AMENDMENTS TO THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON
LABOR AND PUBLIC WELFARE
UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 733 and H.R. 1258

TO AMEND THE LONGSHOREMEN'S AND HARBOR WORKERS' ACT

JUNE 20, 1961

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*Senator Burdick was appointed a member of the Subcommittee on Labor March 8, 1961.

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AMENDMENTS TO THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

TUESDAY, JUNE 20, 1961

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, at 10 a.m., pursuant to notice, in room 4202, New Senate Office Building, Hon. Pat McNamara (chairman of the subcommittee) presiding.

Present: Senators McNamara (presiding) and Burdick.

Committee staff members present: Edward Friedman, counsel to the subcommittee; John L. Sweeney, professional staff member of the subcommittee; Raymond D. Hurley and John D. Stringer, minority associate counsels.

(S. 733 and H.R. 1258 and departmental reports follow:)

[S. 733, 87th Cong., 1st sess.]

A BILL To amend section 6 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 906)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 6 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 906), is amended to read as follows:

"(b) Compensation for disability shall not exceed $70 per week and compensation for total disability shall not be less than $18 per week: *Provided, however,* That if the employee's average weekly wages, as computed under section 10, are less than $18 per week, he shall receive as compensation for total disability his average weekly wages."

SEC. 2. Section 9(e) of the said Act is hereby amended to read as follows:

"(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not more than $105 nor less than $27 but the total weekly compensation shall not exceed the weekly wages of the deceased."

SEC. 3. Section 14(m) of the said Act is hereby amended to read as follows:

"(m) The total money allowance payable to an employee as compensation for an injury under this Act shall in no event exceed in the aggregate the sum of $24,000: *Provided,* That this limitation shall not apply to cases of permanent total disability or death: *And provided further,* That in applying this limitation there shall not be taken into account any amount payable under section 8(g) of this title for maintenance during rehabilitation of any amount of additional compensation required to be paid under this section for delay or default in the payment of compensation or any amount accruing as interest upon defaulted compensation collectible under section 18."

SEC. 4. The amendments made by the foregoing provisions of this Act shall become effective as to injuries or disability sustained on or after the date of enactment.

[H.R. 1258, 87th Cong., 1st sess.]

AN ACT To amend the Longshoremen's and Harbor Workers' Compensation Act, as amended, to provide increased benefits in case of disabling injuries, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 6 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 906), is amended to read as follows:

"(b) Compensation for disability shall not exceed $70 per week and compensation for total disability shall not be less than $18 per week: *Provided, however,* That, if the employee's average weekly wages, as computed under section 10, are less than $18 per week, he shall receive as compensation for total disability his average weekly wages."

SEC. 2. Section 9(e) of the said Act is hereby amended to read as follows:

"(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not more than $105 nor less than $27 but the total weekly compensation shall not exceed the weekly wages of the deceased."

SEC. 3. Section 14(m) of the said Act is hereby amended to read as follows:

"(m) The total money allowance payable to an employee as compensation for an injury under this Act shall in no event exceed in the aggregate the sum of $24,000: *Provided,* That this limitation shall not apply to cases of permanent total disability or death: *And provided further,* That in applying this limitation there shall not be taken into account any amount payable under section 8(g) of this title for maintenance during rehabilitation or any amount of additional compensation required to be paid under this section for delay or default in the payment of compensation or any amount accruing as interest upon defaulted compensation collectible under section 18."

SEC. 4. The amendments made by the foregoing provisions of this Act shall become effective as to injuries or death sustained on or after the date of enactment.

Passed the House of Representatives March 21, 1961.

Attest:

RALPH R. ROBERTS, *Clerk.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 17, 1961.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Senate Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of February 1, 1961, requesting the views of this office with respect to S. 733, "To amend section 6 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 906)," and your letter of March 23, 1961, with respect to H.R. 1258 "To amend the Longshoremen's and Harbor Workers' Compensation Act, as amended, to provide increased benefits in case of disabling injuries, and for other purposes."

In his reports to your committee on these bills, the Secretary of Labor urged enactment and called attention to technical amendments which he believed should be made.

This office concurs with the views of the Secretary of Labor and enactment of this legislation would be consistent with the administration's objectives.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, March 7, 1961.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SENATOR HILL: This is in response to your recent request for the comments of this Department concerning S. 733, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act to provide increased benefits in case of disabling injuries, and for other purposes.

The overwhelming majority of the 500,000 or more maritime and other workers covered by the Longshoremen's Act now are receiving nowhere near an appropriate benefit amount. The present ceiling of $54 on weekly disability benefits for total disability is far out of line with current wage levels and living costs. The act contains no self-adjustment feature of benefit levels and the last adjustment by Congress was made in 1956. Subsequently, changes in wage levels and

living costs have been so substantial as to make benefit levels in this act inadequate. The wage data on the employment covered under the Longshoremen's Act available to this Department indicates that the proposed increase is fully justified. The Department of Labor, therefore, strongly urges enactment of S. 733.

We call the committee's attention to two technical amendments which should be made in the language of the bill. The words "of this title" on page 2, lines 16 and 17, should be omitted. In addition, section 4 should be amended to make it clear that the increase is applicable to any death occurring after the date of enactment, regardless of the date of injury causing the death. The section should then read as follows:

"SEC. 4. The amendments made by the foregoing provisions of this Act shall apply only to injuries or deaths occurring on or after the enactment of this Act."

The Bureau of the Budget advises that the enactment of this legislation would be consistent with the administration's objectives.

Yours sincerely,

ARTHUR J. GOLDBERG,
Secretary of Labor.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, May 10, 1961.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SENATOR HILL: This is in further response to your request for a report on H.R. 1258, a bill "To amend the Longshoremen's and Harbor Workers' Compensation Act, as amended, to provide increased benefits in case of disabling injuries, and for other purposes."

The overwhelming majority of the 500,000 or more maritime and other workers covered by the Longshoremen's Act now are receiving nowhere near an appropriate benefit amount. The present ceiling of $54 on weekly disability benefits for total disability is far out of line with current wage levels and living costs. The act contains no self-adjustment feature of benefit levels and the last adjustment by Congress was made in 1956. Subsequently, changes in wage levels and living costs have been so substantial as to make benefit levels in this act inadequate. The wage data on the employment covered under the Longshoremen's Act available to this Department indicates that the proposed increase is fully justified. The Department of Labor, therefore, strongly urges favorable consideration by the Senate of H.R. 1258, which was passed by the House of Representatives on March 21, 1961.

We call the committee's attention to a technical amendment which should be made in the language of the bill. The words "of this title" on page 2, lines 18 and 19, should be omitted.

The Bureau of the Budget advises that there is no objection to the presentation of this report and that enactment of this legislation would be consistent with the administration's objectives.

Yours sincerely,

ARTHUR J. GOLDBERG,
Secretary of Labor.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, January 14, 1961.

Mr. R. C. DERRICKSON,
Staff Director, Committee on Education and Labor,
House of Representatives, Washington, D.C.

DEAR MR. DERRICKSON: This is in response to your recent request for a report on H.R. 1258 which was introduced on January 3, 1961.

Although we have not received copies of H.R. 1258, we understand that it is identical to H. R. 12777, 86th Congress, 2d session. As you know, H.R. 12777 would have amended the Longshoremen's and Harbor Workers' Compensation Act by increasing the maximum weekly rate for disability from $54 to $70, the wage basis for computing death benefits from $81 to $105, and the monetary limitation on aggregate compensation benefits payable for disability from $17,280 to $24,000.

The Department of Labor favors enactment of H.R. 1258. The Longshoremen's and Harbor Workers' Compensation Act contains no self-adjustment feature of benefit levels, and the last adjustment by Congress occurred in 1956. Subsequently, the changes in wage levels and living costs have been so substantial as to make the benefit levels in this act inadequate. Although this Department does not have complete wage data on the diversified and in some instances irregular employments covered under the Longshoremen's Act, available information indicates that the proposed increase is justified.

We would suggest, however, that the accompanying provision on the effective date of the increase be amended to make clear that the increase is applicable to any death occurring after the date of enactment, regardless of the date upon which the injury which caused the death occurred.

We also recommend an amendment to the act to charge to employers the costs of the Bureau of Employees' Compensation in administering the insurance provisions of the act. This amendment was embodied in H.R. 7496, a bill introduced in the 86th Congress to carry out a recommendation of the President. It would bring the program, presently financed out of general taxation, in line with the accepted system of financing for similar programs.

In addition, we recommend that the act be amended to extend the notice and claim period in cases of latent disability so that an employee's right to compensation may not expire before he has a compensable disability and is aware of the relationship of the disability to his employment, and to provide an increase in the maximum burial allowance, reflecting current costs. Similar amendments to the Federal Employees' Compensation Act were enacted in 1960.

The Bureau of the Budget advises, on January 18, 1961, that there is no objection to the submission of this report.

Sincerely yours,

JAMES T. O'CONNELL,
Under Secretary of Labor.

Senator MCNAMARA. The hearing will be in order.

The purpose of these hearings is to obtain the views of parties interested in proposed amendments to the Longshoremen's and Harbor Workers' Compensation Act.

Of primary concern to us is H.R. 1258, which passed the House of Representatives without a dissenting vote.

That bill would increase both temporary and permanent disability benefits, along with death benefits.

Before hearing the first witness, I want to express, on behalf of the subcommittee, our appreciation of the cooperation we have been given by all parties interested in this measure.

I also want to assure all of those who will present views on this measure that their observations will be given the full attention of the subcommittee.

Our first witness is Col. William Press, executive vice president, Washington Board of Trade.

Mr. Press.

STATEMENT OF WILLIAM PRESS, EXECUTIVE VICE PRESIDENT, WASHINGTON BOARD OF TRADE, ACCOMPANIED BY EDWARD DUPLINSKY, PERSONNEL DIRECTOR, EVENING STAR NEWSPAPER CO. AND VICTOR O. SCHINNERER, PRESIDENT, VICTOR O. SCHINNERER & CO.

Senator MCNAMARA. We shall be glad to have you proceed in your own manner.

Mr. PRESS. Mr. Chairman, I am William H. Press, executive vice president of the Metropolitan Washington Board of Trade.

We are, and have been since 1889, the largest and most representative organization of employers in this community.

