disputes between public employers and public employees. Reflecting the agency’s traditional willingness to weigh in on matters of public policy, the Bureau complained in 1968 that the lack of uniform practices and procedures in the public sector meant that employer-employee relations “have proliferated to the point of chaos and confusion.” This call for a comprehensive law covering collective bargaining in the public sector was heeded five years later with the passage of the Public Employee Collective Bargaining Act in 1973.¹⁴

During the 1960s and early 1970s, the Bureau also responded in other ways to social demands for inclusion, equality and reform. The State Apprenticeship Council now required that all apprenticeship programs include non-discrimination language in their bylaws and in 1966 began the OUTREACH program, which later received federal funding, to recruit more racial and ethnic minorities into



Female construction apprentices who benefited from the Bureau’s early efforts towards inclusion.

the building and construction trades. BOL’s Apprenticeship Division designated one full-time field representative to focus on minority recruitment, an indication of the agency’s commitment to opening up opportunities in construction. Overall enrollment in

apprenticeship programs continued to increase (60 percent during the 1968-70 biennium), and a 1967 law expanded apprenticeship into new arenas such as police, firefighting, and metal trades.

The reform spirit also was manifested in the Bureau's continuing arguments for establishing a state minimum wage that would cover both men and women. This request was granted in 1967, officially moving Oregon towards a uniform wage policy for all workers regardless of age or gender and extending coverage to many Oregonians not included under federal minimum wage guidelines.¹⁵

The crusading spirit of BOL during Norman Nilsen's nearly two decades of service as labor commissioner was exemplified by the prolific activity of the Bureau's Research Division. BOL had long produced vital statistical information on many aspects of Oregon's economy that was provided to elected officials, employers, unions, and civic organizations. Under the direction of Dr. Eric Weiss, the Research Division began to examine major public policy issues with a passion and fervor reminiscent of the Bureau's Progressive era origins. BOL's guiding principle was that its research should "break new ground," respond to "genuine current needs," and "provide evidence and the concept of new positions based on this evidence." The Bureau's observation in its 1972 biennial report that "research should never remain only an academic exercise" affirmed its commitment to addressing the key social and economic challenges facing working Oregonians and made it a respected resource at both the state and even the national level.¹⁶

The titles of the Research Division's reports reflected its activist approach. Anticipating the concerns later expressed by the women's movement, "The Self-

Supporting Woman in Oregon” (1958) documented the “prevalence of low wage standards for working women” and bluntly asserted that “the problem of the self-supporting woman is one of discrimination based upon prejudice.” Ten years later, “They Carry the Burden Alone” further documented the struggles and hardships of women who were single heads of households. These reports and others issued by the Research Division identified the difficulties facing different groups of working Oregonians, offered specific recommendations for change, and explicitly challenged policy makers, employers, and labor organizations to help implement these recommendations. Commenting on the serious problems facing self-supporting women, “They Carry the Burden Alone” concluded: “We are too rich and economically too advanced to permit ourselves such anachronistic neglect.” The Research Division’s 1964 explanation of its focus on Oregon’s “Silent Poor” further testified to the strong moral imperative behind its inquiries. The “Silent Poor,” it observed, were “those employed or employable fellow Oregonians who somehow are left always between the battle lines of the great economic and social forward thrusts in our time, in a no man’s land of privation and gray hopelessness.” Consistently, the Research Division at the Bureau attempted to understand how new social, economic, and technological trends were affecting Oregon’s workers and insisted that attention must be paid to the circumstances under which they worked and lived.¹⁷

In 1956, Norman Nilsen issued his first biennial report as labor commissioner. In order to spotlight BOL’s impact on the lives of Oregonians, the Bureau used a fictional “Mr. And Mrs. Wage Earner” as representative workers. The Bureau’s prototypic “Mr. Wage Earner” was a “man of middle years who is employed in a semi-skilled occupation

in the lumber industry.” “Mrs. Wage Earner” was described as an “office worker in a downtown office building.”¹⁸

The social and economic circumstances that Mr. and Mrs. Wage Earner faced, however, changed dramatically during the nearly two decades that Norman Nilsen served as BOL commissioner. Mr. Wage Earner, the semi-skilled woodworker, was much more likely to face job insecurity or displacement as Oregon’s economy began to shift towards more service-oriented industries and occupations. With the entry of more women into the work force and rising divorce rates, Mrs. Wage Earner was far more likely to be a “Ms.” than a “Mrs.,” struggling to support a family on one income. And if either Mr. or Mrs. Wage Earner encountered discrimination on the basis of gender, race, or ethnic origin, they were now supported by social movements and a BOL newly empowered to act on their behalf.

It was the singular achievement of BOL under Norman Nilsen’s leadership to recognize the profound changes affecting its prototypic Mr. and Mrs. Wage Earner and implement new educational, research, and enforcement initiatives to help working Oregonians adapt to these changes. While the Bureau maintained its traditional commitments to inspect workplaces, regulate the employment of minors, and monitor the overall conditions under which Oregonians were employed, it aggressively sought to ensure that amid growing prosperity, the needs of all Oregonians, including farm workers, female heads of households, and workers of color, would not be ignored. Indeed, in his introduction to a Research Division report on job satisfaction in Oregon (the last authored during his tenure), Norman Nilsen offered a fitting summary of the sentiments that had guided his nearly twenty years as labor commissioner: “In presenting

this document, I subscribe to its final observation: Maintaining a spirit of pioneering independence, Oregon has often been first in the Nation to move into areas of social indifference and neglect and to reclaim them for human concern and social justice. Now facing the issue of job quality, it is time for Oregon to move again.”¹⁹

Under Norman Nilsen’s direction, Oregon did “move again,” with BOL both maintaining and extending its historic role of taking on “social indifference” and insisting that the pursuit of “social justice” remain an integral part of government practice and public policy.

¹Steve Federman, “Dinner to Honor Nilsen’s Service,” *The Oregonian*, December 13, 1974.

²Thirty-First, Thirty-Second, Thirty-Fourth, and Thirty-Fifth Biennial Reports.

³Twenty-Eighth Biennial Report, David Peterson del Mar, Oregon’s Promise: An Interpretive History, Corvallis: Oregon State University Press, 2003, 229-232.

⁴Twenty-Seventh, Twenty-Eighth, Twenty-Ninth, Thirty-First, Thirty-Fourth Biennial Reports.

⁵Thirtieth, Thirty-Fifth Biennial Reports, del Mar, Oregon’s Promise, 230.

⁶Thirty-Fourth Biennial Report, Harry Boone and Douglas Seymour, “Power Struggle Rocks State Labor Bureau,” *The Oregonian*, January 17, 1971.

⁷Twenty-Ninth and Thirtieth Biennial Reports.

⁸Twenty-Ninth, Thirtieth, Thirty-Second, Thirty-Third Biennial Reports.

⁹Twenty-Ninth, Thirty-Second, Thirty-Fourth Biennial Reports.

¹⁰Twentieth-Ninth, Thirty-First, and Thirty-Fifth Biennial Reports.

¹¹Thirty-Fourth and Thirty-Fifth Biennial Reports.

¹²Ibid.

¹³Twenty-Ninth, Thirtieth, Thirty-Second, and Thirty-Fifth Biennial Reports. On the prevailing wage in Oregon, see Michael F. Sheehan, Robert E. Lee, and Lisa Nuss, Oregon's Prevailing Wage Law: Benefiting the Public, the Worker, and The Employer, Oregon and Southwest Washington Fair Contracting Foundation, 2000, 41-46.

¹⁴Twenty-Eighth, Thirtieth, Thirty-First, and Thirty-Second Biennial Reports.

¹⁵Thirty-First, Thirty-Second, Thirty-Third, and Thirty-Fourth Biennial Reports.

¹⁶Thirty-Fifth Biennial Report.

¹⁷“The Self-Supporting Woman in Oregon,” Oregon Bureau of Labor Report, 1958, “They Carry the Burden Alone,” Oregon Bureau of Labor Report, 1968.

¹⁸Twenty-Seventh Biennial Report.

¹⁹“Life from 8 to 5: A Report on Job Satisfaction Among Employed Oregonians,” Oregon Bureau of Labor Report, 1975.

Chapter V

Bill Stevenson, 1974-1979



Bill Stevenson became the Oregon Bureau of Labor's fifth commissioner following Norman Nilsen's retirement at the end of 1973. Stevenson represented a departure from BOL tradition in several respects. He was the first of O. P. Hoff's successors to come from outside the agency, with his prior experience including work as a field representative for the AFL-CIO and several terms as a state legislator. He was much younger than his predecessors, assuming office in 1974 when he was just 34 years of age. And in an agency whose commissioners tended to serve for extended periods, Stevenson remained in office for only four years, the shortest tenure of any commissioner in BOL's history. Nonetheless, Stevenson oversaw some important changes at the Bureau, especially in the administrative arena, that strengthened the agency and enhanced its level of service to its constituents.

