PS1 for 1/12/89 # What Happened to the 40-Hour Work Week?

A guest editorial in a very liberal newspaper recently asked the question, “What happened to the 40-hour work week?” The writer, a labor-issues reporter (Dick Meister of San Francisco), complained that employers routinely force overtime work on their employees, thus requiring employees involuntarily to forgo hours with their families and leisure time in order to accommodate the business interests of their employers.

The article marked the 50th anniversary of the Fair Labor Standards Act, the Depression-era law that set the standard of a 40-hour work week and required overtime work to be paid at 1-1/2 times the regular rate. Despite premium pay, many employers find it more cost-efficient to require overtime work from regular employees than to hire additional workers because of the heavy costs of fringe benefits as well as of hiring and terminating employees.

Many workers welcome the extra work because of the extra income. Many others, especially those who the article calls “working parents,” don’t want overtime work at any price. But they can’t reject it because that would mean losing their jobs or other penalty.

Arguing for a newly-invented civil right, “the right to control your own time,” the author of the article favors a state or federal law that would prohibit compulsory overtime. However, he sadly concludes, such bills have always drawn “insurmountable opposition from employers.”

The writer is disingenuous in arguing his point. He is technically accurate when he says that “many working parents at least sometimes prefer not working overtime,” but in the real world a truer statement would be that “most employed women at least sometimes prefer not working overtime.”

The matter of overtime involves a gender differential, and it is deceptive to pretend that it doesn’t. Of course, in this day and age, writers in liberal publications are supposed to use only gender-neutral words and must pretend that no innate gender differences exist.

The article is not accurate in asserting that employers presented “insurmountable” opposition over the last quarter century to bills that would have banned compulsory overtime. Until about ten years ago, employers acquiesced cheerfully in laws that prohibited compulsory overtime for WOMEN.

Most states had laws that prohibited the employment of women over, say, nine or ten hours a day and over 40 to 50 hours a week. These provisions were the centerpiece of what was called “protective labor legislation.”

Women’s protective labor legislation was washed away during the 1970s under pressure from the radical feminists, who labelled it “discriminatory” and “oppressive” to women, and by courts which interpreted Title VII of the Civil Rights Acts to invalidate all provisions that made any difference of treatment between men and women, even if beneficial to women.

The justification for protective labor legislation was most eloquently stated in testimony to the Michigan Senate Judiciary Committee on April 18, 1972 by Myra K. Wolfgang, then vice president of the Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO, and a longtime member of Michigan's Commission on the Status of Women. It is worth quoting here because it is still true.

"Hours-limitation laws for women provided them with a shield against obligatory overtime to permit them to carry on their life at home as wives and mothers. While all overtime should be optional for both men and women, it is absolutely mandatory that overtime for women be regulated because of their double role in our society…

"The reason for protective legislation for women is not mysterious, nor is it founded entirely in male chauvinism or sexist attitudes. Women, despite all the denials of the obvious, have different bodies and different social roles than do men.

"Is a man who works 60-72 hours a week confronted with the same problems that, say, the mother of three children working 60-72 hours a week is? Don't talk theory to me, tell me the practice. In the first place, men are better able to work overtime than women. Repeated studies have shown that women's efficiency drops substantially, after long hours of work, more than men doing the same job.

"In the second place, who of the two is held responsible by society for the health, care and safety of children? Let the kids answer as they bob into the back door after school with a 'Where's Mom?' … The average working mother and homemaker is going to be doing her outside job as well as meeting her family responsibilities."

Now that radical feminism is passe, it's time for society and legislators to recognize once again the obvious truism that there are differences in the bodies and roles of men and women. Title VII of the Civil Rights Act of 1964 should be amended to permit state laws to prohibit compulsory overtime for women.