Currently, the Board of Trade's membership is composed of approximately 7,000 business, professional, and civic leaders, representing almost 4,000 business and professional entities, most of which are doing business in the District of Columbia.

Even though our employment and security committee includes members representing most major local business categories, we have reviewed the substance of this statement with a number of local trade associations and consequently, are able to say that these comments are supported by virtually all employers of the District of Columbia.

We know of none who have contrary views.

The record should also show that we appear here today with the approval of our board of directors, which has also carefully considered and approved the conclusions and recommendations which will be presented.

We wish to express our appreciation to the committee for scheduling this hearing and giving us an opportunity to express our views concerning workmen's compensation insurance in this jurisdiction.

The chairman has been very considerate of our problems in taking the time from his very busy schedule to give us an opportunity to place our views on the record and, for that, we are indebted to him and the members of the subcommittee.

Mr. Chairman and members of the subcommittee, we do not propose to discuss today the technicalities of the Longshoremen's and Harbor Workers' Compensation Act, or the bill H.R. 1258, which passed the House and is now before the committee.

This statement will be devoted to a recitation of the reasons why we believe the Longshoremen's and Harbor Workers' Compensation Act should not apply to private employment in the District of Columbia and how workmen's compensation insurance should be administered in this city.

Nevertheless, with me here today are several gentlemen competent to answer technical questions, if any are asked by the committee. I would like to identify them at this time.

Senator McNAMARA. May I interrupt you at this point?

Did you appear before the subcommittee in the House?

Mr. PRESS. No, sir.

Senator McNAMARA. You did not?

Mr. PRESS. No, sir.

Senator McNAMARA. Did some of your people appear before them and discuss what you referred to as the technicalities of the act?

Mr. PRESS. No, sir; we did not.

Senator McNAMARA. All right.

Mr. PRESS. I have at my side Mr. Edward Duplinsky, who is with the Evening Star and who is familiar with the problems of self-insurers and Mr. Schinnerer, who has not appeared yet, who is familiar with the insurance problems, who will be here.

Senator McNAMARA. Very well.

Mr. PRESS. The Longshoremen's and Harbor Workers' Compensation Act was enacted in 1927 to provide compensation for work-connected injuries for those working on navigable waters, many of whom were not covered by State compensation laws.

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Subsequently, coverage of the act was extended. Currently the act covers any maritime employment upon navigable waters except as to a master or member of a crew of a vessel or any person engaged by the master to load or unload or repair any vessel under 18 tons net.

With certain exceptions and modifications, the act applies to citizens of the United States employed at Government military, air or naval bases acquired from foreign countries after January 11, 1940, or employed on any Government lands to be used for military or naval purposes, in any territory or possession outside the continental United States, or to employees under public works contracts of any contractor or subcontractor with the United States outside the contenental United States, or to employees engaged in exploring for, developing, removing, or transporting by pipeline, the natural resources of subsoil and seabed of the Outer Continental Shelf.

The act does not apply to employees subject to the Federal Employees Compensation Act.

In 1928, Congress enacted legislation making the Longshoremen's and Harbor Workers' Compensation Act applicable to the District of Columbia. This came about because it was impossible to get agreement in Congress respecting the terms of a workmen's compensation law for the District.

The legislation making the act applicable to the District reads as follows:

> The provisions of title 33, chapter 18, of the Code of Laws of the United States, including all amendments that may be made thereto, after May 17, 1928, shall apply in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, irrespective of the place where the injury or death occurs; except that in applying such provision the term "employer" shall be held to mean every person carrying on any employment in the District of Columbia, and the term "employee" shall be held to mean every employee of any such person.

Since the act was made applicable to the District in 1928, various employers and employer organizations have on a number of occasions, sought to be excluded and covered instead by a law applicable only to the District.

Since the end of World War II, these attempts have become more frequent and more vigorous.

Several years ago the Board of Trade retained counsel to draft a D.C. workmen's compensation law which I will describe later.

On May 7, 1956, during the second session of the 84th Congress, our proposed law was favorably reported by the House District of Columbia Committee, but for reasons which we will not review here, it did not reach the floor of the House of Representatives for a vote.

Bills have again been introduced in this session of Congress by request of the Board of Trade and currently are before the District of Columbia Committees.

The bill in the House by Mr. McMillan is H.R. 6844, and the bill in the Senate by Senator Bible, is S. 1919.

There are a number of reasons why we believe a separate workmen's compensation law for the District should be enacted.

First, it is a sound element in the development for the District of a body of organic law governing the personal and private business relations of its citizens.

The proposal is consistent with laws passed by Congress and now constituting a portion of the independent District of Columbia Code

which relates to unemployment compensation, minimum wages, industrial safety, employment of women, regulation of child labor and similar measures.

A District workmen's compensation law will form a proper and needed part of this pattern of D.C. laws providing appropriate benefits and regulations with respect to nongovernment employees within the District. The few District workers in maritime employment would, of course, continue to be covered by the Longshoremen's and Harbor Workers' Compensation Act just as they are in the States.

The enactment of a separate District law will permit the consideration of proposed changes and benefits and other provisions for the District of Columbia in relation to our local and regional pattern and not as at present, primarily because of many conditions perhaps wholly related to maritime employment largely in the major seaports in the United States.

The Longshoremen's and Harbor Workers' Compensation Act may be expected to continue to reflect principally the interest of employees and employers in maritime activities throughout the United States. It is always subject to proposed amendments designed to further the purposes of those groups.

The interests of employees and employers of the District of Columbia of necessity are a minor and corollary consideration in connection with changes in the Longshoremen's and Harbor Workers' Compensation Act.

Thus, not only must District employees and their employers observe carefully and attempt, where advisable, to exert their small influence concerning proposed amendments of that act that may originate in any and many parts of the country other than the District, but in addition, changes desired and desirable for District of Columbia employees and employers may not receive consideration because they are opposed by, or at least cannot be correlated with the maritime employers, employees and their unions, countrywide. That is the practical situation in which we have found ourselves, and in which we find ourselves today.

Comment has been made in the past that since the District of Columbia's area of 69 plus square miles is so small, it may perhaps be inadvisable to enact for it a separate workmen's compensation law. We do not believe this observation is valid in view of laws referred to already in the District of Columbia Code, and because the number of covered employees here exceeds the number in 14 States having their own laws according to Bureau of Labor Statistics compilations.

For the year 1959, nonagricultural, nongovernment employment in the District was 256,000, which exceeded, as shown, the comparable employment of the States listed.

NONAGRICULTURAL EMPLOYMENT MINUS GOVERNMENT, 1959

District of Columbia, 256,000
Rhode Island, 242,000
Arizona, 240,000
Maine, 226,000
Utah, 193,000
New Mexico, 170,000
New Hampshire, 168,000
Delaware, 131,000
Montana, 123,000
Idaho, 122,000
South Dakota, 96,000
North Dakota, 94,000
Vermont, 90,000
Nevada, 76,000
Wyoming, 68,000

Source: Bureau of Labor Statistics.

There is probably no area more highly competitive with adjacent jurisdictions than is the District today. There are now approximately 1,250,000 residents in nearby Maryland and Virginia, and 765,000 in the District of Columbia.

Generally accepted population forecasts made by our office, the Planning Commission, the District government, and others anticipate almost a doubling of the population by 1980 when Metropolitan Washington is expected to reach approximately 3½ million.

Virtually all this growth is expected to be in nearby suburban areas. Much business expansion and increased employment will no doubt follow the same pattern.

Actually, the population of the District of Columbia shrank during the last 10 years, and there are many who believe it will continue to get smaller.

It is inevitable that the District of Columbia will, as the years pass, rely more and more on business and commerce for its revenue. Careful attention must therefore be devoted to the maintenance of a tax and cost structure which will encourage or at least not discourage increased business activities within the District's borders.

The great expansion of business volumes in Metropolitan Washington in recent years has taken place outside the District of Columbia.

Additionally, many enterprises formerly located in the District have, for a variety of reasons, removed themselves from this jurisdiction into contiguous areas.

Among the most important factors supporting decisions to move out of the District of Columbia are relative tax burdens and costs of doing business.

The Board of Trade, the District government, and the District of Columbia Committees of the Congress generally encourage legislation, particularly tax laws, which will preserve, as nearly as possible, comparable, competitive cost relationships between the three metropolitan area jurisdictions so that, to the maximum extent possible, the incentive for business and residents to shift from one jurisdiction to another will be minimized.

This committee is quite conversant with the wide range of efforts to develop homogeneous conditions in this and other metropolitan areas.

This we submit is very important to the stability of the area and to the District of Columbia.

It is also of considerable importance to the Congress inasmuch as most Members wish the District to be as self-sufficient as possible. This is evidenced annually in discussions and actions respecting the size of the Federal payment now increasing mainly because changing population characteristics are increasing municipal service costs while the percentage of residents of the District with above average incomes and taxpaying abilities is decreasing.

I have noted that the Longshoremen's and Harbor Workers' Compensation Act reflects the interests of employees and employers in maritime activities.

Let me illustrate and support that conclusion:

The Congress and the Department of Labor in recent years have generally accepted the principle that the maximum weekly benefit amount should approximate 66⅔ percent of average weekly wages in covered maritime employment.

We believe, and the record indicates, acceptance also of the principle that a fixed maximum at about this level is an essential characteristic of the individualized systems employed in this country.

In June of last year, the Director of the Bureau of Employee's Compensation, U.S. Department of Labor, appearing before the House Education and Labor Committee, cited the average weekly earnings of longshoremen at approximately $96.50, and of workmen in shipbuilding and repairing at $102.97 according to Bureau of Labor Statistics compilations.

These average wage levels supported the projected $70, or two-thirds of average, maximum weekly benefit amount.

In February, the Director advised the House committee that for the 9-month period, January to September 1960, the average weekly wages of these categories was about $104.61.

According to the District of Columbia Unemployment Compensation Board, the average weekly earnings of all nongovernment workers covered by the unemployment compensation law in the District for the year ending June 30, 1960, was $89.23.

If we apply the accepted principles respecting the Longshoremen's and Harbor Workers' Compensation Act to employment in the District of Columbia, the appropriate maximum weekly benefit amount would only slightly exceed the presently specified $54 figure.