One of Stevenson's primary concerns was a serious backlog of cases that had developed at the Bureau's Civil Rights Division. Complaints had continued to rise throughout the late 1960s and early 1970s, reflecting greater public awareness about anti-discrimination laws and a growing willingness on the part of women and people of color to seek government intervention on their behalf. By 1975, the division had a backlog of nearly 1,500 cases. Due to the increased number of complaints and limited manpower (the Civil Rights Division had only 14 investigators on its staff), many complaints went uninvestigated for six months, and final dispensation of complaints often took a year or

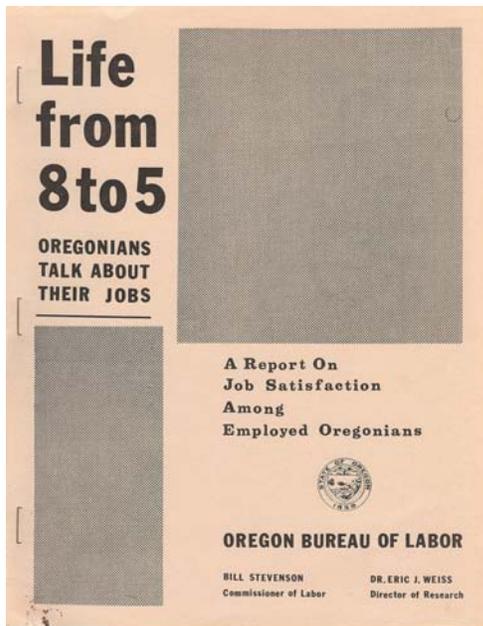
more. These lengthy delays led to diminished public confidence in the Bureau's ability to enforce civil rights laws adequately. And like his predecessor, Stevenson also tangled with the attorney general, in this case over legislation BOLI was seeking that would have enabled the Bureau to hire its own lawyers for civil rights cases rather than having to rely on the attorney's general's office.¹

In addition to the ongoing administrative complications within the Civil Rights Division, BOL also acquired an additional civil rights responsibility a year before Bill Stevenson assumed office: enforcing a new law barring discrimination in employment and public accommodations on the basis of physical or mental handicap. Once again, Oregon was in the forefront of seeking expanded protections for workers, but disabled Oregonians who filed complaints under the new law were disappointed by the delays in investigating their allegations. Commissioner Stevenson candidly acknowledged the problem, calling it both "discouraging" and "totally unacceptable" in a November 1975 *Oregonian* interview. He made improving the Civil Rights Division's performance a top priority and took aggressive steps to address the problem during his term in office.²

In order to reduce the backlog of cases, Stevenson in 1976 hired 30 temporary investigators for a 90-day period to assist full-time staff in the investigation and processing of civil rights complaints. A year later, the legislature approved funding to hire 13 permanent and 27 temporary staff to work in the Civil Rights Division. Although the allocation was less than half of what the Bureau requested, the infusion of new funds did increase the division's capacity to deal with complaints more expeditiously. In addition to adding staff, the division also tightened its intake and screening procedures, began to notify employers more promptly about complaints filed against them, and

encouraged “predetermination settlements” and “conciliation agreements” to speed the resolution process. By the end of Stevenson’s term, the Bureau reported some progress in cutting its backlog and beginning to restore public confidence that the state was prepared to handle discrimination complaints fairly and efficiently.³

Like his predecessors, Stevenson was also committed to maintaining and expanding apprenticeship opportunities in Oregon. New programs in forestry, logging, and emergency medical technician training were established during his term in office,



BOLI’s Research Division Report on Job Satisfaction, 1975

and in keeping with its traditional commitments, BOL was especially pleased that 30 of the 79 trainees in the forestry program were women and minorities. Helping women and minorities enter apprenticeship programs in the building and construction trades remained a priority for the Apprenticeship Division, especially in the wake of the U. S. Department of Labor establishing affirmative action guidelines to increase participation by these underrepresented groups.

The Bureau’s 17 field representatives not only worked with employers and labor organizations but also were involved with community groups in an effort to meet affirmative action goals and open construction apprenticeship programs to a more diverse range of participants.⁴ The Research Division also continued its inquiries into the challenges facing working Oregonians, conducting seven new studies between 1975 and 1978. It examined issues such as underemployment, the challenges facing welfare

recipients seeking to enter the labor market, and the migration of Indian youth to urban areas, along with updating its acclaimed “Up Against the Middle-Age Barrier” study. The titles of these studies—“Those Who Have Fallen Behind the Rest,” “Human Beings: Not Faceless Statistics”—affirmed the Bureau’s ongoing concern with the plight of those Oregonians struggling to adapt to a changing economy, find secure, remunerative employment, and have their problems taken seriously by public policy makers and their fellow citizens. These studies were a reminder that although the lives of working Oregonians had steadily improved during the 75 years of BOL’s existence, these improvements did not extend equally to all.

The thrust of Bill Stevenson’s term as BOL commissioner aimed at improving the agency’s organizational efficiency. Besides working to reduce backlogs in the Civil Rights Division, the Bureau was able to diminish backlogs of wage claims through the adoption of new procedures that accelerated the processing of complaints. Stevenson also established a public information office to enhance citizen awareness of the agency’s varied functions and services. He had hoped to expand BOL’s authority by incorporating the departments of employment and workers’ compensation under the Bureau’s aegis. Although this initiative did not succeed, the commissioner was able to resist a proposal to shift oversight of private employment agencies from BOL to the state commerce department. Reflecting on his achievements, Stevenson concluded that his administration had turned the agency from a “bureaucratic nightmare to an increasingly efficient vehicle whose purpose is to protect the interests of working Oregonians and to assist the business community in complying with Oregon labor laws.” This assessment may have exaggerated the Bureau’s administrative shortcomings. However, it aptly summarized

BOL's direction under Stevenson and its efforts to better manage its responsibilities and secure sufficient resources to meet its diverse obligations.

¹Bureau of Labor, "Seventy-Five Years: 1903-1978," Jim Church, "Labor Commissioner Accuses Attorney General of Meddling," *The Oregonian*, May 30, 1975, "40 Jobs Ok'd for Labor Unit to Process Rights Complaints," *The Oregonian*, December 17, 1977, 34-35, 46.

²Dan Hortach, "State Agency Slow in Handling Bias Cases for Handicapped," *The Oregonian*, November 23, 1975.

³"Seventy-five Years," 46-47, Rosemary Maynard, "Reforms Push Labor Bureau Closer to Goals," *The Oregonian*, March 28, 1976, "40 Jobs Ok'd for Labor Unit to Process Rights Complaints."

⁴"Seventy-five Years," 43-46.

Chapter VI

Mary Wendy Roberts, 1979-1994



Mary Wendy Roberts, a veteran politician and member of a prominent Oregon political family (her father was a state senator and her stepmother governor of Oregon in the early 1990s) who had served in both houses of the Oregon legislature, became the first woman to hold the post of BOLI commissioner, succeeding Bill Stevenson in January 1979. Reflecting the agency's service to both employees and employers, BOL became the "Bureau of Labor and Industries (BOLI)" under Roberts, a name change that acknowledged the multiple constituencies the Bureau served in fulfilling its mission. During her fifteen years in office, Mary Wendy Roberts was a highly visible figure whose tenure coincided with profound changes that were sweeping through Oregon's economy, its workplaces, and its government. Under Roberts, BOLI entered new areas of civil rights enforcement, expanded its efforts to protect the wage claims of workers, and paid special attention to the problems facing farm workers and youth. The Bureau was especially cognizant of the struggles of Oregonians to balance the demands of work and family life and called attention to this emerging challenge long before it became a recognized public concern. Toward the end of Roberts' term, however, she and BOLI were forced to contend with serious budget cuts and proposals for consolidation that threatened to fundamentally alter the scope of the agency's authority.

A hallmark of Roberts' administration was her vigorous enforcement of anti-discrimination laws. She continued Bill Stevenson's efforts to process civil rights cases

more efficiently, reaching an agreement in 1980 on a lawsuit filed by Legal Aid and committing the Bureau to handling complaints more expeditiously. By 1986, Roberts reported that civil rights complaints were being resolved within a six and one-half month period and was credited with restoring public confidence in BOLI's ability to provide capable and efficient service.¹

As more women continued to enter Oregon's labor force (the figure stood at more than 50 percent of women over the age of 16 by 1980) and the Oregon Fair Employment Practices Act was expanded to include provisions barring sex discrimination, BOLI was frequently called upon to help determine whether or not employers were engaging in unlawful practices of sex discrimination and sexual harassment. In a number of high-profile cases, some of which involved discrimination against male workers, Commissioner Roberts affirmed the Bureau's commitment to fair and equal treatment in the workplace. She found both a Portland plumbing company and its local union discriminated by negotiating a collective bargaining agreement that provided husbands of female employees better medical coverage than that offered the wives of male employees (for women, coverage was limited to pregnancy). Roberts also granted back pay to a male counter agent who claimed he was fired from his job, because management preferred female clerks who they thought would be more likely to attract male customers. She ordered compensatory damages to be paid to a woman after a Bend company told the Pinkerton agency that it did not want to hire women as security guards. This was the first time in Oregon that damages for mental suffering were awarded in a sex discrimination case. And in 1985, an appeals court upheld Roberts' ruling that the city of Roseburg was paying a female employee less than it paid other city administrators

performing substantially similar work. Debra Mobley, the worker whose case BOLI has supported, succinctly explained the importance of the Bureau's role: "I think it is very good that there is the Bureau to enforce the statutes so individuals need not get a private attorney. Women should know there is a place to go."²

BOLI also remained "a place to go" for Oregonians facing racial and ethnic discrimination in both the workplace and in public accommodations. As the state



continued to become more racially and ethnically diverse during the 1980s and early 1990s, incidents of harassment, intimidation, and discrimination persisted, underscoring Oregon's historic difficulties in accepting