We believe that the principle of paying a somewhat higher percentage of wages as benefits for work-connected injuries than under the unemployment compensation law is reasonable and sound.

We also believe that if it is a sound principle to set the maximum weekly benefit amount at two-thirds of average earnings of covered workers in maritime employment under the Longshoremen's and Harbor Workers' Compensation Act, the same principle should apply respecting workers in covered private employment in the District of Columbia.

This belief is strengthened by the generally accepted premise that relatively liberal benefits should be provided for maritime employment because it is an unusually hazardous occupation.

The great majority of employment in the District can hardly be classified as unusually hazardous in view of the following breakdown of job classifications in this city.

Average covered employment, second quarter, 1960, Washington metropolitan area, industry group, and percentage:

Agricultural and quarrying, less than 1 percent.

Contract construction, 9.1 percent.

Manufacturing, 8.9 percent.

Local transit, motor freight, and warehousing, airlines, freight services, telephone and telegraph, gas and electric utilities, 9.5 percent.

Wholesale, 8.3 percent.

Retail, 27.5 percent.

Finance, insurance and real estate, 11 percent.

Services: Hotel, personal business (includes many R. & D.), auto repair, amusements, medical, legal, educational, some nonprofit, 25.7 percent.

Source, District of Columbia Unemployment Compensation Board.

In summary, only 27½ percent of District of Columbia private employment is in construction, manufacturing, transportation, and

utilities which might be classified as hazardous though a large percentage of such employees are in clerical or nonhazardous white collar jobs.

Some 72½ percent of District of Columbia employment is predominantly nonhazardous in wholesale, retail, financial, and service classifications.

It may be reasonably concluded that earnings in hazardous maritime employment will always run at a higher average than in private employment in the District.

Moreover, employment projections in the District forecast a significantly increased number and percentage of such nonhazardous jobs.

These facts and projections in our opinion support our effort to exclude District of Columbia employment from the Longshoremen's and Harbor Workers' Compensation Act, which will undoubtedly always be geared to the special conditions associated with maritime employment.

We simply request application to the District of the standard voiced by Senator Morse on January 31, 1961, when he introduced S. 733.

According to the Congressional Record, the Senator said:

> Under the circumstances, the proposed amendment is a matter of simple equity. It merely increases the maximum allowable weekly benefit to a level approximating a two-thirds ratio of average prevailing wages. It restores to longshoremen, ship repair workers, and others engaged in the hazardous occupations covered by the act, the opportunity to qualify for a disability benefit that has a reasonable relationship to lost wages.

Still another reason, as I mentioned earlier, for separating District of Columbia employment from the Longshoremen's Act is that District benefits are already out of line with the pattern of adjacent, competitive States as is shown in the following comparison of benefits in Maryland, Virginia, and the District.

Also, the relative liberality of the Longshoremen's and Harbor Workers' Compensation Act is, of course, reflected in higher costs to District employers.

It seems appropriate, therefore, to review relative costs in Maryland, Virginia, and in the District in a number of classifications so that the committees may have information respecting the cost variation of such insurance for employers in the District, as compared with the surrounding area.

(The charts referred to follow:)

CHART I.—*Comparison of workmen's compensation benefits, District of Columbia, Maryland, and Virginia*

State	Fatal injuries				Permanent and total disability			
	Maximum period (weeks)	Maximum per week	Maximum amounts	Maximum percent of wages	Maximum percent of wages	Maximum weekly payment	Time limit (weeks)	Amount limit
District of Columbia	[1]	$54	[2]	66⅔	66⅔	$54	[3]	[4]
H.R. 1258	[1]	70	[2]	66⅔	66⅔	70	[3]	[4]
Maryland	500	40	$15,000	66⅔	66⅔	40	[5]	$30,000
Virginia	300	35	10,500	60	60	35	500	14,000

[1] Not specified.
[2] No limit.
[3] Life.
[4] Limit on one injury $17,280; raised to $24,000 in proposed legislation.
[5] Period of disability.

Source: State laws.

CHART II.—*Comparative insurance rates paid by employers per $100 of payroll in the District of Columbia, Maryland, and Virginia for a varied number of classifications*

[Rates per $100 of payroll]

Classification	District of Columbia	Maryland	Virginia
Clerical, office employees not otherwise classified	$0.14	$0.10	$0.06
Department stores, retail	.48	.56	.32
Clothing, wearing apparel, dry goods, wholesale	.51	.50	.33
Clothing, wearing apparel, dry goods, retail	.57	.48	.20
Laundries, not otherwise classified	.74	.67	.27
Truckmen, not otherwise classified	3.83	2.91	1.59
Carpentry, private residences	3.66	2.64	1.70
Iron and steel:			
Erection frame structures	29.52	13.92	6.32
Buildings not over 2 stories	9.79	7.24	3.46
Not otherwise classified	18.93	11.68	4.01
Concrete construction:			
Bridges and culverts	10.94	6.94	2.18
Not otherwise classified	5.67	4.12	2.65

Source: Compensation and Employers Liability Manual, National Council on Compensation Insurance, May 1961.

These are manual costs and will vary and can be much higher for employers in any of the jurisdictions depending on their individual experience.

It will be noted that virtually all the District manual rates are higher than in adjacent jurisdictions. The differential is not so great or too meaningful in many of the less hazardous occupations.

However, it will be seen that in a number of classifications listed, such as truckmen and construction, the cost differential in the District is very significant.

Compensation insurance costs of truckmen for example, are more than double in the District compared to Virginia and also significantly higher than in Maryland.

A 3.83-percent payroll cost for compensation insurance in the District compared with 1.59 percent in Virginia, represents a considerable excess cost for anyone in the trucking business in the District of Columbia.

It is clear that in combination with other higher costs in the District, there are ample and perhaps even irresistible reasons why a trucking firm might not be able to compete with firms outside the jurisdiction.

In some of the more hazardous occupations, the cost differential is even more significant.

For example, under iron and steel erection frames and structures, it will be seen that workmen's compensation costs in the District are 29.52 percent of payroll; whereas, in Maryland they are but 13.92 percent, and in Virginia 6.32 percent.

We submit that such cost differentials are injurious to the maintenance of a sound tax base in the District of Columbia.

Workmen's compensation costs in the District of Columbia reach a sizable figure. Our best information puts current total costs of all employees at about $7¾ million.

It is estimated that raising the maximum weekly benefit to $70 will increase costs about 25 percent, raising employees' costs to a figure between $9½ and $10 million.

We have attempted without going into too much detail to relate the principal reasons why we feel the Longshoremen's and Harbor

Workers' Compensation Act should not apply to employment within the District of Columbia.

It should be stated here that we have no quarrel with the provisions of the Longshoremen's and Harbor Workers' Compensation Act in the main nor with the administration of the act by the Employees Compensation Commission.

The bills we have drafted, H.R. 6844 in the House, and S. 1919 in the Senate, for a separate D.C. workmen's compensation law, embody in the main all the provisions of the Longshoremen's and Harbor Workers Compensation Act.

They provide exactly the same benefits currently provided in the Federal Act, $54 a week maximum, $18 minimum, specified amounts for specified injuries, and the same limitations or lack of limitations as to totals.

The bill also provides for continued administration by the Employees Compensation Commission.

There are a number of detailed changes respecting administration, appeals, and other technicalities, most of which we believe are improvements over those contained in the Longshoremen's and Harbor Workers' Compensation Act.

We will not burden the committee with a recitation of these changes since these are matters for consideration by the District of Columbia Committees.

We assume that this committee's interest is limited to our general statement that no benefit changes or major alterations are included in our proposed District of Columbia law.

The present new Board of Commissionrs has not adopted a policy respecting the proposal for a separate District of Columbia workmen's compensation law.

The Board of Commissioners in 1956, at the time a similar bill was reported by the House District Committee, interposed no objection and did, in fact, support the legislation provided there was no change in the benefits from those then paid under the Longshoremen's and Harbor Workers' Act.

Mr. Chairman and gentlemen, we hope to get reasonably prompt action from the District of Columbia Committees on the bills which have been introduced. We earnestly hope there will be no objection on the part of this committee to removing employment in the District of Columbia from the Longshoremen's and Harbor Workers' Compensation Act.

We recognize that the status of the legislation to liberalize the Longshoremen's and Harbor Workers' Act indicates final action on it by the Congress before our bill can be acted on by the District of Columbia Committees, the Senate and House of Representatives.

Under the circumstances, we request that an amendment be made to the bill now before the committee making benefits changes inapplicable in the District of Columbia, so that we may have an opportunity to seek favorable action by the Congress on our bills before a 79 percent of average weekly earnings benefits maximum is imposed on private employment in the District.

Senator McNAMARA. Thank you very much, sir. The tables, of course, will be made a part of the record.

Did you identify the gentleman who is with you, for the record?

Mr. PRESS. Yes, sir; Mr. Edward Duplinsky, of the Evening Star Newspaper Co.

Senator MCNAMARA. Would you agree that the basic purpose of these acts is to provide covered workers with two-thirds of his weekly wages when totally incapacitated by industrial accident?

Mr. PRESS. Mr. Chairman, I cannot say that with respect to the original passage. I am not sure about the history. I know for the last 15 years, since World War II, that Congress attempted to write this law so that it covered 66⅔ percent of the average wages.

Senator MCNAMARA. From the information we have it does appear that that was the intent of Congress at the time.

Mr. PRESS. Yes.

Senator MCNAMARA. Assuming it is proper to have a compensation law which provides a man with two-thirds of his average wage, disregarding for the moment the competitive factors, is not the act before us a fair one, in your judgment?

Mr. PRESS. We have no quarrel with it insofar as maritime employment is concerned. Our only problem is that it amounts to a 79 percent of average private employment wage in the District of Columbia.

We have no quarrel with the 66⅔ percent of average wages as the maximum benefit in the District of Columbia. We just think it gets too high a maximum.

Senator MCNAMARA. You recognize that the only persons affected by the bill in the District of Columbia are those whose average wages are above $80 a week.

Mr. PRESS. The only persons affected?

Senator MCNAMARA. By the pending legislation. Those whose average wage is above $80 a week are the only ones affected.

Mr. PRESS. Yes; I guess that is correct.

Senator MCNAMARA. I think you ought to check into it. I believe you will find that to be the case.

Mr. PRESS. I think that is right, sir.

Senator MCNAMARA. Thank you very much for your testimony. It will be very helpful to the committee.

Mr. PRESS. Thank you, Mr. Chairman.

Senator MCNAMARA. Now, we have another witness, Mr. Walter Mason, legislative representative of the AFL–CIO. He will be accompanied by Mr. Jay Turner, president of the District of Columbia Central Labor Union.

I see he has another gentleman whom he will introduce.

Mr. Mason, will you proceed, please.

Mr. MASON. Thank you.

STATEMENT OF WALTER MASON, LEGISLATIVE REPRESENTATIVE, AFL–CIO, ACCOMPANIED BY CLINTON FAIR, ASSISTANT SOCIAL SECURITY DIRECTOR AND JAY TURNER, PRESIDENT, DISTRICT OF COLUMBIA CENTRAL LABOR UNION

Mr. MASON. My name is Walter J. Mason, legislative representative of the AFL–CIO.

I have accompanying me Clinton Fair, assistant social security director of the AFL–CIO, and Jay Turner, president of the Washington Central Labor Council.

We appear here today, Mr. Chairman, on behalf of the AFL–CIO, as well as the metal trades department of the AFL–CIO and the Washington Central Labor Council.

All these organizations are directly concerned with the pending legislation, and have asked the AFL–CIO to represent them at this hearing.

I also have a statement of Patrick J. Connolly, executive vice president of the ILA and with your permission, Mr. Chairman, I would like to file that statement with the subcommittee for inclusion in the record, and to be made a part of this hearing.

Senator McNAMARA. Without objection, it certainly may be made a part of the record.

Mr. MASON. Thank you, sir.

(The prepared statement of Mr. Connolly follows:)

PREPARED STATEMENT OF PATRICK J. CONNOLLY, EXECUTIVE VICE PRESIDENT, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL–CIO

Mr. Chairman, my name is Patrick J. Connolly. I am executive vice president of the International Longshoremen's Association affiliated with the AFL–CIO. We appreciate the opportunity to testify before your subcommittee on S. 733 and companion bill H.R. 1258 to amend the Longshoremen's and Harbor Workers' Compensation Act.

This law is far more important than its name would imply. It covers approximately 600,000 workers. Principally, these consist of longshoremen, clerks, checkers, ship servicemen, ship repairmen, and harbor workers, excluding seamen. The act also covers private employment in the District of Columbia and employees of U.S. contractors outside continental United States.

The workers covered by this act are engaged in extremely hazardous occupations. Injuries are frequent and severe. Along with logging and mining, the injury frequency rate of longshoring ranks among the highest. According to the Bureau of Employment Compensation, 29,663 longshoremen were injured in 1959 and 31,359 were injured in 1960 in the course of their employment. This large number of injuries is appalling and just cause for alarm.

The ILA represents close to 75,000 workers employed in all ports from Portland, Maine, on the Atlantic coast to Brownsville, Tex. on the Gulf of Mexico including the Great Lakes. We have continuously sought to keep this act in line with changing conditions.

The basic premise of Congress when this act was originally enacted in 1927 providing an injured longshoreman with 66⅔ percent of his earnings when injured is no longer realistic. Because the act fixes limitations upon compensation payable to workers for injuries and death, its provisions must be constantly reviewed by Congress in order to keep them in line with current wages and the cost of living.

Since 1955 wages in general have increased substantially for longshoremen covered under the act. For example, in 1955 the basic rate was $2.48 per hour compared to $2.97 per hour today for day rate. The basic night rate during the same period has increased from $3.72 to $4.45½ per hour.

The average weekly wage today for regular longshoremen according to the New York Shipping Association is $115 compared to approximately $85 in 1955 when the act was last amended.

The Longshoremen's and Harbor Workers' Compensation Act lags far behind other comparable legislation such as Federal employees' compensation and many State workmen's compensation laws. The maximum allowable in the State of Alaska is $100 a week; the State of Arizona, $150 a week; the Province of Ontario, $72.11 a week. For Federal employees, the U.S. Congress has provided a maximum benefit of $525 per month or $121 per week.

The ILA supports the Morse bill, S. 733, and companion bill, H.R. 1258. The companion bill, H.R. 1258, passed the House unanimously on March 21, 1961. It should be further noted that an identical bill passed the House unanimously last year in the closing days of the session but failed to reach the Senate floor for final action.

The purpose of S. 733 and companion bill H.R. 1258 passed by the House is to provide increased benefits for employees covered under the Longshoremen's and Harbor Workers' Act who have suffered disabling injuries. The increases in the

benefits are designed to conform to present day wages and living costs and thereby bring the benefit structure into line with the original intent of the act. The bill raises the $54 maximum in the present law to $70. Under the present law, death benefits are computed by considering the average weekly wages of the deceased to have been not less than $27 or more than $81. This bill provides for increasing the ceiling from $81 to $105. The present law restricts the amount paid in case of an injury to any employee to a total of $17,280. This bill would increase that total amount payable from $17,280 to $24,000.

We believe that this proposal is a solid step in the right direction. Such a rate is more than justified if we consider the original intent of the act in relation to current wage levels and benefit standards embodied in the Federal Employees Compensation Act. As a matter of fact, we find a weekly benefit of more than $70 is warranted.

As stated before, S. 733 and companion bill H.R. 1258 increased the maximum benefit amount of $70. This means that all persons receiving more than $105 a week will be provided wage loss benefits less than the two-third principle intended in the law. If we are to provide the majority of workers injured on the job benefits in accordance with the principle enunciated in the law today, it will be necessary to increase the maximum benefit amount from $54 to at least $70 per week.

This does not mean that every person injured on the job will receive $70 a week. In fact, only those who receive over $81 a week shall receive any benefit increase. Those receiving more than $105 a week will still draw benefits of less than two-thirds of their average weekly earnings. It should be noted that thousands of longshoremen do earn an average of much more than $105 a week.

Therefore, the enactment of this legislation by Congress is long overdue.

This concludes the statement of the International Longshoremen's Association. We urge prompt and favorable action on the Morse bill, S. 733, or companion bill, H.R. 1258, passed by the House which increases the ceiling on benefits so as to permit workers under the act to obtain more equitable benefits in relation to their earnings.

Mr. MASON. Mr. Chairman, we are gratified that your subcommittee has decided to hold public hearings on this important issue. It has been 5 years since Congress last reviewed the benefit provisions of the Longshoremen's and Harbor Workers' Compensation Act. Congressional action to bring the terms of this statute more in line with present-day conditions is long overdue.

Approximately 600,000 workers are covered by the Longshoremen's Act. Not only is the statute a workmen's compensation law for longshoremen, ship repairmen, ship servicemen, harbor workers, and other offshore workers, but, in addition, it is the basic Workmen's Compensation Act for the District of Columbia.

It also applies to employees of Government contractors at defense bases outside the United States.

For this reason, Congress has particular responsibility toward this legislation. It should seek to develop a compensation law toward which State legislative efforts could be directed.

However, in many ways the basic provisions in this law have fallen behind the standards established by the Federal Employees Compensation Act and many State compensation laws.

For example, 10 Provinces of Canada have fixed benefits at 75 percent of the average weekly amount. The average weekly benefit amounts for British Columbia, Ontario, Quebec, and Saskatchewan, are fixed at 75 percent of $5,000 or $72.11.

The Longshoremen's Act provides a weekly benefit of 66⅔ of the injured workers average wage.

In order that benefits may not be abused all jurisdictions have fixed a maximum weekly benefit amount. The maximum weekly benefit amount which the Congress has fixed for the Federal employees is $121.15 per week.

The maximum amount in Arizona is $150 per week.

In Hawaii, it is $75 a week.

In Alaska, $100 a week. The 66⅔ percent of the average weekly wage becomes meaningless if the maximum benefit amount is fixed too low.

With a $54 a week maximum benefit amount, covered employees in the District of Columbia who earn more than $81 a week receive less than the intended 66⅔-percent benefit amount of average weekly wage.

Workers covered by this act are engaged in extremely hazardous occupations. Injuries are frequent and severe.

The frequency rate among longshoremen ranks with mining and logging as the highest in the Nation.

According to the Bureau of Employment Compensation, 31,359 longshoremen, 20,143 harbor workers, 8,354 defense base workers, and 25,546 private employees in the District of Columbia were injured in 1960 in the course of their employment.

This is a combined total of 87,302. Of these injuries, 112 were fatal. Such severe losses should be adequately compensated.

The importance of adequate compensation has been recognized by the American College of Surgeons, and the American Medical Association.

The American College of Surgeons has called for: "adequate compensation to secure family security during the entire period of disability and rehabilitation."

The position of the American Medical Association is as follows:

> Workmen's compensation is not a relief program. It is the proper intent of the program that a disabled employee and his family should not suffer a serious reduction in normal living standards during the rehabilitation period. This requires that the benefit level be maintained at an adequate percentage of usual wage and include reasonable personal expenses incurred by the employee in the course of the rehabilitation process.

Underlying almost all workmen's compensation laws is the principle that the great majority shall receive indemnity benefits equal to two-thirds of their actual wage loss during the period of total disability.

We think a one-third cut in actual earnings entails a serious reduction in normal living standards during the rehabilitation period, and, therefore, by the American Medical Association's standards, as well as ours, is too severe.

On the other hand, there are clearly justifiable reasons why Congress fixes a maximum benefit amount, a ceiling on compensation to injured persons regardless of earnings.

But, unfortunately, this maximum has not been raised since 1956, and still stands at $54 a week for those earning $81 a week, or more. That is no longer a realistic standard.

Since 1955, wages in general have increased substantially for employees covered under the act. I have the figures in table form, as follows:

Senator MCNAMARA. That table may be made a part of the record at this point.

Mr. MASON. Yes, sir.