Women rally for the Equal Rights Amendment paving of fair treatment and social inclusion. In the words of historian David Peterson del Mar, "many [Oregonians] remain[ed] uncomfortable with the state's growing diversity." For Commissioner Roberts, acts of racial and ethnic discrimination posed a fundamental challenge to basic concepts of fairness and decency that BOLI had consistently sought to uphold. Under her guidance the agency forcefully intervened on behalf of people of color who were subjected to humiliation and disparate treatment. A nightclub that maintained a policy of barring interracial couples from entry was ordered to pay a \$2,500 fine for mental suffering incurred by the complainant. In an especially notorious 1987 case, Roberts awarded \$5,000 in pain and suffering damages to an African-American woman who was

denied entrance to a Noti tavern. The commissioner placed her action in a broader context, noting the recent rise of hate groups throughout the Northwest. Her intention, she asserted, was “to send a message to folks that Oregon is not a Mecca to people who practice these discriminatory acts.”³

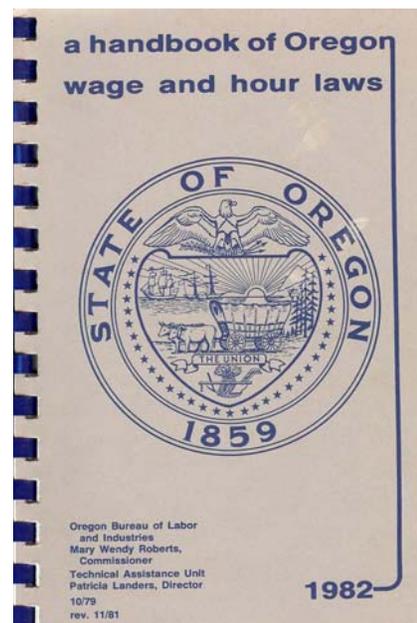
The Bureau also reacted to new forms of discrimination that were either being recognized as illegal or antithetical to concepts of fair treatment in the workplace. Early in her term, Commissioner Roberts created a Handicap Research Project to study disabilities and their effect on employment. BOLI’s commitment to preventing discrimination on the basis of disability was illustrated by a 1983 Oregon Supreme Court decision upholding the commissioner’s ruling that a worker with a degenerative spinal condition should be allowed to continue working since the risk to his health was not conclusively established. Hailing the ruling, Roberts cited both state statute and the agency’s moral obligation to ensure “the fullest possible participation in the economic life of the state” for its citizens and the right “to engage in remunerative employment.” Besides disability, BOLI began to deal with discriminatory treatment that surfaced as a result of the AIDS epidemic. In 1988, BOLI found that a Eugene restaurant discriminated by firing a worker who disclosed in a television interview that she was infected with an AIDS-related complex. The commissioner also spoke out against a 1992 ballot measure’s attempt to exempt gays from civil rights protections and advocated legislation that would ban discrimination on the basis of sexual orientation. These strong gestures and public actions not only highlighted BOLI’s traditional commitment to ensuring equal treatment but also reinforced that the Bureau would not shrink from the

controversies associated with allegations of discrimination based on issues of sexuality and sexual orientation.⁴

Wrenching changes in Oregon's economy that occurred during her tenure presented Commissioner Roberts with another set of daunting challenges. The timber industry, long a mainstay of Oregon's economic and social structure, suffered a sharp decline in employment during the 1980s as a result of restrictions in logging on publicly owned forests, intensified foreign competition, unsustainable logging practices, and mechanization. Over 150 mills closed in the 1980s alone. These events led the legislature to create a "Wage Security Fund" in 1985. Under this law Oregon became the first state in the nation to set aside funds to compensate workers whose employers went out of business and lacked the assets to pay final wages that were owed. An assessment on employers provided resources for the fund, which paid up to \$2,000 per claimant.⁵

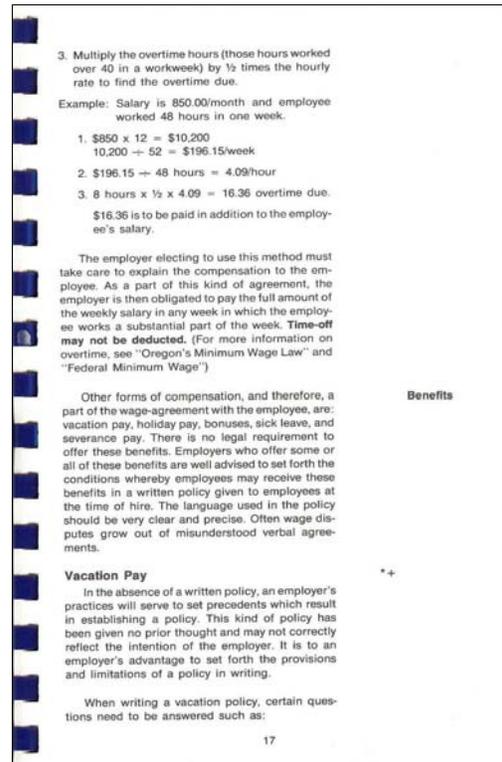
As the number of plant closings accelerated during the 1980s, Commissioner Roberts had advocated establishing the Wage Security Fund, especially after observing an instance where a plywood company's closure had left 180 workers with unpaid final wages. Although the fund was created with the timber industry's difficulties in mind, it did not confine or restrict its coverage. In a notable 1990 case, the fund paid out \$13,000 to farm workers employed by a Medford farm labor contractor whose business had folded. Distributions from the Wage Security Fund increased rapidly, from \$200,000 in the 1986-1987 biennium to \$559,000 in 1990-1991. Although the fund did not provide full back pay or substitute for the loss of a job, it did offer workers some protection and demonstrated the state's commitment to extending the social safety net to displaced Oregon workers.⁶

As the Wage Security Fund affirmed, one of BOLI's oldest and most enduring responsibilities was its advocacy on behalf of workers denied payment of wages they had earned, and this obligation was maintained under the Roberts administration. In 1981, the commissioner announced the largest single wage claim payment in Oregon history, a \$225,000 assessment against ICN Pharmaceutical on behalf of 99 workers. Five years later, the Bureau used Oregon woodworker lien laws to gain \$69,000 for 95 workers owed back wages. A 1986 case against Mt. Mazama Plywood that led to Commissioner Roberts' ruling being sustained in U. S. District Court epitomized the strong continuity in BOLI's recognition of the broader social implications of unpaid wages. As the commissioner asserted: "The wages of these 30 workers may seem insignificant to some, but we are dealing with the fundamental rights of workers to be compensated for their labor... We must not leave these workers without an advocate." During the tumultuous changes that were sweeping through Oregon's economy in the 1980s, BOLI's advocacy on behalf of workers denied wages remained an obligation that the agency continued to fulfill.⁷



One of BOLI's traditional responsibilities, the enforcement of child labor laws, received renewed attention during Mary Wendy Roberts' tenure. Although the worst abuses associated with the employment of minors had largely been eradicated, serious violations of the law and the rights of minors persisted. The Bureau lacked the staffing to perform extensive worksite inspections of child labor violations but moved aggressively

against the most egregious instances of lawbreaking. After Northwest Advancement, a firm that employed minors to sell candy door-to-door, was cited for nearly 100 violations (including employing youth without work permits, encouraging them to lie about their ages, and refusing to give them meals until they had reached their sales quotas), BOLI revoked the company's right to operate in November 1986. In 1992, the Albertson's food chain was fined \$128,750 for 257 willful violations in a hotly contested case that resulted in one of the longest administrative hearings in Oregon history. And in the same year, Denton Plastics was fined over \$187,000 for 1,592 violations, including a fatality in which a 17 year-old worker died while operating a forklift. According to Commissioner Roberts, employers faced with shortages of young workers in a tight labor market felt pressure to ignore or evade the law. Noting that Oregon was one of a handful of states that financially penalized employers for violating child labor laws, Roberts and BOLI remained committed to ensuring that the rights and welfare of young workers would be respected, even though limited resources imposed constraints on the frequency of inspections and the consistency of enforcement.⁸



BOLI's Wage and Hour Handbook advises employers on how to calculate worker benefits, 1982

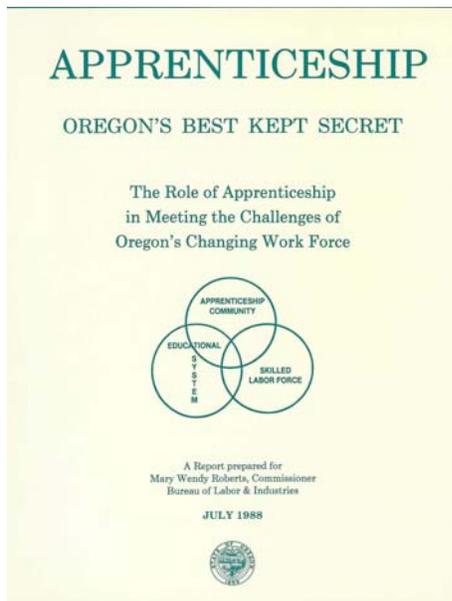
BOLI did not confine its activities on child labor to the arena of enforcement. Concerned by the growing numbers of youth who were working while attending school, Commissioner Roberts appointed a Child Labor Task Force in 1990 to investigate the impact of after-school employment on their education. The following year, the task force offered a host of recommendations encouraging cooperative undertakings among parents, teens, employers, and schools to ensure that youth employment would not conflict with educational achievement. BOLI also established a “Schools First” initiative to help these stakeholders strike a balance between school and work. Echoing the agency’s long held belief that youth should value school over work, Commissioner Roberts made BOLI’s position clear: “Getting an education is and should be the primary job of youth. They should not sacrifice their education for short-term economic advantage.”⁹