(The table referred to follows:)

TABLE 1.—*Basic hourly rates for longshoremen in the east and gulf coast areas*

	Rate	
	1955	1961
General cargo:		
Basic rate	$2.48	$2.97
Overtime rate	3.72	4.45½
Penalty cargoes:		
Bulk cargo, ballast, and coal cargoes	2.53	3.02
Cement and lime in bags	2.53	3.12
Damaged cargo	4.86	5.90
Explosives	4.86	5.90
Kerosene, gasoline, and naphtha	2.68	2.97
Refrigerator space cargo	2.68	3.22
Wet hides, creosoted poles, ties, shingles, cashew oil, soda ash in bags, and naphthalene in bags	2.63	3.12

Mr. MASON. You can see that there have been substantial wage increases since 1956, when the act was last amended.

According to the New York Shipping Association, the average weekly wage today for regular longshoremen is $115, compared to approximately $80 to $85 in 1956.

Recent studies show that ship repairmen are now averaging over $105 a week. The average weekly wage of manufacturing workers in the District of Columbia in 1960 was $98.55.

If wage rates for the construction industry were included, it would bring the average to well over $105.

A tabulation of building and construction rates is attached to this testimony, and I ask that it be included in the record.

(The tabulation referred to follows:)

TABLE 2.—*Wage rates, Washington and vicinity—Washington Building Trades Council*

Trades	Health and welfare	Present wage	Agreed upon increases		Effective date of agreement	Termination date of agreement	Pension
	Cents						*Cents*
Asbestos workers	10	$4.35			July 1, 1958	June 30, 1961	
Boilermakers	10	4.10	4.25	Nov. 1, 1961	Nov. 1, 1960	Oct. 31, 1962	
Boilermakers' helpers	10	3.85	4.00	do	do	do	
Bricklayers	9	4.15	4.30	May 1, 1961	May 1, 1959	Apr. 30, 1962	10
Carpenters	9	3.85			do	Apr. 30, 1961	
Millwrights and piledrivers	9	3.97½			do	do	
Cement masons	10				May 20, 1959	do	
0 to 20 miles		3.77½					
20 to 35 miles		4.02½					
Over 35 miles		4.27½					
Electrical workers	10				July 1, 1959	June 30, 1961	
0 to 20 miles		4.40					
20 to 40 miles		4.65					
Beyond 40 miles		4.90					
Elevator constructors	8½	4.31			Nov. 1, 1957	Dec. 31, 1961	
Foreman		4.85					
Helper		3.02					
Engineers	12½				May 12, 1959	Apr. 30, 1961	8
Shovels, cranes, cableways, derricks, hoists, draglines, and mixers		3.97					
Trenching machines		3.71					
Graders, scoops, scrapers		3.52					
Air compressor operators, mixer operators, pumpmen		3.54					
Bulldozer operators		3.52					
Glaziers	10½	3.78½	3.95½	Oct. 1, 1961	Oct. 1, 1960	Sept. 30, 1963	
			4.10	Oct. 1, 1962			
Ironworkers	10		July 1, 1961		July 1, 1960	July 1, 1962	10
0 to 20 miles		4.25	4.45				
20 to 40 miles		4.50	4.70				
Beyond 40 miles		4.75	4.95				
Laborers	7½	2.60			May 1, 1959	Apr. 30, 1961	5
Lathers	15	4.00			Apr. 1, 1959	Mar. 31, 1961	
Marble masons	15	4.07½	4.17½	Jan. 21, 1961	June 21, 1959	June 21, 1962	10
			4.32½	June 21, 1961			
			4.42½	Jan. 21, 1962			
Marble polishers' helpers		3.07½					
Painters, brush and spray	10		May 16, 1961	May 16, 1962	May 16, 1960	May 15, 1963	
0 to 15 miles		3.69	3.81½	3.94			
15 to 40 miles		3.94	4.06½	4.19			
Beyond 40 miles		4.19	4.31½	4.44			
Painters, structural and hazardous			May 16, 1961	May 16, 1962			
0 to 15 miles		4.02	4.14½	4.27			
15 to 40 miles		4.27	4.39½	4.52			
Beyond 40 miles		4.52	4.64½	4.77			

Plasterers	15		Apr. 1, 1961	Oct. 1, 1961	Apr. 1, 1960	Mar. 31, 1962	15
0 to 17 miles		4.00	4.07½	4.15			
17 to 35 miles		4.25	4.32½	4.40			
Beyond 35 miles		4.50	4.57½	4.65			
Plumbers	17½		Sept. 1, 1961	Sept. 1, 1962	Sept. 1, 1960	Aug. 31, 1963	
0 to 20 miles		4.35	4.50	4.65			
20 to 40 miles		4.60	4.75	4.90			
Beyond 40 miles		4.85	5.00	5.15			
Reinforce rodmen	10				July 1, 1959	June 30, 1961	5
0 to 20 miles		4.00					
20 to 35 miles		4.25					
Beyond 35 miles		4.50					
Roofers [1]	10				Mar. 1, 1958	Feb. 28, 1961	
Mopmen, etc		3.52					
Compositions, etc		3.02					
Helpers		2.47					
Sheet metal workers	12½		Sept. 1, 1961	Sept. 1, 1962	Sept. 1, 1960	Aug. 31, 1963	
		4.36	4.51	4.68			
Sign painters	10		Apr. 1, 1961		Apr. 1, 1960	Mar. 31, 1962	
Design artists		3.30	3.40				
Master journeyman		3.20	3.30				
Outdoor and shopmen		2.95	3.05				
Junior journeyman		2.60	2.70				
Helpers		2.20	2.30				
Helpers, utility		1.60	1.70				
Steamfitters	12½		Sept. 1, 1961	Sept. 1, 1962	Sept. 1, 1960	Aug. 31, 1963	
0 to 20 miles		4.40	4.55	4.70			
20 to 40 miles		4.65	4.80	4.95			
Beyond 40 miles		4.90	5.05	5.20			
Stone carvers	17½	4.40½	4.60½	Aug. 1, 1961	Aug. 1, 1959	Aug. 1, 1962	
Stonecutters	17½	4.17½	4.42½	do	do	do	
Stone masons	15	4.17½	4.42½	June 21, 1961	June 21, 1959	June 21, 1962	10
Tile and terrazzo workers		4.07½	4.22	Jan. 1, 1962	Jan. 1, 1961	Dec. 31, 1962	
Tile and terrazzo helpers		3.07½			do	Dec. 31, 1961	
Truck drivers	5				May 25, 1959	Apr. 30, 1961	
Dump trucks, sprinklers, grease and oil		2.30					
Dump over 8 wheels, flat trucks, trailers, tractor pulls and pickups		2.40					
Carryalls, euclids, dumpsters, tunnel work		2.70					
Helpers		2.15					
Concrete drivers		2.52½					
Boom trucks		2.55					

[1] For county differentials consult business agent.

Also 75 cents per day running time to all men working for excavating contractors.

Mr. MASON. To go back further into history, in 1940 the average weekly wage in the District was $26.69; at the same time the maximum disability amount was fixed by law at $25 a week, or 93.7 percent of the average weekly wage.

To restore the ratio of 1940, the maximum benefit amount in 1961 would be approximately $100 a week.

Therefore, we feel our proposals are extremely modest. The AFL–CIO and its affiliates support the Morse-Zelenko bill, S. 733, and H.R. 1258.

The Zelenko bill, H.R. 1258, passed the House unanimously on March 21 of this year. You will note the rates of the building and construction industry in the District here for a 40-hour week would range in most cases, the large majority of cases, from $150 a week to $200 a week.

With the $54 maximum benefit set in the Longshoremen's Act, instead of receiving 66⅔ of their average earnings, they are only receiving say from 25 to 30 percent of average earnings.

I might add here, Mr. Chairman, that an identical bill passed the House unanimously last year. It was reported out of the committee unanimously and passed the House unanimously. The bill increases the maximimum benefit amount from $54 to $70.

We do not look upon this as a generous move. For one thing, it means that all persons receiving more than $105 a week will not be protected to the extent of two-thirds of their earnings as intended in the law.

A maximum benefit of more than $70 is warranted, but $70 would at least assure a two-thirds return to the majority, and, therefore, we urge you to approve it.

We feel we should also call your attention to the dramatic contrast in scheduled losses between the Federal Employees Compensation Act and the District of Columbia or the Longshoremen's and Harbor Workers' Compensation Act.

An arm at the shoulder is worth $37,799 under FECA, but for a worker in private employment, covered by the District of Columbia Workmen's Compensation Act, the maximum is $16,848.

A hand, under FECA, is worth $29,560; under the Longshoremen's and Harbor Workers' Compensation Act, it is worth only $13,176.

Similarly, other figures for scheduled losses are twice as high under FECA as in private employment.

It is difficult to see, as a matter of simple equity, why an employee of the Federal Government should receive more than twice the amount for the loss of an arm than a person in private employment in the District of Columbia.

Medical and indemnity benefits as a percent of payroll in the United States vary from a high in Oregon of 1.3 percent, to a low in Delaware of 0.3 percent.

Medical and indemnity benefits in the District of Columbia are 0.4 percent of payroll. In only four States: namely, Indiana, Alabama, Pennsylvania, and Delaware, are they lower.

Although the District of Columbia provides an annuity in death benefit cases, the percentage of wages replaced by the average death benefit was only 45.2 percent of the potential loss, a figure substantially below the intended two-thirds.

When Congress decided—and we think correctly—to substitute a compensation system for adversary proceedings of employee suits

against employers in negligence, Congress also assumed the responsibility for establishing adequate standards, so that an injured worker would not lose out for lack of a jury trial of his claim.

We do not think the present District law fulfills that responsibility.

The very purposes of workmen's compensation offer the Congress certain guidelines. Workmen's compensation was not intended as, nor is it, a relief program. By providing rehabilitation benefits, Congress has clearly indicated its belief that whenever possible an injured worker should be restored to his greatest productive capacity.

Again I wish to stress that Congress, in the case of injured Government employees and to beneficiaries in case of death, has set a maximum benefit of two-thirds to three-fourths of average weekly earnings, not to exceed $121 per week.

This law covers approximately 258,000 Government employees in the District of Columbia.

In comparison, in the Longshoremen's and Harbor Workers' Compensation Act, which covers approximately 250,000 District of Columbia employees in private employment, Congress set a maximum of $54.

The average wage for Government employees and private employees in the District is practically the same.

For example, a printer at the Government Printing Office receives $3.52 an hour. A private employee working at the same trade and a member of the same union gets $3.77. But the Government employee in the printing trades would receive benefits of $100 a week, compared to $54 a week for his fellow craftsman in private employment. This discrepancy is inconceivable.

By raising this $54 maximum to $70, S. 733 or H.R. 1258, takes a long overdue step in the right direction.

We urge the subcommittee to recommend its enactment at the earliest opportunity in order to provide a greater measure of protection to workers and their families against the crippling effects of on the job injuries.

Senator McNAMARA. I take it you want to include these tables with your testimony and that will be so ordered at this point in the record.

Mr. MASON. Thank you, Mr. Chairman.

Senator McNAMARA. I see you have a difference in the health and welfare payments by the Plumbers and the Steamfitters in the District. Are they not covered by the same contract?

Mr. MASON. Yes.

Senator McNAMARA. One is 17½ cents an hour, and the other is 12½ cents an hour.

It is not the same contract?

Mr. MASON. We have a representative of the Plumbers here.

Senator McNAMARA. Will he tell us?

STATEMENT OF CECIL RHODES, BUSINESS MANAGER, PLUMBERS LOCAL NO. 5

Mr. RHODES. Yes. My name is Cecil Rhodes, business manager of Plumbers Local No. 5.

In our last raise, Senator, the Steamfitters took it all in the pocket and Plumbers put 5 more cents in health and welfare fund. That is the difference.

Senator McNAMARA. But it is all under the same contract? It is just a different application?

Mr. RHODES. We make two separate contracts with the same people. However, we both have the same association.

Mr. MASON. I would like to add one more thing, Mr. Chairman, both the Eisenhower administration and the present administration have supported this proposal. I believe letters are on file with your committee from the Secretary of Labor of both administrations.

Senator McNAMARA. These letters will be made part of the record. (See pp. 2 and 3.)

Mr. MASON. I also point out that the Board of Trade in the District of Columbia has continually tried to separate the District from this law for a number of years and it has been opposed by all of the administrations in office at the time.

Senator McNAMARA. I asked the previous witness if he had appeared before the committee in the House when they held these hearings. He indicated he had not.

Did you appear before them?

Mr. MASON. I did. We had extensive hearings on this, along with a number of other witnesses in 1960.

Senator McNAMARA. Senator Burdick, do you have any questions?

Senator BURDICK. No, except I understand the essence of your statement is that there should be no distinction between the employees in the District and the longshoremen.

Mr. MASON. We think it is very unfair. There are only two Federal workmen's compensation laws that the Congress enacted. One is the Government Employees Workmen's Compensation Act, and the other is the Longshoremen's Act.

Here we have in the District of Columbia 250,000 Federal employees on which Congress sets a maximum of $121 and at the same time another law sets a maximum of $54 for private employment in the District of Columbia.

In numerous cases they are working side by side, together, one gets injured and gets more than twice as much as the other.

We think it should be corrected.

I think this bill will help to bring it more in line, Mr. Chairman, with the Federal law.

Senator McNAMARA. At this point we will insert in the record various letters and statements.

(The material referred to above follows:)

U.S. SENATE,
COMMITTEE ON COMMERCE,
May 19, 1961.

Hon. PAT McNAMARA,
Chairman, Subcommittee on Labor, Senate Committee on Labor and Public Welfare, Senate Office Building, Washington, D.C.

DEAR CHAIRMAN McNAMARA: It was good to learn that hearings have been scheduled by your subcommittee for May 23 on S. 733.

If you would have the enclosed statement inserted in the hearing record in support of this measure, I would be most appreciative.

My kindest regards.

Sincerely,

WARREN G. MAGNUSON, *U.S. Senator.*

STATEMENT BY SENATOR WARREN G. MAGNUSON, OF WASHINGTON

Mr. Chairman, again this session, I have cosponsored with my colleague from Oregon, Senator Wayne Morse, S. 733, which increases the maximum permissible weekly disability benefit under the Longshoremen's and Harbor Workers Act.

Need for this legislation was termed by both Senator Morse and myself as imperative in the 86th Congress. If it was imperative that action be taken then, imagine how much more important it is for those attempting to make ends meet now on these present benefits, last adjusted in 1956.

I would make it clear that even with the new benefit ceiling, a maximum of only $70 weekly would be available for those employees earning $105 weekly or more. For those earning less than $105 weekly, the benefit payment would be two-thirds of actual earnings.

It is good to note that identical legislation already has been passed by the House. It is my hope that the Senate takes this vitally needed step soon.

U.S. SENATE,
COMMITTEE ON BANKING AND CURRENCY,
April 24, 1961.

SENATE LABOR SUBCOMMITTEE,
New Senate Office Building,
Washington, D.C.

GENTLEMEN: At the request of the writer of the attached letter, I would appreciate it if you would make it part of the record of proceedings on the Morse bill, S. 733, if and when hearings are scheduled on the measure.

Thank you.

Sincerely,

JOSEPH S. CLARK.

SHIPBUILDERS COUNCIL OF AMERICA,
New York, N.Y., April 7, 1961.

Hon. JOSEPH S. CLARK,
Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SENATOR CLARK: The member companies of the Shipbuilders Council of America, the national trade association in the shipbuilding and ship repair industry, are much concerned with pending bills S. 733 and H.R. 1258 before the Committee on Labor and Public Welfare, which bills would raise maximum compensation rates under the Longshoremen's and Harbor Workers' Compensation Act by about 30 percent to $70 per week from the present $54 per week rate. The increase would push statutory benefits under the Federal statute to a level far out of line with average benefits provided in State workmen's compensation laws.

The workmen's compensation law of the State of Pennsylvania provides for a maximum weekly temporary disability benefit of $42.50 for a single worker. Thus the Federal act is already $11.50 higher than Pennsylvania State law. If the Federal maximum is raised to $70 as is proposed, the Federal rate will be $27.50 higher than the Pennsylvania State provision.

Such a differential seems to be entirely unwarranted and unjustifiable.

When a ship repairman is aboard a vessel or is on a drydock he is under the Federal act. At all other times he is covered by his State's compensation law. In other words, the controlling factor is his physical location at a specific moment rather than the type work he is doing. During the course of a day's work, therefore, a ship repairman may alternate many times from Federal to State law jurisdiction and vice versa.

It is self-evident there must be dollar uniformity between Federal and State statutory benefits to the greatest possible degree. S. 733 and H.R. 1258 entirely disregard this obvious need for maximum consistency.

The combined judgments of the legislatures of the States have arrived at limits to compensation benefits which average far below that in the pending bills. These judgments by the State legislatures, in a field historically a sphere of State responsibility, should not be ignored. There are many compelling reasons, social and economic, why the States have decided on more moderate levels than those proposed by the pending bills.

The Shipbuilders Council agrees with the recommendation by the Department of Labor in its Bulletin No. 212, December 1959, that the objective is:

"To provide a maximum weekly benefit rate which will be sufficient to allow an injured worker and his dependents to maintain a standard of living above the subsistence level.

"To achieve this objective, the maximum weekly benefit should be equal to at east 66⅔ percent of *the State's average weekly wage.*" [Italic supplied.]

Note the recommendation is not that the level of benefits be set on the basis of wages in a particular industry or on the degree of hazard in industry but rather on the average wages in all employments in the State. This basic principle is not followed in the pending bills. Instead, proponents of the bills place stress on the high wages in stevedoring and the hazardous nature of that type of work. The approach is improper both economically and socially and contrary to the stated objective quoted above.

The Shipbuilders Council on behalf of its members strongly urges that S. 733 and H.R. 1258 be carefully considered in the light of the large differential it would create between the maximum compensation rates set by the several States and that in the Federal act. The council is confident if this factor is given proper consideration, the bills will not be enacted.

Respectfully yours,

L. R. SANFORD, *President.*

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., May 22, 1961.

Hon. PAT MCNAMARA,
Chairman, Subcommittee on Labor,
Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SENATOR MCNAMARA: I wish to present the views of the American Merchant Marine Institute, the largest national association representing American shipowners and operators, with respect to proposed legislation to amend the Longshoremen's and Harbor Workers' Compensation Act to increase the benefits thereunder.

We recognize the established principle that an injured employee's disability benefits under the act should be equal to a maximum of two-thirds of his average weekly earnings. The record shows that this was the overriding consideration when Congress enacted legislation in 1956 increasing the scale of compensation for disability. On this basis there may be a logical basis for adjusting rates. However, it is our contention that the two-thirds concept should be evaluated on the take-home pay and not computed on the basis of gross wages since only the former basis in fact gives the worker usable income.

Proposed legislation now before you provides maximum benefits of $70, which is exceedingly excessive within the two-thirds concept. According to figures available to us, all longshoremen in the New York port area are earning an average of almost $95 per week under their current agreement. Allowing four exemptions (based on the "Current Population Report No. 96" of the U.S. Department of Commerce which shows that the average family is now established at 3.66 persons), the take-home pay would be about $85 after proper deductions. Two-thirds of such take-home pay would be somewhat over $55, which is considerably lower than the $70 figure.

However, in view of the fact that wages in this industry appear to be moving upward, at least on the basis of recent history, the Congress will doubtlessly not choose to amend the law annually in order to keep up with changing wage levels. In view of this fact and without doing any violence at all to the basic two-thirds concept, may we respectfully suggest that a $60 level would be both adequate and fair to the parties involved.

We urge that this matter be given careful consideration, keeping in mind that compensation is not subject to Federal withholding, State withholding, or social security. Our concern is that no legislation increasing compensation far beyond the basic framework intended should be approved.

With respect to section 4 of S. 733, we suggest that the word "disability" should be changed to "death" in order to make the act effective as to injuries or death on or after the date of enactment. This change has been made in the House-passed H.R. 1258 which has been referred to your subcommittee.

We ask that this letter be made a part of the record of this bill.

Yours very truly,

ALVIN SHAPIRO.

NEW YORK SHIPPING ASSOCIATION, INC.,
New York, N.Y., May 22, 1961.

Subject: S. 733.

Hon. LISTER HILL,
Chairman, Senate Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SENATOR HILL: On behalf of New York Shipping Association, Inc., I write to express our concern regarding the above bill which seeks to increase to $70 the maximum weekly benefits for workmen's compensation for longshoremen—a rate completely unrealistic when measured by the actual levels of wages now being received or that may be received in the next year or two.