For adult Oregonians, along with other Americans, balancing the competing demands of work and family by the 1980s had become an issue that increasingly began to assume public significance. Noting the rise of both single-parent and dual earner households, Commissioner Roberts created an advisory committee in 1985 to examine the stresses faced by parents whose hours at work meant they were spending less time with their families. According to Roberts, “changing family structures and economic needs have obliterated any remaining myth that home and work are separate worlds.” In keeping with its reputation as an innovator in the field of workers’ rights, the Oregon legislature passed a law in 1987 that permitted parents of newborns or those who were adopting children under the age of six to take up to twelve weeks of unpaid leave. Four years later, a Family Medical Leave measure became law. Commissioner Roberts lobbied hard for this legislation, which provided up to twelve weeks of leave that workers

could use to take care of a member of their immediate family who was suffering from illness.¹⁰

BOLI worked vigorously to enforce these new family and parental leave laws, which were regarded as among the most comprehensive in the nation. The agency sided with workers who attempted to use accrued sick leave to help pay for their time off the job and found their efforts challenged by their employers. Commissioner Roberts fined the Oregon Department of Transportation for violating parental leave law in this regard, ordering the agency to pay \$5,000 in emotional distress damages to an employee who was denied the use of accrued sick leave. In the case of a Portland Gas and Electric Company employee, the Oregon Supreme Court in 1993 upheld the commissioner's ruling that sick leave could be used to help pay for time off during a parental leave even if company policy barred such an action. Although Oregon's law did not go as far as the commissioner had hoped (she wanted family leave legislation to apply to smaller businesses and part-time workers), it did offer workers the ability to attend to family emergencies while not risking their livelihoods or receiving penalties for placing family needs over work obligations.¹¹

One of BOLI's ongoing responsibilities and greatest frustrations during Mary Wendy Roberts' time as labor commissioner was the challenge it faced in attempting to improve conditions for Oregon's farm workers. In 1986, Civil Rights Division officials Johnnie Bell and Luis Caraballo issued a report, "The Dilemma of Farm Worker Housing," that focused on the living conditions experienced by migratory workers. The report found that 90 percent of the housing sites for farm workers failed to meet basic public health standards. Concluding that little had changed in the nearly thirty years



The Bureau reports on its Apprenticeship Program, 1988

since BOLI had initially reported on the situation of Oregon's farm workers, Bell and Caraballo offered a wide-ranging set of recommendations for improvement: more stringent enforcement of housing standards, expanded financial assistance to fund new housing, and closer monitoring and more regular inspection of farm labor camps. In December 1986, the state did earmark funds that could be loaned to build more farm worker housing. However, limited resources inhibited the Bureau's ability to act on most of these recommendations, although BOLI did intervene on issues of wage claims and other employment-related matters in spite of these constraints.¹²

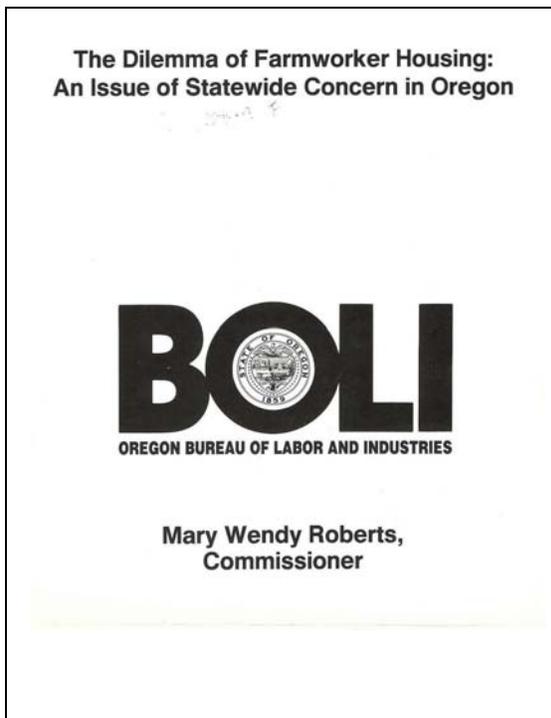
A 1987 law granted the Bureau new authority to regulate the conduct of farm and forest contractors. Although budget cuts in the early 1980s had hampered BOLI's ability to inspect farm labor camps, the agency did gain funds in 1990 to hire new Wage and Hour Division staff to help enforce the state's new minimum wage law and new rules for licensing of farm and forest contractor. At the prodding of PCUN, an organization promoting the mobilization and organization of farm workers into unions, BOLI in 1990 granted compensation to over forty farm workers who had submitted claims that they were not receiving the minimum wage. And by 1992, five years after the law on licensing farm and forest contractors had been passed, Commissioner Roberts reported having debarred 28 contractors for such offenses as failing to provide workers with

written contracts and not notifying them of their rights under the law. These efforts did place some limits on the behavior of contractors and offered farm workers recourse against unfair treatment. However, BOLI simply lacked the necessary budgetary resources to fully enforce labor laws pertaining to farm workers, a fact that agency officials both candidly acknowledged and publicly lamented.¹³

The Bureau also continued to enforce Oregon's prevailing wage law and promote apprenticeship programs. One notable achievement in the apprenticeship field was the establishment of a training program on the Warm Springs Reservation, the first of its kind in the United States directed by a state labor bureau. But throughout Mary Wendy Roberts' four terms in office, the Bureau faced continuing reductions in its budget that forced it to scale back its activities. Budget cuts in 1981 led to the loss of thirty employees, resulting in the elimination of the disabled workers program, a cessation in the inspection of farm labor camps, and greater lag time in investigating wage claims. After the passage of Measure 5's cap on property taxes in 1990 and its serious impact on funding for state government, the commissioner cut twenty-three staff positions, amounting to 20 percent of BOLI's entire staff, for the 1991-1993 biennium. The commissioner also had a contentious relationship with some legislators based on both personality and policy differences. Towards the end of Roberts' final term in office, these deteriorating relations led to proposals to merge BOLI with another state agency (Consumer Affairs was presented as one options) and make the labor commissioner an appointive rather than an elective office further undercut the agency's standing. In a political environment that was growing increasingly skeptical of the benefits of government regulation and reluctant to provide sufficient funds to maintain staffing

levels in many state agencies, BOLI found it more difficult to address complaints efficiently, effectively monitor work and employment conditions, and sustain the quality of service it had historically provided.¹⁴

Perhaps the most striking element of Mary Wendy Roberts' fifteen years as labor commissioner was her consistent willingness to speak out against unfair treatment directed against Oregon's workers and her dogged pursuit of legislation and public policies that aimed to improve the quality of life for working Oregonians. She did not



Commissioner Roberts issues a report on Farmworker Housing, 1986

hesitate to take stands on controversial issues and repeatedly put the resources of her agency at the disposal of workers who lacked the power and visibility to argue effectively on their own behalf. Whether fighting against race and sex discrimination, advocating for people with disabilities, denouncing hate crimes, insisting that youth not place work over education, or assisting displaced workers, Roberts addressed workplace and employment issues with passion, determination, and vision.

As the first woman to hold the post of labor commissioner, she displayed a special sensitivity to the problems facing working women. Most assuredly, Roberts was ahead of her time in seeking to address the complex challenges involved in balancing the demands of work and family life that often fell most heavily on female workers. Roberts'

statement on this subject in a 1991 newspaper column succinctly embodied her approach as BOLI commissioner: “Balancing work and family responsibilities is difficult because everyone thinks it is someone else’s problem.” What was needed, she argued, was for society to accept this responsibility and address it through public policies such as the Family Medical Leave Act. According to Roberts, “ the end result will be a stable workforce that is productive and a society that puts its money where its heart is, when it comes to the well-being and happiness of the family.”¹⁵

Getting “society [to] put its money where its heart was” remained an elusive quest throughout Mary Wendy Roberts’ tenure as BOLI commissioner, whether it came to supporting the “well-being and happiness of the family” or addressing the many other problems facing workers in a changing social and economic environment. But under Roberts’ direction, BOLI maintained its long tradition of defending the rights of working Oregonians and insisting that fairness in the workplace was a vital measure of both public morality and social decency.

¹Bureau of Labor Press Release, July 18, 1980, “Third Term for Roberts,” *The Oregonian*, October 10, 1986.

²Margaret Hallock, Sandra Morgen, and Karen Seidel, “Women in Oregon: A Profile from the 1960 Census,” Center for the Study of Women and Society and Labor Education and Research Center, University of Oregon, 1993, 64-65, BOLI Press Release, September 30, 1983, “Landmark Decision Holds Employer/Union Equally Responsible in Bargaining Agreement,” “Labor Chief Finds Bias in Contract,” *The Oregonian*, October 5, 1983, BOLI Press Release, October 22, 1979, “Appeals Court Upholds Roberts Sex Discrimination Order,” BOLI Press Release, September 18, 1985.

³David Peterson del Mar, Oregon’s Promise: An Interpretive History, Corvallis: Oregon State University Press, 2003, 254-258, BOLI Press Releases, February 8, 1980 and March 6, 1987.

⁴BOLI Press Releases, April 17, 1979, October 31, 1983, April 29, 1988, May 15, 1992, November 3, 1992.