The New York Shipping Association, Inc., is a membership corporation of more than 150 American- and foreign-flag steamship companies, contract stevedores, terminal operators, and other employers of waterfront labor in the port of Greater New York and vicinity. The members of this association employ over 29,000 longshoremen who, during the course of their employment, come within the provisions of the Longshoremen's and Harbor Workers' Compensation Act. Over the past 5 years, these employees have earned an average of more than $144 million of gross annual payroll. Thus, our membership, and the industry generally, are vitally concerned with any legislation which would affect the welfare of our employees.

We believe that there is no basis or need for an increase to $70 as is proposed by the Morse bill.

Traditionally, the benefits provided by the Longshoremen's and Harbor Workers' Compensation Act have reflected a substantial percentage of lost wages, i.e., an employee's take-home pay. Thus the maximum benefit should be based upon a fair and realistic relationship between the amount of that benefit and the actual net income enjoyed by longshoremen, not only in this port, but in the ports throughout the several States. Even at the rate of two-thirds of net income, the proposed increase of compensation rates to $70 per week implies average weekly net earnings of $105 per week or gross earnings of $122 per week. Our records and the records of the overwhelming number of ports in the United States show that such estimates of earnings are much too high.

Here, in the port of Greater New York, the largest in the United States, earnings of our longshoremen must necessarily be guided by our current labor contract which covers the 3-year period October 1, 1959, to September 30, 1962. It provides for annual increases in the hourly wage rate. The last increase due—5 cents more per hour—will be given effective October 1, 1961.

Based upon the pertinent provisions of that contract, we are convinced that the increase proposed in S. 733 does not fairly and realistically evaluate the longshoremen's actual lost wages.

Figures for the latest full year available, the contract year ending September 30, 1960, show that our employees worked 43,270,227.5 hours, with earnings of $144,855,000 or average gross weekly earnings of $93.58. This, in turn, would yield the following results:

Average gross weekly earnings	$93.58
Federal income and social security taxes withheld [1]	10.31
Actual take home or lost wages	83.27
Lost wages at 66⅔ percent of take home	55.46

[1] The number of exemptions used is based on the "Current Population Report No. 96" of the U.S. Department of Commerce, which shows that the average family is now estimated at 3.66 persons.

The above statistics establish actual earnings in the port of Greater New York, the largest U.S. port with the greatest number of employees enjoying the highest average weekly longshore earnings in the country. It does not follow, nor is it the fact, that in other ports earnings are as high.

Moreover, it appears that average weekly earnings for year ending September 30, 1961, will probably fall below the 1959–60 level. Reports for the first 6 months of the present contract year show that longshore man-hours have dropped more than 300,000 hours under this same period in 1959–60.

Thus actual earnings fall below the estimates which this association submitted in May 1960 in written comments to the House of Representatives upon similar bills proposing to increase the maximum weekly benefits (H.R. 9552, 9748, 11714, 86th Cong.). At that time we did not yet have yearend figures on hours and payroll for the first year of the current collective bargaining agreement. There-

fore we presented estimates [1] indicating that average weekly take-home pay would be $83.35 for the year ending September 30, 1960, and of $86.14 for the year ending September 30, 1961. Two-thirds of those higher estimates would be $55.51 and $57.37 weekly, respectively.

Our predictions were too liberal, however, because in 1959–60 we suffered an unexpected drop of more than 1 million man-hours under the prior year. As shown heretofore, this downward trend has continued in 1960–61.

Last year, as we do now, we urged that an increase of benefits to $70 was unjustified and recommended a close examination of our data to determine whether any real need existed for revision of the $54 maximum now provided in the act.

Compensation benefits should bear a realistic relationship to our present economic situation. However, the proposals contained in S. 733 go far beyond this objective. In view of the above figures our association must oppose an increase to $70.

The position of our association would be different if the benefits were to reflect present wage levels and those of the foreseeable future. Accordingly if Congress were to consider an increase not to exceed $60 per week, that increase would provide more than ample protection to our longshoremen through the term of our present collective bargaining agreement as well as for future years.

We are confident that the factual material presented will receive the careful attention of your committee so that consideration of any increase will be based on the actual levels of wages being received rather than upon hypothetical and unrealistic estimates thereof.

Respectfully yours,

ALEXANDER P. CHOPIN, *Chairman.*

PREPARED STATEMENT OF JEFF KIBRE, WASHINGTON REPRESENTATIVE, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, WASHINGTON, D.C.

My name is Jeff Kibre. I am the Washington representative of the International Longshoremen's and Warehousemen's Union. The ILWU represents approximately 20,000 members employed in the longshore industry on the west coast and in the States of Alaska and Hawaii.

The ILWU welcomes this opportunity to testify in support of legislation to increase the maximum weekly disability benefit and certain related benefits under the Longshoremen's and Harbor Workers' Compensation Act. The bills under consideration are H.R. 1258, which has already passed the House unanimously, and an identical Senate measure, S. 733, introduced by Senators Morse and Magnuson.

These bills would accomplish, as their principal objective, an adjustment in the dollar ceiling on weekly benefits from $54 to $70. They would also adjust, in conformity with the new dollar ceiling, the basis for computing death benefits and the total amount of benefits allowable for long-term partial disabilities.

In considering the proposed adjustment in the dollar ceiling, it is important to understand that the new $70 maximum would be payable only to employees earning $105 a week or more. Those making less than $105 weekly would receive two-thirds of their actual earnings. Thus, no employee would enjoy any windfall as a result of the upward adjustment in the ceiling.

The ILWU supports this legislation as an urgently needed step in the right direction. Congress last adjusted the amount of the weekly benefit in 1956. Since that time, wage rates for workers under the jurisdiction of the act have increased substantially. As a consequence, the dollar ceiling must be moved upward.

Adequate compensation benefits have a special meaning in the longshore industry. Cargo handling is still one of the most hazardous occupations in which to make a living. Its accident frequency rate, during recent years, has substantially exceeded the figure for coal mining and has generally stood at from five to seven times the rate for manufacturing activities.

The least that can be done to offset the hazardous nature of stevedoring is to maintain an up-to-date compensation system. This obligation must be met periodically by management and by the Congress, particularly in regard to the ceiling on the amount of benefits payable to disabled workers.

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[1] These estimates were based on the average hours worked from Oct. 1, 1955, to Sept. 30, 1959, a period of consistently high earnings. They also included an average overtime factor of 23 percent and reflected the yearly wage increase provided by contract for the years in question.

While the ILWU endorses the bills before this subcommittee and urges their prompt enactment, we must point out that a $70 ceiling is not the full answer. It falls short of bringing the benefit structure back into line with the original intent of the Longshore Compensation Act. It will mean that a substantial portion of longshore workers will continue to be shortchanged on their disability benefits.

What should the maximum benefit properly be? Consideration of this question is certainly in order; it will provide perspective on the bills presently under consideration and indicate the remaining job that must be tackled by Congress in the future.

In determining what the justifiable disability benefit should be under the Longshore Act, two main questions are at stake: first, what percentage of lost wages should be returned to injured workers; and secondly, if there is to be a ceiling on the amount of the weekly benefit, what should it be in order that the agreed upon percentage shall be paid to claimants?

With respect to the first question, we submit that the historical record of compensation insurance clearly establishes that workers are entitled by right to recover two-thirds of their lost wages. This principle was incorporated in the benefit structure of the Longshoremen's and Harbor Workers' Act. Thus, section 8 provides that the rate of disability benefits shall be 66⅔ percent of average weekly wages. It is true, of course, that the dollar ceiling provided under section 6 limits the operation of this formula and at the present time largely renders it meaningless. But it should be understood that when the act was originally approved in 1927, wage levels were such that the ceiling of $25 guaranteed a full two-thirds benefit for the overwhelming majority of affected workers.

To stress this point, namely, that the 66⅔-percent ratio was the actual determinant of benefits, it is useful to examine the hearing records dealing with enactment of the Longshore Act. These definitely show that earnings in the industry were well below $37.50 a week, the figure used to establish the $25 ceiling. In fact, a report from the Bureau of Labor Statistics, 4 years after passage of the act, stated that longshore earnings average little more than $30 weekly, and went on to explain that employers and the union in New York had agreed on a figure of average weekly earnings of $30 as a basis for computing accident compensation under the law.

Over the years, particularly in the postwar era, the original intent of the act has been watered down as a result of the great upward surge of wage rates and living costs. The two adjustments in the ceiling, one in 1948, and the other in 1956, failed to restore fully the right of the workers to a two-thirds benefit. At the present time, the benefit ratio is far out of balance with the act's stated object.

For a thoughtful discussion of the benefit issue, it is worthwhile to review some remarks made by the former Under Secretary of Labor, Arthur Larsen, at hearings before a House Labor Subcommittee in 1956. Mr. Larsen, as is well known, stands out as an acknowledged authority in the field of compensation insurance. In discussing the question of an unrealistic ceiling on weekly benefits, Mr. Larsen went on to say the following:

"* * * One of the implications of this * * * low ceiling is that a large proportion of the beneficiaries are drawing benefits at the ceiling, and when that happens, I think that many people fail to realize that we are steadily and imperceptibly transforming the basic nature of our workmen's compensation system in this country from a system which was supposed to be tailored to the individual, and it is now becoming transformed into an almost flat-rate system, such as they have in England and many of the continental countries.

"The theory of our social insurance in this country, including workmen's compensation, has always been it is individualistic in character. * * *

"When you get the maximum so low that most of the people, or a great many of these people, under the system are crowded against the ceiling, the net result is that the individualized American type of ceiling has suddenly and imperceptibly been transformed into the foreign flat-rate kind of system. The only way to correct this system is to raise the maximum sufficiently to permit the free relationship between benefits and previous earnings, under the two-thirds ratio, to work itself out in the great majority of cases.

"Another thing I think we ought to remind ourselves of in this connection, which is frequently forgotten when workmen's compensation is under discussion, is that we are dealing, not with a Government grant or benefit, but with a private right, arranged between private individuals and backed by private insurance. The right of these workmen to be paid workmen's compensation benefits is not something which has been granted to them out of the goodness of the heart of some beneficent Government as a matter of grace. It is a right which they

obtained in exchange for giving up their centuries-old, common-law right to sue for personal injury and recover the full measure of loss suffered whenever industrial accidents were attributable to the fault of the employer."