⁵del Mar, Oregon's Promise, 221-223, 261-263, BOLI Press Releases, July 12, 1985,

⁶BOLI Press Releases, June 14, 1990, March 13, 1992, Don Hamilton, "State Gives Checks to Farm Workers Grower Didn't Pay," *The Oregonian*, June 5, 1990. The Wage Security Fund currently pays up to \$4,000 in final wages to individual workers whose employers have gone out of business and lack sufficient funds to make these payments. Since its inception, the fund has paid out over \$12.7 million to more than 13,000 workers.

⁷BOLI Press Releases, April 7, 1981, October 9, 1985, January 8, 1986, September 17, 1986.

⁸BOLI Press Releases," Commissioner Roberts Fines Albertson's \$128,750 for Child Labor Violations," May 15, 1992, "Press Conference, Denton Plastics Announcement," April 14, 1992, Stan Federman, "Young Witnesses Testify in Child Labor Case," *The Oregonian*, February 19, 1986, Judy Rooks, "Roberts Expects Rise in Violations of Child Labor Laws," *The Oregonian*, April 25, 1990.

⁹Richard Colby, "Parents, Schools Should Better Regulate Time Teens Spend at Jobs, Labor Chief Told," *The Oregonian*, November 19, 1991, Harry Bodine, "Official Views Effect of Jobs on Teens' Education," *The Oregonian*, November 26, 1991, "Schools First," *Business Line*, BOLI publication, 1992.

¹⁰BOLI Press Releases, "Roberts Creates Advisory Committee to Examine Work-Family Conflicts," March 12, 1985, "Parental Leave Hearing Scheduled, October 14, 1987," "Family Medical Leave Becomes Law, January 1, 1992, December 23, 1991."

¹¹BOLI Press Releases, "Commissioner Fines ODOT for Parental Leave Violation," October 13, 1992, "Court Affirms Commissioner's Decision in Parental Leave Case," November 13, 1992, Ken Hamburg, "Parental Leave Law Faces Stormy Childhood," *The Oregonian*, January 2, 1989, Gail Kinsey Hill, "Governor Roberts Signs Family Leave Bill," *The Oregonian*, August 19, 1991, Maya Blackmun, "Agency Fined Over Parental Leave Case," *The Oregonian*, November 17, 1992, Jim Hill, "Court Clarifies Parental Leave Law," *The Oregonian*, October 20, 1993.

¹²Johnnie Bell and Luis Caraballo, "The Dilemma of Farm Worker Housing: An Issue of Statewide Concern in Oregon," BOLI, March 1986.

¹³BOLI Press Releases, "BOLI Adds to Farm/Forest Compliance Staff," January 29, 1990, "Commissioner Roberts Issues Decision in Farm Labor Contractor Case," March 1, 1990, "Bureau Denies License," November 15, 1990, "Labor Commissioner Debars Farm

Labor Contractor,” August 13, 1992,” Lynn Stephen, et. al., “The Story of PCUN and the Farm worker Movement in Oregon,” September 2001, 20, 38.

¹⁴ BOLI Press Releases, “State Government in Jeopardy,” December 14, 1981, “Labor Commissioner to Address Rotarians,” April 13, 1992, “Labor Commissioner Announces Reorganization Plans, Names New Civil Rights Chief,” June 23, 1992, C. Ellis Barnes, “The Government Gone Wrong,” *The Oregonian*, February 21, 1994.

¹⁵ Mary Wendy Roberts, “Working Parents Require Our Help and Support,” “Column for Daily and Weekly Newspapers, March 18, 1991.

Chapter VII

Jack Roberts, 1995-2003



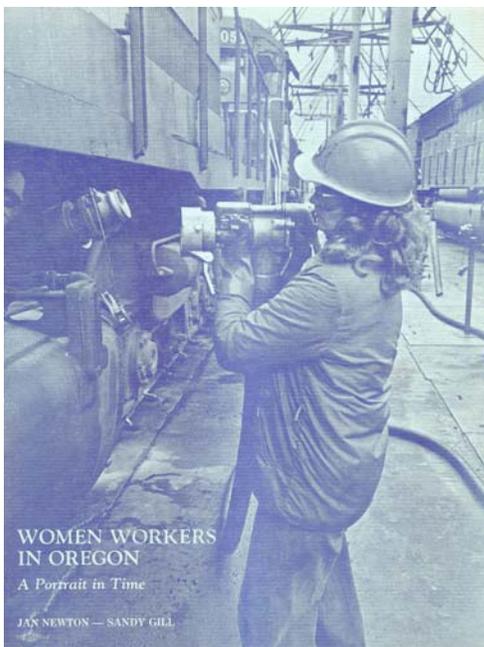
Jack Roberts, a lawyer and Lane County Commissioner, became BOLI's seventh commissioner, taking office in 1995 after defeating Mary Wendy Roberts (no relation) in her bid for a fifth term. Capitalizing on the anti-incumbent and anti-government sentiment that emerged at both the national and state levels during the 1994 election, Robert's victory broke new ground in several respects. He was the first Republican to serve as labor commissioner in over 40 years and promised to bring a new perspective to the administration of BOLI. Roberts favored a more business-friendly approach that emphasized compliance over punishment and pledged to assume a lower profile than his predecessor in overseeing the affairs of the agency. Advancing a more limited definition of BOLI's role, he sought to streamline the agency's procedures and during his campaign, proposed to study the feasibility of merging or consolidating the Bureau's functions with those of another state agency. Roberts also wanted to have elections for labor commissioner conducted on a non-partisan basis and later argued that the position should be appointive rather than elective in an effort to "de-politicize" the Bureau's administration of state law. Although these views represented a departure from BOLI's traditional view of its responsibilities and its approach to administration, Roberts nonetheless maintained many of the Bureau's regulatory commitments and was unable to fully implement all of his plans for restructuring the agency. Therefore, his two terms as labor commissioner were marked by elements of both continuity and change as he led BOLI through the completion of the first 100 years of its existence.¹

Roberts' first year in office saw a flurry of activity as he sought to honor his campaign pledge to make BOLI's regulatory apparatus less cumbersome for business while still retaining protections for workers. His successful attempt to simplify the state's laws governing pregnancy, parental, and family leave marked the new commissioner's first major initiative and set the tone for Roberts' approach to administration and the making of public policy.

Noting that BOLI's chart explaining Oregon's family, pregnancy, and parental leave regulations was a three-foot high document that many employers found confusing, Commissioner Roberts made simplification of the law a top priority. Yet he encountered opposition from employer groups who initially wanted to repeal laws pertaining to leave and subsequently proposed reducing the number of workers covered and prohibiting the use of accrued sick leave during a worker's time off of the job. Roberts made it clear that he believed deeply in the concept of family leave and would not accept lowered benefits for workers as part of any reform package. As he explained when introducing his proposal in January 1995: "Workers should retain benefits. I think the protection is needed. The challenge is to create the protection without the bureaucracy."²

Buoyed by Roberts' concerted efforts to achieve this kind of balance, the Oregon legislature approved an overhaul of the state's various leave policies which became law in July 1995. The new law simplified regulations, making them more streamlined and comprehensible as employers had requested. It also increased the time a worker had to be employed on the job before becoming eligible for leave and required verification of a child's illness once family leave exceeded three days. For workers, the law now enabled them to take leave for serious personal illness, affirmed the right to use accrued sick leave

during time off the job, and by covering workplaces with smaller labor forces (25-49 employees), extended the law's protections to an estimated 100,000 additional workers. Compliance with the new law was nearly universal, with BOLI reporting only 47 complaints from workers in the first year following its enactment. Most of these complaints were settled without workers having to take their cases to court. In this instance Jack Roberts' effort to reduce the regulatory burden on business and retain (and even extend) vital protections for workers received broad approval from virtually all stakeholders, handing the new BOLI commissioner a notable triumph in his first legislative foray.³



Upon assuming office Roberts' most visible effort to make BOLI's operations more efficient focused on a familiar area: civil rights enforcement. The timely processing of civil rights complaints had long been an issue at BOLI and was exacerbated in the early 1990s by rising numbers of complaints (a 76 percent increase from 1,557 to 2,749 between 1990 and 1995) and the reduction of the Civil Rights Division's staff by 15 percent. BOLI was legally required to decide within twelve months from the filing of a complaint whether or not to proceed further in its investigation. According to the commissioner, the Bureau was often making these decisions just prior to the twelve-month deadline, a delay that in his view was unsatisfactory for all parties. Roberts implemented a new screening procedure that

directed Civil Rights Division staff to decide within thirty days of filing whether or not a complaint had sufficient merit to warrant additional investigation. This new procedure eventually succeeded in reducing to four-five months the time it took to process civil rights complaints. However, the screening policy provoked complaints from some employers' attorneys who believed they would lack sufficient time to develop a defense and from plaintiffs' lawyers who feared that investigations would be rushed and deny their clients a thorough evaluation of their complaints.⁴

A third major initiative that occurred during Jack Roberts' first year in office was the passage of a new law reforming the administration of Oregon's prevailing wage regulations governing public works and construction projects. Reflecting a series of challenges by employers and their allies that had surfaced across the country, nonunion contractor groups promoted a ballot measure in 1994 to repeal Oregon's thirty year-old prevailing wage law. This proposal was overwhelmingly defeated by the electorate, and Jack Roberts had opposed the repeal during his campaign for labor commissioner. Calls for reform of the prevailing wage statute persisted after the campaign, however, culminating in reform legislation that became law in July 1995.

The law directed that new procedures be used by the labor commissioner to determine prevailing wage rates. Specifically, this meant switching to local surveys of contractors rather than principally relying on federal data or pegging prevailing wages to those provided for in collective bargaining agreements. Equally important from BOLI's perspective, the new law required that contractors on prevailing wage projects pay a small fee to help finance administration and enforcement, addressing the Bureau's long-time complaint about lacking sufficient funds to meet its responsibilities. The new

funding also enabled the agency to conduct training sessions to educate employers and public agencies about their obligations on prevailing wage projects. Echoing the argument he had made in advocating reform of family and parental leave regulations, Commissioner Roberts expressed hope that the new prevailing wage legislation would address the concerns of all interested parties. “If we do it right,” he asserted, “government can provide workers with important protections without making life miserable for the employer.”⁵

Roberts’ implementation of the new prevailing wage surveys, however, generated controversy. Previous prevailing wage surveys relying on federal data had tended to make the union wage the prevailing wage in a given locality. Roberts’ survey of contractors was more regionally based and frequently found considerable disparities between the older rates and the wage data compiled under the new procedure. Before implementing new rates, he conducted a second survey to verify the results that had been initially received. Reaction to these findings varied. Nonunion contractors and some newspaper editorials expressed approval of the process, citing the prospect of savings from lowered costs on prevailing wage projects. Some unions and their allies dissented, charging that the commissioner had arbitrarily combined different types of trades and set aggregate rates, made no distinctions between various types of construction projects, and grouped counties in ways that mixed low and high-wage areas. In the view of these critics, the new survey too often resulted in the lowering of wages from their previous levels. Although this criticism was by no means universal, it did signify ongoing debate about the application of the new law, its impact on construction workers’ wages, and how best to satisfy the interests of all the building and construction industry stakeholders.⁶

In keeping with his pledge to limit the scope of BOLI's authority and make it more business-friendly, Commissioner Roberts was successful in reducing the Bureau's regulatory responsibilities in several areas. He gained legislative approval in 1995 for eliminating the requirement that minors obtain work permits before being employed, shifting the burden from government to employers to verify the ages of young workers. After several years of debate, the legislature also granted Roberts' request that private employment agencies no longer be required to be licensed by BOLI, although in cases where job applicants paid fees, the Bureau still retained oversight and enforcement authority. These moves provoked some concern about the erosion of protections for workers but were largely seen as acceptable attempts to focus BOLI's efforts on more problematic issues in times of tight budgets and staff reductions. However, with regard to the issue of farm workers' rights, BOLI's approach to regulation and enforcement was questioned by some and became a public concern, especially during Jack Roberts' second term in office.⁷

The Bureau had long struggled in its efforts to oversee the conditions affecting Oregon's farm workers. In a 1993 message accompanying its budget request to the legislature, BOLI acknowledged difficulties in fulfilling these responsibilities. Referring to the monitoring of farm worker housing and a lack of resources, the agency concluded: "The bureau's ability to locate such camps has been virtually eliminated as a result of losing these positions." Farm workers, who often did not speak English, mistrusted government, and feared reprisal or retaliation if they spoke out, were extremely reluctant to complain about mistreatment or exploitation. BOLI lacked the staff to conduct the kind of outreach farm worker advocates and agency officials themselves claimed was

needed to help persuade wary workers to file complaints. Nonetheless, Commissioner Roberts did not seek additional outreach staff to address farm worker concerns, leading PCUN, the farm workers union, to refer workers to private attorneys rather than BOLI when workers who were not paid by employers sought to obtain their back wages.⁸

Some legislators also questioned the Bureau's support for capping fines against employers who failed to pay their workers, except in the case of willful violations, where the commissioner did advocate levying larger civil penalties. Attempting to find some way to accommodate the interests of growers and farm workers, Commissioner Roberts tried to occupy a middle position on farm worker issues. He opposed a 1997 Senate bill that attempted to undercut protections for farm workers engaged in collective action to protest job related grievances but supported subsequent legislation that according to critics unduly limited the circumstances under which farm workers could complain about working conditions.

For Roberts, fulfilling BOLI's responsibilities to farm workers remained one of the agency's most complicated challenges. Finding consensus among growers, farm workers, and legislators remained elusive, and the agency was severely limited by a continuing lack of the resources needed to provide consistent oversight and enforcement.⁹

In 1997, Commissioner Roberts' proposal to consolidate BOLI with other state agencies was rebuffed by the legislature. His attempt to make the position of labor commissioner appointive rather than elective was also rejected, although he did gain approval for his suggestion to make elections for the post nonpartisan. In large part Roberts did fulfill his campaign pledge to streamline the agency, cutting its staff by 21 percent and reducing its budget by \$2 million by the beginning of his second term. Yet in

spite of this restructuring, the Bureau continued to exercise its authority in both familiar and new arenas where working Oregonians sought protection from employer abuses.¹⁰

Several prominent discrimination and civil rights cases reflected this sense of continuity. In 1996, Commissioner Roberts ruled in favor of a worker who was



The changing face of women in the workplace

wrongfully discharged for reporting leaks in underground storage tanks to a state agency and fined the offending employer nearly \$50,000. This was the first whistleblower case to go through the entire BOLI complaint process and subsequently be upheld in state appellate court. A Portland Burger King restaurant was ordered in 1998 to pay \$15,000 in

damages to an African-American woman whom it refused to serve. Civil Rights Division administrator Johnnie Bell reflected the Bureau's consistent view of its responsibilities regarding discrimination complaints: "With the kind of national attention given to race relations, you would think that business establishments would not in this day and age discriminate against folks. But it happens every day."¹¹

In the final year of Jack Roberts' tenure as labor commissioner, BOLI reprimanded two companies whose labor practices reflected new challenges for regulators and were becoming the focus of increasing national attention. In 2002, Roberts fined a Wal-Mart store for discriminating against a worker who had filed a

workers' compensation claim. He also penalized Labor Ready, a national temporary agency that specialized in providing workers for the construction industry. Labor Ready was ordered to pay a \$47,500 fine for underpaying workers, and Commissioner Roberts recommended that the company be barred from bidding on public works projects for three years due to its repeated violations of state labor law. Even with limited resources and a more conciliatory approach to regulation and enforcement, BOLI under Jack

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In the Matter of Labor Ready Northwest, Inc.

§1 of the U.S. Constitution, *United Farm Workers of America v. Arizona Agricultural Employment Relations Board*, 669 F.2d 1249, 1255 (9th Cir. 1982). Since the IDOL's lien has the same effect as a judgment, the Agency should use the same means of enforcing the wage claim assigned to it by the IDOL that the Agency would use to enforce a judgment on a wage claim originating with the Agency where a Final Order had been issued.

In this case, the Agency has thus far eschewed enforcement of the Idaho judgment lien in favor of establishing, for a second time, the Respondents' liability to the claimant. This is not only unnecessary, but also contrary to the doctrine of claim preclusion as explained in *Drevo v. EBI*, *supra*, which teaches that once a matter is brought to final judicial resolution, that matter is not to be litigated again.

The fact that the prior litigation was in a sister state does not change the result. Rather than require re-litigation in violation of the doctrine of claim preclusion, the prior litigation—and the resultant judgment—simply affords the Agency the opportunity to enforce that judgment in Oregon. For the process of enforcement, it should look not to a new administrative proceeding but, in accordance with the full faith and credit principles of the U.S. Constitution, to Oregon law regarding enforcement of sister-state judgments. See, e.g., ORS 24.105 et seq.

ORDER

NOW, THEREFORE, the Commissioner of the Bureau of Labor and Industries hereby orders that Order of Determination No. 01-2198 against Michael D. Cheney and Persenogics Corporation is hereby dismissed.

In the Matter of

LABOR READY NORTHWEST, INC.,

Case Nos. 122-01 and 149-01
Final Order of Commissioner
Jack Roberts
Issued June 17, 2002

SYNOPSIS

Respondent was a subcontractor on three public works projects by providing workers to perform manual labor for other contractors on the three projects. On two of the projects, Respondent paid six workers less than the applicable prevailing wage rate, committing six violations of ORS 279.350(1). Respondent failed to post the prevailing wage rate on two of the projects, in violation of ORS 279.350(4). Respondent filed payroll reports on all three projects that either lacked certified statements, misclassified workers' misstated hours worked, or were untimely, committing eight violations of ORS 279.354 and OAR 839-016-0010. Finally, Respondent

Cite as 23 BOLI 156 (2002).

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failed to timely provide documents requested by the Wage and Hour Division that were necessary to determine if the prevailing wage rate was paid on one of the projects, committing one violation of ORS 279.355 and OAR 839-016-0030. Respondent's violations of ORS 279.350(1) on two of the projects were intentional, and the Commissioner placed Respondent on the list of contractors or subcontractors ineligible to receive any contract or subcontract for public works for concurrent periods of two and three years. The Commissioner also assessed \$58,500 in civil penalties. ORS 279.334(1)(a), ORS 279.348(3) and (5), ORS 279.350(1), ORS 279.350(4), former ORS 279.354, ORS 279.355(2), ORS 279.361(1), ORS 279.370(1), OAR 839-016-0004(16) and (17), OAR 839-016-0010, OAR 839-016-0030(1) and (2), OAR 839-016-0033(1), OAR 839-016-0035(1), OAR 839-016-0050(2), OAR 839-016-0085(1) and (4), OAR 839-016-0090, OAR 839-016-0500, OAR 839-016-0520, OAR 839-016-0530, OAR 839-016-0540.