To sum up what Mr. Larsen points out so clearly, the benefit structure of the Longshore Act should make available to "the great majority" of disabled workers on an individual basis a benefit equal to two-thirds of their lost wages. Anything short of this represents a denial of established rights.

This brings us, then, to the question of a ceiling. Theoretically, a compensation law should not impose any ceiling, but simply provide a mechanism whereby a full two-thirds benefit is paid to an injured worker. If we are to concede the need of a ceiling to hold benefits within some practical limit, let us consider what it should be only on the basis of preserving for the great majority of affected workers their proper benefit.

Unfortunately, because of incomplete earning data, no precise dollar ceiling can be computed. However, sufficient figures on west coast longshore wage levels are available to indicate an answer to the problem.

The following table is a compilation of average weekly earnings for basic categories of longshore workers on the Pacific coast for the year 1959. The figures were compiled by the Pacific Maritime Association, an agency representing shipowners and stevedore companies, and applies to the regular or "registered" work force. In examining the table, it is to be noted that the first column of figures shows average weekly earnings for all men in each category; the next column shows the same averages for the top 25 percent; and the next two columns show average weekly earnings for the middle 50 percent and the bottom 25 percent.

Average weekly earnings of registered "A" men, Pacific coast, 1959

	All	Top 25 percent	Middle 50 percent	Bottom 25 percent
Longshoremen	$115	$153	$126	$56
Clerks	144	199	149	78
Walking bosses	197	248	205	130

From the above date, it is immediately apparent that a $70 ceiling is far too low with respect to 1959 west coast wage levels. The presumed average weekly wage of $105, on which the $70 ceiling is based, is $10 below the weekly average for all longshoremen and considerably below the averages for clerks and walking bosses. An even greater gap would show if current wage levels, reflecting an increase in 1960 and one presently under negotiation, were cited.

The plain facts are that the $70 ceiling continues, at least for west coast longshore workers, the very system against which Mr. Larsen warns. The overwhelming majority of beneficiaries would be "crowded against the ceiling," thus compelling them to live under a "foreign flat-rate kind of system."

An adequate ceiling, as Mr. Larsen points out, would have to be high enough to permit the "great majority" of west coast registered workers to qualify on an individual basis for a two-thirds benefit. At the least, such a ceiling should take into account the average earnings of the workers in the middle 50 percent bracket. That would bring us to a ceiling well above $100.

As a matter of fact, Congress already has moved along this line in the Federal Employees Compensation Act. Its ceiling on disability benefits was increased, back in 1949, to $525 monthly or $121 weekly. The stated objective was to provide the overwhelming majority of Government employees with a two-thirds benefit. Thus, the Federal Employees Act already embodies in practice the traditional compensation formula sought by the ILWU for the Longshore Act.

The issue of a proper ceiling could, of course, be discussed in far greater detail. For one thing, it would be useful to examine the hardships arising out of inadequate disability benefits. But for the purposes of this hearing, the facts brought out certainly establish that sooner or later—and the sooner the better—Congress must go beyond piecemeal adjustments that perpetuate a flat-rate benefit system rather than the two-thirds benefit formula originally prescribed by the act.

In the meantme, it is certainly clear that an upward adjustment in the ceiling is urgently demanded. An increase to $70, while falling short of the proper objective, certainly represents a step in the right direction and will bring a much-needed improvement in the benefit structure.

The ILWU therefore urges the subcommittee promptly approve the House-passed bill, H.R. 1258, and speed it on its way to final enactment.

SHIPBUILDERS COUNCIL OF AMERICA,
New York, N.Y., May 19, 1961.

Subject: Statement by Shipbuilders Council of America opposing S. 733 and H.R. 1258 to increase benefits rates provided in the Longshoremen's and Harbor Workers' Compensation Act

Hon. PAT MCNAMARA,
Chairman, Subcommittee on Labor,
Committee on Labor and Public Welfare, U.S. Senate.

DEAR SENATOR MCNAMARA: The Shipbuilders Council of America appreciates your wired invitation to submit information for the record of the May 23 hearing on pending bills S. 733 and H.R. 1258 which would increase benefits payable under the Federal Workmen's Compensation Act covering ship repairmen and other harbor workers.

The Shipbuilders Council of America is and has been the national trade association representing the private shipbuilding and ship repair industry of the United States during the entire span of over 30 years since the first enactment of the Longshoremen's and Harbor Workers' Compensation Act. In the light of its years of experience with the act and its application to ship repairmen, the council most strongly urges that the present bills not be enacted. An increase in the benefit rates by 30 percent at this time is unwarranted, unjustifiable, and economically objectionable.

Ship repairing in the United States is in a very distressing low-employment stage. The additional burden of increasing benefit rates—which already are too high by comparison with the various State law rates applicable to almost all other industries in the United States—cannot but further depress this industry.

Federal compensation legislation, which applies only to certain groups in a limited number of States; that is, the maritime States, should be reasonably consistent with the well-considered State laws of much broader application.

Attached for the information of the committee is a list of the 50 States with the latest information available to the council as to the maximum temporary total disability rate for a single workman. States in which the Longshoremen's and Harbor Workers' Compensation Act has some appreciable coverage are indicated in the table.

It is obvious that the proposed 30-percent increase under the Federal act to $70 per week would put the ship repairmen's rates far out of line with the average benefits provided by the State laws.

The council contends it is vital that there be dollar uniformity between the Federal and State statutory benefits to the greatest possible degree. The pending bills disregard this obvious need.

Workmen's compensation is a statutory departure from the traditional rules of law regarding the liability of one person for personal injury or death sustained by another. At common law, a person is normally answerable for the injury or death of others only when guilty of some fault or negligence causing such injury or death, and subject to the qualification that the person seeking recovery is not himself chargeable with contributory fault or negligence. Workmen's compensation statutes depart from this traditional principle of tort liability. Fault or guilt is no longer pertinent where workmen's compensation statutes are in force.

The employer's liability for injuries and deaths arising out of and in the course of employment is made absolute. So, also, he is made liable for diseases and infections such as arise naturally or unavoidably from such employment.

Even where the harm results from the negligence of a third party or from the negligence of the employee himself, the employer is made liable under the compensation statutes. Overall estimates indicate that at least 85 percent, if not more, of the statutory compensation awards are made to employees in cases where the employer is wholly without fault and where, except for the statutes, there would have been no liability. Revovery by the employee becomes almost automatic. Employees and their beneficiaries are relieved of the necessity and expense of suing their employers for injuries or loss of life arising out of the employment. Of course, where the employer has failed to procure compensation, the employee may sue. In such case, however, the employer is deprived of his common-law defenses.

Workmen's compensation statutes make the employer's liability certain. The risk of industrial accidents becomes a known and definite cost of doing business. The limitation provisions of the compensation statutes make the employer's liability a certain determinable operating cost, to the same extent that taxes, rent, wages and other expenses are a part of his operating costs.

It seems to be the trend in some quarters today to regard workmen's compensation laws as social laws. This view has been emphasized time and time again. The compensation laws are referred to as a supplement to social security. The council contends that it is erroneous to regard workmen's compensation as a social insurance or a supplement to social security. It must be remembered that workmen's compensation does not deal with Government funds but with the strictly private rights of employers and employees and private funds.

Workmen's compensation is not intended as a substitute for private insurance against disability, any more than social security is intended to supplant private savings and life insurance. Workmen's compensation, like social security, is intended only to provide a modest supplementary benefit in the event of industrial injury or death. It is a levy against industry, which is payable without regard to fault or negligence. These considerations have undoubtedly been given local evaluation by the legislatures of the several States when enacting their individual statutes.

The Shipbuilders Council on behalf of its members strongly urges that S. 733 and H.R. 1258 be carefully considered in the light of the large differential it would create between the maximum compensation rates set by the several States and that in the Federal act. The council is confident, if this factor is given proper consideration, the proposed amendments will not be enacted.

Respectfully yours,

L. R. SANFORD, *President.*

TABLE 3.—*State workmen's compensation laws—Maximum weekly benefit for single employee for temporary total disability, by States*

State	Rate	Date of available information	State	Rate	Date of available information
Alabama [1]	$31.00	1957	Nevada	(2)	
Alaska [1]	100.00	1959	New Hampshire [1]	$40.00	1959
Arizona	(2)		New Jersey [1]	40.00	1960
Arkansas [1]	35.00	1959	New Mexico [1]	38.00	1959
California [1]	65.00	1959	New York [1]	50.00	1960
Colorado	40.25	1959	North Carolina [1]	35.00	1959
Connecticut [1]	(2)		North Dakota	38.00	1960
Delaware [1]	50.00	1959	Ohio [1]	49.00	1961
Florida [1]	42.00	1959	Oklahoma	35.00	1959
Georgia [1]	30.00	1959	Oregon [1]	(2)	
Hawaii [1]	75.00	1959	Pennsylvania	42.50	1960
Idaho	28.00	1959	Rhode Island [1]	36.00	1960
Illinois [1]	45.00	1959	South Carolina [1]	35.00	1956
Indiana [1]	65.00	1959	South Dakota	30.00	1957
Iowa	32.00	1959	Tennessee [1]	34.00	1959
Kansas [1]	38.00	1959	Texas [1]	35.00	1959
Kentucky [1]	36.00	1960	Utah	37.00	1959
Louisiana [1]	35.00	1958	Vermont	36.00	1959
Maine [1]	39.00	1961	Virginia [1]	35.00	1960
Maryland [1]	40.00	1959	Washington [1]	(2)	1957
Massachusetts [1]	50.00	1961	West Virginia	35.00	1960
Michigan [1]	33.00	1960	Wisconsin	(2)	
Minnesota [1]	45.00	1959	Wyoming	(2)	
Mississippi [1]	35.00	1960	Longshoremen's and Harbor Workers' Compensation Act	54.00	1961
Missouri [1]	45.00	1959			
Montana	28.00	1959			
Nebraska	37.00	1959			

[1] Maritime.
[2] Not applicable.

Senator MCNAMARA. Thank you very much, gentlemen. The subcommittee will now stand adjourned.

(Thereupon, at 10:50 a.m., the subcommittee was adjourned, subject to call of the Chair.)

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