The above-entitled case came on regularly for hearing before Alan McCullough, designated as Administrative Law Judge ("ALJ") by Jack Roberts, Commissioner of the Bureau of Labor and Industries for the State of Oregon. The hearing was held on January 15 and 16, 2002, in Room 1004,

Portland State Office Building, Portland, Oregon.

The Bureau of Labor and Industries ("BOLI" or "the Agency") was represented by David K. Gerstenfeld, an employee of the Agency. Respondent was represented by David J. Sweeney, attorney at law, Aaron Roblan, an attorney employed by Labor Ready, Inc., and Respondent, was present during the hearing as the person designated by Respondent to assist in Respondent's case.

The Agency called the following witnesses: Michael Wells, Susan Woolley, and Leslie Laing, BOLI Wage and Hour Division Compliance Specialists.

Respondent called the following witnesses: Shannon Shields, Respondent's branch manager in Hillsboro, Oregon; Siobhan Rischman, manager of the prevailing wage department for Labor Ready, Inc.

The forum received into evidence:

a) Administrative exhibits XA-1 through XA-8¹ (generated in case no. 122-01 prior to case consolidation); XB-1 through XB-4² (generated in case no. 149-01 prior to case consolidation); and X-1 through X-6 (generated subsequent to the consolidation of

¹ These exhibits were originally numbered X-1, X-2, etc. The forum has renumbered them to avoid confusion due to the later consolidation of cases 122-01 and 149-01.

² *Id.*

Roberts' leadership by no means backed away from its historic commitment to hold employers accountable for their failure to meet their obligations to their workers.¹²

Commissioner's final order in Labor Ready, 2002

In other arenas, too,

Roberts' tenure reflected familiar themes and commitments. He was an avid supporter of apprenticeship and took steps to strengthen the programs that BOLI oversaw. As part of the Bureau's ongoing efforts to make apprenticeship more accessible to women and minorities, he approved changes in the apprentice selection process aimed at ensuring fairness and barring discriminatory screening of applicants. He also ordered BOLI personnel to no longer participate in the actual administration of apprenticeship programs, insisting that employers needed to assume greater responsibility to provide

sufficient funding, staffing, and supervision. By the beginning of his second term, Roberts reported a 30 percent expansion of apprenticeship programs and rising graduation rates among enrollees.¹³

In spite of his stated desire to lower the profile of the commissioner's office and avoid what he called "grandstanding," Jack Roberts did not entirely reject the tradition of BOLI commissioners using their office as a bully pulpit. This was especially true regarding the issue of gay rights. Roberts accepted an invitation from then Oregon Attorney General Ted Kulongoski in 1995 to file a friend of the court brief in a Colorado gay rights case that was eventually decided by the Supreme Court. And he was the only statewide elected official in 1996 to testify in favor of making sexual orientation a protected category under state civil rights law. Roberts' predecessors might have questioned his attempts to downsize and consolidate the Bureau, but they doubtless would have applauded his willingness to take a moral stand on a controversial issue and seek to rally public support in favor of corrective legislation.¹⁴

Jack Roberts' eight years as BOLI commissioner reflected broader trends that had emerged both nationally and in Oregon's political culture. On the one hand, many Oregonians had come to perceive government as wasteful, intrusive, and not worthy of receiving their tax dollars beyond the amounts needed to fund its operations at a basic level. Yet these same citizens still expected to obtain certain services from the state and while willing to curtail the scope of governmental responsibility, still saw the need for regulation and oversight in the employment and workplace arenas.

As labor commissioner, Jack Roberts attempted to satisfy both of these impulses.

The rejection of his proposals to fundamentally restructure the agency suggested that the public and political leaders still wanted BOLI to remain as a specific, independent entity devoted to enforcing labor law and protecting workers' rights. Nonetheless, Roberts was able to win support for his efforts to limit the Bureau's authority to a host of core functions. He also seemed to capture the public mood with his insistence on the need to make the office of labor commissioner nonpartisan. As he explained in May 1995: "I think that most Oregonians are tired of the polarization caused by partisan bickering, grandstanding, and politicking. Elected officials should be responsible to the people, not their party."¹⁵

Roberts held to this stance throughout his tenure as BOLI commissioner, often taking fire from business, labor, and advocacy organizations as he sought to devise policies and procedures that in his view would meet the interests and needs of all parties. Still, although his view of the labor commissioner's role and responsibilities differed markedly from that held by many of his predecessors, he brought the Bureau into the twenty-first century as an agency still committed to the protection of Oregon's workers but one that possessed fewer resources and more limited political support for the fulfillment of its vital mission.

¹Jeff Mapes, "Jack Roberts Wins State Labor Post," *The Oregonian*, November 12, 1994, "Jack Roberts Sworn in As Labor Commissioner," BOLI Release, January 4, 1995, Author's interview with Jack Roberts, December 23, 29, 2004 (hereafter referred to as "Roberts interview").

²Roberts Interview, Dee Lane, "Bill Would Leave Less Leave Time," *The Oregonian*, January 18, 1995, "Oregon's Labor Chief Proposes a New Family Leave Act," *The Oregonian*, February 8, 1995, and "Simplifying Leave Law Isn't So Simple," *The Oregonian*, April 25, 1995.

³Roberts Interview, Dee Lane, “Kitzhaber Will Sign Overhaul,” *The Oregonian*, July 14, 1995, Robert Landauer, “Oregon Weather Vane: Nation Still Has Things to Learn From Oregon Regarding Pregnancy, Medical, and Family Leave,” *The Oregonian*, August 16, 1997.

⁴Roger O. Crockett, “State Moves to Speed Civil Rights Cases on the Job,” *The Oregonian*, August 31, 1995, Roberts interview.

⁵BOLI Releases, “Governor Signs Prevailing Wage Reform Bill Today,” July 17, 1995, “New Law Affects Public Contracting Agencies, Contractors,” September 7, 1995, Michael F. Sheehan, Robert E. Lee, and Lisa Nuss, Oregon’s Prevailing Wage Law: Benefiting the Public, the Worker, and The Employer, Oregon and Southwest Washington Fair Contracting Foundation, 2000, 46, 57.

⁶Steve Suo, “Public Construction Workers Might Have Wages, Benefits Cut,” *The Oregonian*, April 9, 1997, “Overpriced Jobs,” *The Oregonian*, April 19, 1997, BOLI Release, “Construction Contractors to Receive Wage Surveys,” September 4, 1998, Sheehan, et. al., 67-69, Roberts interview.

⁷BOLI Press Releases, “Work Permits for Teens: A Thing of the Past,” September 7, 1995, “Teen Work Permits No Longer Needed,” June 30, 1997, “Legislature Repeals Licensing Requirement for Private Employment Agencies,” January 1, 1997, Roberts interview.

⁸Alex Pulaski, “Farm Worker Agencies Vary in Work Done,” *The Oregonian*, December 6, 1998, and “Lawmakers Ask Pointed ‘Questions About Protecting Migrant Workers,’” September 18, 1998.

⁹Alex Pulaski, “Bill Places Limits on Farm Workers Getting Damages,” *The Oregonian*, December 6, 1998,

¹⁰Gail Kinsey Hill, “Here, the Industries Often Labor in Obscurity,” *The Oregonian*, December 7, 1997, BOLI Press Release, “Roberts to Remain Labor Commissioner,” September 30, 1999.

¹¹ Robert Landauer, “Whistleblower Rules,” *The Oregonian*, September 17, 1966, Gwenda Richards Oshiro, “Food Outlet Dishes Out Bias, Then Payment,” *The Oregonian*, July 10, 1998, Roberts Interview.

¹²Brent Hunsberger, “Fine Proposed Against Temp Agency,” *The Oregonian*, April 27, 2002, and “Wal Mart Fined in Civil Rights Claim,” October 22, 2002.

¹³Roberts interview, BOLI Press Releases, “Apprenticeship Council Opens Door to Women and Minorities,” December 30, 1997, “Roberts to Remain Labor Commissioner,” September 30, 1999.

¹⁴“Supreme Court Finds Solid Ground in Gay Rights Bill,” Roberts interview.

¹⁵BOLI Press Release, “Roberts Supports Making Labor Commissioner Non-Partisan,” May 4, 1995.

Chapter VIII

Dan Gardner, 2003-present



Barred from seeking a third term in office, Jack Roberts was replaced as labor commissioner in 2003 by Dan Gardner. Gardner was a three-term state representative from Portland and a third-generation union electrician who had become politically active during the ballot initiative to repeal the prevailing wage in 1994.

During his campaign he worked at 58 different jobs in order to get a feel for the issues and concerns facing working Oregonians. Reflecting the worker-oriented focus displayed by most of his predecessors, Gardner has attempted to elevate the visibility and standing of the Bureau during his tenure as BOLI commissioner. He has been especially aggressive in the areas of prevailing wage enforcement and farm workers rights, is a fervent supporter of apprenticeship programs, and is seeking to both reinforce and extend the agency's regulatory authority as a hallmark of his administration.

One of Gardner's biggest challenges has been balancing his ambitions for BOLI with the dwindling resources at the Bureau's disposal. The budget cutting that was triggered by Measure 5's passage in 1990 and continued during Jack Roberts' years in office left BOLI with a staff of 106 in 2004, down from 159 employees a decade earlier. Several BOLI field offices in Oregon had already been closed, and Commissioner Gardner has opposed the loss of more full-service offices, fearing that additional closures will limit the Bureau's ability to effectively serve Oregonians outside the I-5 corridor. Gardner also has had to fend off legislative proposals to shift administration of the state's apprenticeship programs to the federal government. Moreover, reduced staffing has

again exacerbated a persistent agency problem, the difficulty in expeditiously processing the over 2,000 civil rights complaints that BOLI annually receives. In this context Commissioner Gardner has chosen to target certain areas for particularly vigorous oversight and enforcement while making the case for adequate funding so that BOLI can continue to provide basic services to its constituents.¹

One of Gardner's most noteworthy actions, which he has characterized as the "crowning achievement" of his term as commissioner, was his issuance of an administrative rule requiring that farm workers receive paid breaks and time off for meals while on the job. After failing to gain legislative approval for this proposal in 2003, Gardner issued the rule in early 2004 in spite of provoking sharp criticism from growers and contractors. Again, Oregon has taken the lead in extending workers' rights, becoming one of just five states to provide farm workers with paid breaks and one of only sixteen to offer time off for meal periods. Gardner defended his action as a moral decision, explaining: "I think it's high time that some of the hardest working people in Oregon be allowed to have meal and rest periods. How can you expect someone to pick and eat a sandwich at the same time in the fields?" This action signaled the new commissioner's approach to using his authority, in this case to ensure better conditions for a group of workers that BOLI has historically struggled, often unsuccessfully, to assist.²

Gardner has taken an aggressive approach regarding BOLI's prevailing wage responsibilities. In Coos Bay, an out of state company that was granted a lucrative pipeline contract came under fire for its shoddy work. Called on to investigate the contractor's labor practices, BOLI found what Commissioner Gardner described as a

“rogue company that was ignoring state and federal laws” and levied nearly \$3 million in fines for prevailing wage violations. The commissioner has also been grappling with the complex issues surrounding whether or not the prevailing wage should apply to projects being undertaken by public-private partnerships. Although Gardner ruled in June 2005 that prevailing wage rates did not apply to a proposed public-private downtown Portland redevelopment project, he has appointed a task force to examine the issue and reaffirmed BOLI’s commitment to the prevailing wage as sound public policy ensuring high-quality work and decent standards for workers. With regard to the often contentious task of establishing prevailing wage rates, he has drawn on an advisory committee of stakeholders for advice, revised some rates based on market share considerations, and distinguished between different types of projects in setting some rates at higher levels.³

Not surprisingly for a former electrician, Commissioner Gardner has continued to honor the Bureau’s staunch support for apprenticeship programs. BOLI has contracted



This electrician’s apprentice reflects the Bureau’s outreach efforts, 2007

with the Oregon Department of Transportation (ODOT) on a federal grant to help increase minority participation on its projects. The commissioner is also encouraging expansion of pre-apprenticeship programs, the provision of support during the application process, and

intensive mentoring as practices during training to increase minority and female participation in apprenticeship programs and boost completion rates. And in order to

streamline its oversight of apprenticeship, Commissioner Gardner has proposed less frequent review of programs whose completion rates are high (70 percent or better) but will maintain annual monitoring of programs with greater levels of attrition to encourage improvement.⁴

Gardner has prided himself on being an independent voice for working Oregonians, and he displayed this sensibility most vividly when he declined to implement the Bush administration's proposed changes in overtime rules for salaried employees. In several cases state regulations governing overtime were more stringent than the proposed federal changes, and Gardner was therefore legally barred from implementing the new rules. In other areas the state attorney general ruled that the labor commissioner had discretion regarding implementation of the new rules, and Gardner elected to maintain the status quo rather than approve changes that would have denied overtime payment to certain salaried workers. Explaining his action, he asserted that "it is a family value for an employer to pay the premium of time and one half for taking workers away from their spouse, family, or home" when they worked more than 40 hours in one week. According to Gardner, granting employers this power would encourage them to increase hours for their salaried employees and undercut a critical workplace protection giving workers some measure of control over the time they are compelled to remain on the job.⁵

Like his predecessors, Dan Gardner has also continued the tradition of speaking out on social issues that he regards as relevant to BOLI's mission. He was one of the chief petitioners for a successful 2002 ballot measure to raise Oregon's minimum wage and adjust it to match rises in the consumer price index. In cases where BOLI has contracts with localities to investigate violations of local gender and transgender diversity

ordinances, the commissioner has insisted on going beyond the requirements of state law and enforcing the stricter standards used at the local level. As further evidence of his commitment on these issues, Commissioner Gardner went to Bend in 2004 to testify on behalf of a proposed ordinance protecting transgendered persons and urged local



Commissioner Gardner speaking out on issues of social justice

political leaders to strengthen the legislation. Later that year, Gardner appeared at a press conference opposing Ballot Measure 36, which proposed to outlaw same-sex marriage in Oregon. The labor commissioner deplored what he called “putting discrimination in the constitution of Oregon” by treating same-sex couples differently from married couples and denying them the basic rights he believed they are entitled to as citizens. On a host of issues related to questions of social justice and equal treatment, Gardner has not hesitated to express his concern and advocate public policies that underscore the Bureau’s ongoing sense of social obligation and commitment.⁶

Nearing the completion of his third year in office, Dan Gardner has made demonstrable progress in raising BOLI’s public profile and monitoring changing employment and business practices that threaten to undercut workers’ rights and employment conditions. Projecting ahead, the commissioner wants to see BOLI increase its outreach to Oregon’s rising population of immigrants and has proposed increasing penalties for employers who willfully underpay workers or attempt to take advantage of new immigrants. He has also vowed to monitor carefully increasing employer retaliation

against workers who act as whistleblowers or who file workers compensation or workplace safety complaints. Commissioner Gardner, who has recently announced his intention to run for a second term, is determined to uphold BOLI's traditional commitments, and his conception of the labor commissioner's role reflects a consistent perspective held by those who have occupied the post over the last 100 years: "The duty of this office is to speak out for the workers of this state and serve as an independently elected voice. That's what this office is all about."⁷

Conclusion

BOLI's establishment over 100 years ago reflected a social consensus that government regulation was needed to help reconcile the competing interests of workers and employers and provide legal protection to those at risk of being mistreated or exploited. Initially charged with overseeing factory inspection, child labor, and the hours of work for women, BOLI's responsibilities expanded dramatically during its first 75 years of existence. These new responsibilities in the areas of wage and hour standards, workplace safety, labor-management conflict, civil rights enforcement, family and medical leave, and apprenticeship were prompted by Oregon's rapid industrial growth, its changing workforce demographics, and Oregonians' support for government intervention as a necessary and appropriate tool for ensuring corporate accountability and social fairness. The fact that most of Oregon's labor commissioners were popular, able leaders who served lengthy terms in office gave the Bureau a sense of continuity and a record of achievement that enhanced its legitimacy and underscored BOLI's many contributions to the state's economic and social well-being.

The last two decades, however, have witnessed a shift in both national and state political sentiment that has favored less government regulation of workplace and economic affairs. As a result, the scope of BOLI's responsibilities has narrowed in recent years, and efforts to limit its authority even further have been advocated by some political and business interests. Moreover, the Bureau still faces the perennial problem of obtaining sufficient resources to fulfill its mission, a situation accentuated by an uncertain state economy and the likely prospect of limited state funding for the foreseeable future.

Yet for all the public skepticism about government and its role in regulating workplace and employment relations, Oregonians have made it clear that they still want a voice in choosing their labor commissioner and maintaining BOLI as an independent agency. It should also be noted that as BOLI celebrates its 100th anniversary, its constituents, both workers and employers, face a series of daunting, complex challenges. Notions of job security and the obligations that employers owe to workers have changed profoundly, driven by global competition, the shift from a manufacturing to a service-based economy, and the accompanying loss of good-paying jobs. The relationship between employer and employee has been noticeably affected by these developments, with the rise of part-time and temporary employment, increasing hours of work, the shift toward treating workers as independent contractors rather than employees, the privatization of public jobs, and the erosion of employer-provided pension and health care benefits. The Oregon work force is also growing more diverse with the addition of more women, immigrants, and workers of color who are seeking equal opportunity and social integration, and the question of how best to balance the demands of work and family life has become a growing social concern that public policy is just beginning to address.

Although these issues and concerns differ from those that led to BOLI's creation 100 years ago, they represent challenges of a similar magnitude and hold critical implications for Oregon's future. Of course, the specific ways in which Oregonians will respond to these challenges is unknowable. However, the state has a rich tradition of innovation to draw on in the field of employment relations. And it also has BOLI, an agency whose expertise and social conscience can serve as invaluable resources in

helping Oregonians refashion their state's social contract and make it relevant to the twenty-first century economy and workplace.

Chapter VIII

Dan Gardner

¹ Author's interview with Dan Gardner, November 20, 2004 (hereafter referred to as "Gardner interview"), Brent Hunsberger, "Gardner Seeks to Expand Role," *The Oregonian*, January 24, 2003, and "Advocate for Workers Slumps," May 5, 2003.

² Alex Pulaski, "Meal, Rest Breaks Sought for Farm Workers," *The Oregonian*, April 25, 2003, "Labor Commissioner Plows Ahead," *The Oregonian*, January 24, 2004, Ramon Ramirez, "Towards Justice for Farm Workers," *The Oregonian*, February 2, 2004, Gardner interview.

³ Gardner interview, Dylan Rivera, "Group Will Look at Wages on Public Works Projects," *The Oregonian*, June 21, 2005, Gail Kinsey Hill, "Developers Not Bound By Wage Law," *The Oregonian*, June 25, 2005.

⁴ Gardner interview.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.